Winning Friends and Influencing People: A Study of Political Influence in Australian Policy-Making

Damien Hickman

B. SW (Hons) University of Newcastle

B. Sc (HM) University of Wollongong

Newcastle Business School

University of Newcastle

A thesis submitted in the fulfillment of the requirements for the degree of

Doctor of Philosophy

September 2013

STATEMENT OF ORIGINALITY

The thesis contains no material which has been accepted for the award of any other degree or diploma in any university or other tertiary institution and, to the best of my knowledge and belief, contains no material previously published or written by another person, except where due reference has been made in the text. I give consent to the final version of my thesis being made available worldwide when deposited in the University's Digital Repository, subject to the provisions of the Copyright Act 1968.

ABSTRACT

The Howard government's family law reforms presented a unique set of power relations that Non-Government Community Service Organisations (NGCSOs) had to negotiate in the policy process. How NGCSOs negotiated networks of power through their participation in this reform process offered a fruitful area of enquiry for the study of political influence in policy development. A governmentality approach framed the conceptualisation of power and power relations and the strategies and tactics used by NGCSOs to negotiate the policy process and influence government decision-making. The analysis of NGCSO participation was based on data collected from policy submissions and public hearing evidence given to a House of Representatives Standing Committee Inquiry into custodial arrangements following family separation. In addition, questionnaires and interviews with government officials and NGCSOs involved in the reform process provided further insights into the negotiation of power relations. A key factor in the participation of NGCSOs was the need to work within a system of gender politics that governed the policy-making process to favour the ideological and political objectives sought by the Howard government. The analysis of policy participation in this context found that political influence correlated with the ability to accurately assess the political environment and apply this knowledge to influence government officials. The NGCSOs able to apply their understanding of the policy environment to create supportive and sympathetic political relations were also found to have exerted higher levels of political influence that helped them achieve policy gains. A set of identifiable skills relating to the assessment and management of the gendered political environment by the NGCSOs that more successfully negotiated power relations was framed as demonstrating political acumen. This thesis offers a conceptualisation of political

acumen that, through the skills it entails, provides an innovative framework for the analysis of interest group policy participation and political influence.

ACKNOWLEDGEMENTS

This *Wizard of Id* cartoon helped keep a sense of perspective during the completion of this thesis. While not able to mention every single person who has been a part of the journey, I want to acknowledge and thank the following people: First, my supervisors Associate Professor Jim Jose and Professor Mel Gray. Without Jim's encouragement, generosity, kindness and guidance I would have been totally lost. Getting to know Jim has been the real find of the thesis. Mel has been a constant support since my undergraduate studies and throughout this process. Without her I would not be here – thank you both. To the crew at the 3 Monkey's, thank you for the company and coffees. To Freddy and Nick, your fresh eyes, encouragement and editorial skills have been much needed and very much valued. In the final push, thank you Andrew for your generosity, understanding and support. Pam and Moses, you have helped too much to write here – I deeply thank you. Finally, because they are the most important of all, Kate and Liesel who have made sacrifices beyond what should have been necessary. This thesis is yours as much as mine, and has only been possible because of you and your loving support.

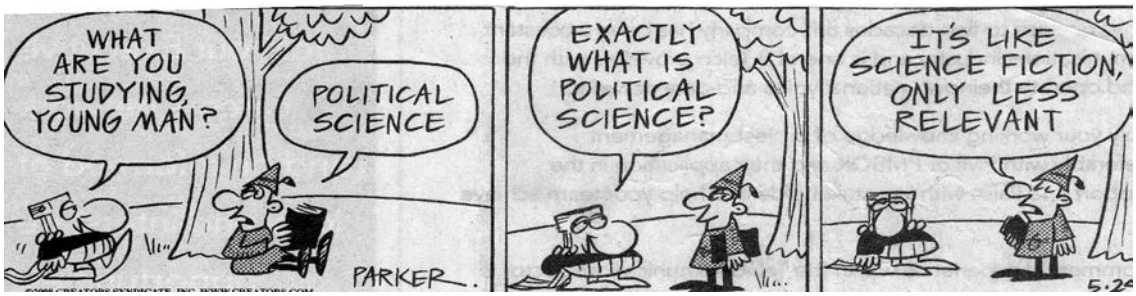

TABLE OF CONTENTS

STATEMENT OF ORIGINALITY ..... **II**

ABSTRACT ..... **III**

TABLE OF CONTENTS ..... **VI**

LIST OF FIGURES AND TABLES ..... **IX**

INTRODUCTION **1**

Rationale for the study 5

Purpose of the study 8

Research questions 9

Structure of thesis 10

THEORETICAL FRAMEWORK: A FOUCAULDIAN GOVERNMENTALITY PERSPECTIVE **12**

Government and governmentality 14

Critiques of Foucault's theory of governmentality 19

Governmentality as an analytical framework for this study 28

Visibility, seeing, perceiving and the influence of values 34

Ways of thinking and questioning and problematisation 36

Mechanisms, techniques and technologies of governing 37

Identities and forming subjects to be governed 38

Conclusion 39

INTEREST GROUPS AND POLITICAL INFLUENCE IN POLICY-MAKING **42**

Political context and influence 51
Politics, participation and influence 55
NGCSOs studied in the thesis 63
Areas of NGCSO client interest used in the thesis 64
Conclusion 71
METHODOLOGY 74
The qualitative methodological framework 76
Research design 77
Research methods 78
Study sample 78
Data collection 80
Data analysis 90
Critical reflection 93
Conclusion 97
THE POLITICAL CONTEXT OF FAMILY LAW REFORM 99
Freedom of choice 101
Personal responsibility 109
Social conservatism 114
Gender politics 120
Conclusion 124
GOVERNING THE POLICY PROCESS 126
Government responses 128
Parliamentary committee inquiry 134

The discussion paper 145
Gender-based power relations 149
Conclusion 153

NGCSO POLICY PARTICIPATION 156

Submissions and giving public hearing evidence 159
Lobbying 171
Shaping public opinion 176
Strategic power games 181
Conclusion 190

A GOVERNMENT PERSPECTIVE ON NGCSO PARTICIPATION 193

Political advocacy 196
A favourable reputation 205
Government trust 210
Profiting from politics 215
Conclusion 222

POLITICAL INFLUENCE: A DIFFERENT TAKE 225

Exercising political influence 227
Recognising political acumen 232
How did political acumen manifest? 237
Political acumen and political influence 248
Implications and future research 256
Conclusion 265
References 267

LIST OF FIGURES AND TABLES

Figures

Figure 4.1 Cover image of *Future Directions*……113

Figure 6.1 DaDs Australia submission cover image…….…….184

Tables

Table 1.1 Dean's analytics of government framework……..….33

Table 1.2 The analytical framework used in this study…….…..34

Table 2.1 Individual NGCSOs and their area of client interest…….…….64

Table 2.2 NGCSOs and their organisational size…….…...67

Table 6.1 NGCSOs that opposed or supported equal parenting time……..….156

Table 7.1 Gender division by political party in both houses……..…...199

Table 8.1 The skills identified with political acumen……233

Introduction

'To achieve a political end, power, of one kind or another is necessary' (Russell, 2004, 488).

With one in three marriages ending in divorce, most people have a personal connection or close association with someone who has experienced marital breakdown. Family breakdown, and in particular child custody, is an emotionally charged issue with the potential for often destructive and harmful acrimony toward and conflict between ex-partners and their children. As Opposition leader, John Howard bemoaned the detrimental effects of family breakdown on Australian families and their children. He nominated family law as an area of policy reform that would be targeted by a government led by him (*Future Directions* 1988, 18). True to his word, after coming into office in 1996, his government set out to reform the family law system. A key reform feature was to be the introduction of 50:50 parenting arrangements as the starting point for the negotiation of custodial arrangements (except in cases of proven violence and abuse). The idea that parenting agreements would be presupposed on equal parenting time was a highly contentious proposal that marked a radical shift in the operation of family law.

For many critics of the then existing family law system, mothers appeared to be favoured in the determination of custody arrangements. This was then taken to mean that a significant proportion of children would have limited contact with their father. The Howard government certainly accepted that a lack of meaningful involvement by

fathers in the lives of their children would be detrimental to the developmental needs and well-being of many Australian children. The government's proposal to introduce a rebuttable presumption of equal parenting into family law was seen as a means to facilitate more equal responsibility between separated parents and the greater involvement of fathers. The government considered this to be a positive step in addressing the lack of time it believed children spent with their fathers. This particular policy proposal was the central point of contention for the NGCSOs who participated in the policy process. In this thesis, NGCSOs are defined as organisations that: (i) have a formal structure, (ii) are self-governing, (iii) operate independently of government, (iv) are not-for-profit, and (v) have a meaningful degree of voluntary involvement (Lyons 1998 11-14).

The Howard government announced its family law reform policy, *A New Family Law System*, in June 2005. The document released by the government addressed the recommendations for family law reform made by the House of Representatives Standing Committee on Family and Community Affairs through its inquiry into child custody arrangements following family separation. *A New Family Law System* detailed a comprehensive program of reform centred on the establishment of a national network of family relationship centres, which would facilitate the negotiation of parenting agreements between parents and provide a single 'entry point' for families to receive a range of dispute mediation and relationship support services. On the Committee's recommendation, the new family law system also introduced a presumption of joint parental responsibility as a key amendment to the *Family Law Act 1975* (hereafter referred to as the 'Family Law Act').

The family law reforms demonstrated the gender-based assumptions of the Howard government, none more so than the presumption of equal parenting time. Beneath the surface of these assumptions lay a concerted reshaping of Australia's gender order weighted toward mothers in custody arrangements to favour both parents equally. The gender-based policy proposals in the reform process were important because many of the NGCSOs were also driven by deeply held gendered perspectives, which accorded with those of the government. It is this intersection of gendered values and interests that provides the central terrain for a study of how NGCSOs negotiated the network of political power relations to influence the Howard government on family law reform.

A key event in the reform process was the House of Representatives Standing Committee on Family and Community Affairs Inquiry into child custody arrangements following family separation commonly referred to as *Every Picture Tells a Story* – the title of its report – hereafter referred to as EPTS. The inspiration for the title came from a young boy's story, presented to the Committee through four of his drawings, which particularly touched the Chairperson because it typified her belief that every 'picture' told a story. NGCSOs participated in the inquiry through submissions and evidence at public hearings. They also advocated their policy positions through the media and direct lobbying of politicians. For the most part, the NGCSOs had similar levels of access and opportunities to persuade members of parliament and senior public servants (government officials) as to the merits of their position. Yet, as is demonstrated in detail later in this thesis, despite initial comparable strategic locations within the policy process, some NGCSOs gained political advantage in translating their policy aims into

concrete outcomes. This would seem to suggest that it was the strategic application of their participation methods to the political and policy environment at the time that facilitated their level of influence. In large measure, this thesis was centrally concerned with how that influence came about.

Interest groups with a more developed understanding of power relations have a competitive advantage in their ability to negotiate the institutional, structural and political dynamics that determine their level of political influence. This thesis proceeded from the assumption that an understanding of political processes and power relations enabled interest groups to identify the right strategy, delivered to the right target, at the right time, in the right way in order to exploit points of influence. An 'interest group' is defined as a group operating outside of the political party structure that aims to influence public policy, whether in its making or administration, without seeking to gain the powers of government or political representation (Condon 1983; Davis 1993; Matthews 1997). As a type of interest group, the negotiation of power relations is, therefore, important to NGCSOs because, although they do not seek parliamentary representation, they nevertheless want to exercise their political influence to achieve particular outcomes.

Political influence as the ability to negotiate the 'politics' involved in policy making in order to achieve particular outcomes (Vromen and Gelber 2005, x) is sought after and highly valued in the policy-making process. The achievement of political influence is a primary goal for interest groups, because it enables them to exercise power in the political sphere. People or organisations that exhibit the ability to comprehend and

understand the complexities and intricacies of prevailing power relations and then use this understanding to gain advantage, are described as having ‘political acumen’, ‘political smarts’, ‘being a player’, or ‘having political genius’. Crucial questions for this thesis are, what is this so-called ‘political acumen’, how is it manifested and how does it translate into political influence? These are questions that this thesis seeks to answer through a detailed study and analysis of NGCSO participation in the family law policy reform process between 1996 and 2004.

Rationale for the study

My experience as a social worker in the community services sector prompted this study of NGCSO policy participation and political influence. At interagency meetings, organisations with various responsibilities for the delivery of a wide range of services would come together around a common purpose to discuss issues of concern, share information and coordinate service provision to meet local needs. The NGCSOs that attended these meetings ranged from regional branches of national welfare organisations, such as the Smith Family and St Vincent de Paul Society, through to small service providers with one or two paid staff. In my role as a social work student and later as a social worker employed by Centacare Newcastle, some of the meetings I attended were with the Newcastle and Hunter Council of Social Services, Dungog Interagency Services, Newcastle Men’s Services Network, Upper Hunter Community Services Interagency, and the Indigenous Services Network.

I met with several hundred attendees at these meetings and heard discussions on a range of topics. Across the community services sector the common challenge was to provide

adequate, effective and timely support with limited resources. However, it was the recurrent topic of the lack of influence in the policy decisions made by government that caught my attention, and ultimately led to this study of NGCSO policy participation in the family law reform process. Conversations on the lack of influence typically followed two trains of thought. One concerned the negative impact of policy decisions as limiting the capacity of organisations to meet community needs adequately. The other concerned the inability to be heard and noticed in a way that affected the policy-making process. These two themes regularly informed discussions on the policy decisions made by government and the on-the-ground effects of these for the community services sector and its clients.

A common perception of NGCSO members was that policy decisions were done 'to' them. Government officials did not listen or, at worst, did not care and invitations to serve on consultative bodies were often seen as tokenistic (Davies 2012). Representatives of NGCSOs attending interagency meetings described their relations with those in positions of authority in terms of their own sense of helplessness. To a student and social worker considering a future career, this sense of disempowerment was disheartening. 'Surely there must be some way for NGCSOs to better negotiate power relations with government to influence policy decisions?' I understood NGCSOs were under pressures not to risk funding streams through political agitation and that some organisations were bound by funding contracts prohibiting political advocacy. Equally valid was the organisational priority to direct limited staff and resources to where they were needed most, provide client support rather than engaging in political endeavors that might become lost in the minefield of competing interests. However, I

strongly believed that if the negotiation of power relations could be enhanced through effective strategic engagement, relationship building and lobbying of government officials then NGCSOs would be able to exercise greater political influence.

The central research question explored was, how might NGCSOs improve their capacity to gain greater political influence? To help answer this question, the following considerations informed the study of NGCSO policy participation and political influence:

1. As representatives of community interests, NGCSOs aim to influence public policy and advance their client interests. The NGCSOs in this study provided a cohort of interest groups engaged in a particular policy-making process that could be subjected to rigorous analysis in order to understand the factors that made some organisations more effective than others in achieving desired policy outcomes.
2. The political context in which the policy process occurred placed considerable emphasis on the plight of fathers and, by extension, their children, especially boys. This gendered shaping of family law policy was a significant factor in the capacity of some NGCSOs to negotiate power relations with greater influence. How and to what extent the exercise of power was affected by the political environment was an important consideration for those NGCSOs seeking to gain greater political influence. The question to be asked was, how much was an NGCSO's political influence due to its more persuasive participation, the political *zeitgeist*, or the balance between the two?

3. The policy work of NGCSOs is well documented (Industry Commission 1995; Keen 2006; Gray et al. 2002; Maddison et al. 2004; Maddison and Denniss 2005). The intersection of politics with policy work was an important consideration for NGCSOs seeking to gain political influence. The strategic application of participation methods to negotiate the political context in which a particular policy process takes place could enhance the likelihood of achieving their policy aims. An analysis of how some NGCSOs structured their participation to leverage political circumstances to their advantage in the family law reform process provided an understanding of how they used politics to exercise influence. This knowledge provided insights into how political understanding could translate into political influence. This was an important consideration since, from the late 1970s onwards, policy work had been identified as a particular focus of the welfare sector (Keen 2006, 32).

Purpose of the study

The purpose of the study was to analyse the way in which NGCSOs formulated, strategised and targeted their methods of participation. The complex nature of policy making made it difficult for any one group to distinguish itself in a crowded policy 'marketplace', where diverse interests sought to 'sell' their proposals to the Howard government (Hancock 2006; Howard 2005; Radin 2000). The family law reform process, and in particular EPTS, generated a high level of community interest, diverse views and an intensity of feeling due to the emotional impact of family breakdown for parents, children and extended family members (HRSCFCA 2003c). Against this backdrop and the timing of EPTS in the electoral cycle, there was also potential for

significant electoral implications should the government 'mishandle' its push to reform family law. These factors presented an opportunity to exert political influence if targeted correctly in the policy process.

The unique set of social and political circumstances that informed the development of *A New Family Law System* could be used to the advantage of those NGCSOs that accurately assessed the dynamics and structure of power relations at that time. To bring together knowledge of political power relations persuasively with the policy positions to which the government was already well disposed, it was critical for NGCSOs to exercise a high degree of political 'acumen'. The analysis of how the structure of NGCSO participation enabled some organisations to engage in and successfully navigate the political environment to exert an influence on policy decisions helped to elucidate the role of political acumen in this process.

Research questions

The central research question was how NGCSOs might improve their capacity to gain greater political influence and its corollary, how might NGCSOs better understand the operation of power in the policy process. This thesis explored both these questions and, in so doing, sought to examine and explain how some NGCSOs achieved their policy aims in the contested space of the Howard government's family law reforms. It asked:

1. What exactly did NGCSOs do that was effective in exercising political influence?
2. Did this involve any particular attribute such as what is sometimes called 'political acumen'?

3. And if so, how might it be recognised?
4. How did it manifest?
5. How did political ‘acumen’ translate into political influence?

These questions sought to elicit data on political engagement in the policy process, participants’ understanding of power relations and the impact of the political environment on family law reform. They also sought to understand the effect of NGCSO participation and the level of influence these organisations were able to exercise in the policy-making process. That is, they were designed to elicit data on the relationship between political influence and NGCSOs ability to negotiate power relations. Exploring the concept of ‘political acumen’ provided an innovative way to reframe the analysis of interest group influence.

Structure of thesis

This thesis is structured in two main parts. Part One, comprising the first four chapters, establishes the theoretical framework, methodology and context of the study. Chapter 1 presents the theoretical framework for the study, which draws upon Michel Foucault’s governmentality approach. Foucault’s theory of governmentality, mediated in part by the interpretive work of Mitchell Dean and Hal Colebatch, was used to situate and interpret the operation of networks of power relations. Chapter 2 reviews the scholarly literature on interest groups in Australia, with particular attention to the issue of political influence. In addition, it also provides relevant background detail on the cohort of NGCSOs being studied. Chapter 3 outlines the methodological considerations and details the particular methods used to collect and analyse the data. Chapter 4 maps the political and policy context, including the ideological position of the Howard

government that informed the family law reform process, and sets the scene for the detailed analysis of NGCSO participation by providing an understanding of the political landscape these organisations had to negotiate.

Part Two applies the analytical framework to identify power relations, explore the participation of NGCSOs and outline the various determinants of political influence. Chapter 5 uses the analytical framework developed in Chapter 1 to map the management of the policy process and examine the governmental power relations that 'guided' NGCSO participation. Chapter 6 then analyses NGCSO participation to identify the strategies, tactics and techniques used in the strategic manoeuvres they employed to effect political influence within the prevailing political and power dynamics. Chapter 7 analyses the interview data collected from government officials to discover what they saw as key features of influential NGCSO participation. This information is then discussed to inform an understanding of political influence.

Based on the analyses of the archival and interview material, a distinct set of skills that contributed to effective political influence was identified with these skills grouped as 'political acumen'. Chapter 8 explores the demonstration of political acumen by NGCSOs to accurately assess the political environment and its power dynamics, and then to apply that knowledge to inform influential participation. It discusses political acumen as a precondition of political influence and offers a framework for understanding the political influence of interest groups. How these implications inform areas for future research on the concept of political acumen are also discussed.

CHAPTER 1

Theoretical Framework: A Foucauldian Governmentality Perspective

'I don't believe that this question of "who exercises power?" can be resolved unless that other question "how does it happen?" is resolved at the same time … [otherwise] we will not really know why and how the decision was made, how it came to be accepted by everybody' (Foucault 1988b, 103-104).

The theoretical framework used to analyse the practices of governing through which power was exercised in the policy process was Foucault's theory of governmentality. Foucault's governmentality approach was seen as well suited to the study of strategic policy participation and political influence because of its focus on the instruments, techniques and tactics of governing, and the contextual factors that shape and influence relationships of power. It provided a conceptual basis on which to identify and analyse how 'technologies of power' directed the actions of individuals and groups within NGCSOs to influence political institutions and systems (Brass 2000, 316-17) and the means to examine the institutional, structural and political dynamics through which power was exercised in the family law reform process. This chapter presents and critically appraises Foucault's concept of government, his theory of governmentality and his approach to understanding power. In doing so, it highlights why a Foucauldian approach provided significant analytical leverage to analyse the various ways in which NGCSOs attempted to influence policy decisions on family law reform.

A conventional view of power is the ability to exercise control over others to the extent that one can get them to do something they would otherwise not do (Lukes 1974, 11-12; 2005). However, a Foucauldian approach shifts the understanding of power to how governments govern in the 'spheres they undertake to govern' within the prevailing socioeconomic conditions. Foucault's approach to power and in particular his theory of governmentality focuses on the 'practice' of governing by asking questions of who can govern, what is governing and what or who is governed? This situates the study of power on the distribution of power, who has it and who does not, rather than the technologies of power used to act on (govern) people (Brass 2000, 311).

An understanding of the concept of power is crucial in any study of politics and political processes because it provides a framework to comprehend and view how relations operate between those who govern and those being governed within a particular context. This was important in this study of political influence because the exercise of power by NGCSOs was expressed as having government prefer their proposal to alternative or opposing views. Influence, to a large extent, relied on the ability to adjust and modify the way in which an NGCSO responded to 'being governed' in a way that, in itself, also 'governs' government officials. Therefore, to be persuasive, an organisation must understand how public and political institutions exercise power on them and then respond in a manner that increases the likelihood that they will achieve their policy aims. Foucault's concept of government and governmentality was chosen to analyse how power relations operated because it provided a sophisticated framework within which to understand this feature of political influence.

Government and governmentality

Central to Foucault's analysis of power were the concepts of government and governmentality, which enabled power relations to be examined through the institutions, instruments, tactics and techniques involved in the 'act of governing'. Foucault argued that, between the 17th and beginning of the 18th centuries, the need began to emerge to reconcile legitimate secular sovereign authority with the security of the population (Foucault 2007, 64). This presented a new problem for those who governed regarding the application of mechanisms of power. Those with sovereign authority had to concern themselves with the 'security' of the population and provide protection from scarcity, epidemics, risks and dangers in the form of disease, famine, starvation, ill-health and invasion. For them, governing became a question of how the well-being (security) of the population could be maintained rather than how sovereign power might be protected from usurpation (Foucault 2007, 65). For the mercantilist societies of the 17th century ensuring the 'security' of the population was an important issue because the population had come to be seen as the source and foundation of state power. Therefore, governments of this period sought ways in which regulatory power could be applied in the 'right place and on the right objects' in order to protect and maintain the well-being of the population to maximise its function as a 'productive force' by which the state could produce goods and obtain wealth (Foucault 2007, 69).

The political economists of the 18th century viewed the population as a set of elements in which constant and regular features could be identified with a number of modifiable variables (Foucault 2007, 71). From this understanding, a different style of government emerged in which the exercise of power was no longer aimed at having citizens obey a

sovereign will in a direct fashion. Rather, there emerged a focus on the 'things that seem far away from the population, but which, through calculation, analysis and reflection … have an effect on it' (Foucault 2007, 72). This 'power at a distance' was a fundamental shift in understanding how regulation of the population took place. Foucault identified this recognition and construction of consistent, regularised features within populations as enabling a new form of governmental power to be organised and rationalised. He referred to this as a *biopolitics* of governing in which the focus shifted from rule via threat of death to rule by *regulating life* (Foucault 1976, emphasis added). This formed the basis of Foucault's theory of governmentality.

The governing of a population 'from a distance' ushered in a new institutional arrangement involving the rational application of technical means to exercise authority over human conduct (Foucault 1980c, 1988a, 1991, 2007). In using the term 'government' to describe the regulation of human conduct, Foucault conceptualised a distinct governing process reliant not on sovereign individuals but upon a system of institutions, procedures, instruments, and tactics for the exercise of power (Brass 2000, 317; Foucault 2007, 108). In his view, government acted 'directly on the population itself … or indirectly … without the people being aware of it … [It] directs the flows of the population to this or that region or activity' (Foucault 2007, 105). Therefore, the act of governing was not merely 'a matter of imposing a law on men [*sic*], but of the disposition of things … of employing tactics rather than laws … so that this or that end may be achieved through a certain number of means' (Foucault 2007, 99).

During a 1978 interview with Pierre Boncenne, Foucault spoke of the complexity of power relations and the strategies contained within them. In his view, power could be understood by asking, 'Who exercises power, how and on whom?' (Foucault 1988b, 103) In response Pierre Boncenne asked, 'So we can't study power without what you call the strategies of power …', to which Foucault replied, 'Yes, the strategies, the networks, the mechanisms, all those techniques by which a decision is accepted and by which that decision could not but be taken in the way it was' (Foucault 1988b, 104). To him this was what power was about, the strategic actions that influence the process by which the decisions of government were made.

This concept distinguished relationships of power as 'strategic games between liberties' that have the freedom, or liberty, to resist the actions of others as much as the freedom to obey (Foucault 1982, 221-22). Through simultaneously undergoing and resisting the 'strategic games' of others, Foucault conceptualised power as a complex, multidimensional, endless and open phenomenon, where individuals were deemed free to act in one way or another (Foucault 1982, 1988a). He contended that there were 'no relations of power without resistances' (Foucault 1980a, 143) and, as such, the 'art of government' was to maintain the freedom and liberty of citizens while legitimising its authority to govern a population (1980b, 2007). Therefore, understanding the operation of contemporary Western democratic power relations involved an examination of the instruments, strategies, networks and techniques used to legitimate the government of a population without restricting 'liberties' (Marston and McDonald 2006, 20).

Foucault used the term ‘governmentality’ to describe and analyse the operations of modern government and political power in connecting economic, social and political ends with appropriate means. Through the notion of governmentality, Foucault captured the processes of governing and the dispersed rather than centralised nature of modern political governance (Brown 2006, 73; Rose and Miller 1992). In developing this concept, he drew on the work of two French scholars, Guillaume de La Perriere and Francois de La Mothe Vayer. From De La Perriere, Foucault took the idea that ‘Government is the right disposition of things … so as to lead to a suitable end’ (Foucault 2007, 98). This informed his notion of governmentality as being based on the suite of tactics, strategic actions and procedures employed in governing spheres of activity to produce particular outcomes.

From De La Mothe Vayer’s series of pedagogical texts, he outlined three types of government: (i) the government of oneself, (ii) the art of properly governing a family, and (iii) the science of governing the state (Foucault 2007, 93). De La Mothe Vayer wrote that before one could effectively govern the state, one must first be able to govern one’s family and before that oneself (Foucault 2007, 94). Foucault took this to mean there was continuity between these types of government that linked the government of the state to the regulation of the self. At the same time, the way in which the state governs has a direct impact on the management of the family and individual conduct (Foucault 2007, 94). Through this linkage Foucault argued that families were coming to be disciplined, in order to behave in ways that supported capital and the ‘economy’. Therefore, the state had to ‘manage’ individual citizens to get the best out of them for a productive economy (Foucault 2007, 95) and structure its systems of government in

such a way that it could ‘manage’ individuals, goods and wealth, with the same level of influence as a ‘father who directed the actions of his wife, children and servants’ (Foucault 2007, 94-95). It was in this context that Foucault developed his notion of governmentality.

The concept of governmentality provided Foucault with the theoretical means to analyse power in terms of the technologies of government that guide and direct the conduct of self and others (Rose 1999, 3). Foucault’s concept of governmentality provided an understanding of:

1. How institutions, procedures, analyses, reflections, calculations, and tactics allow the exercise of a specific and complex form of power targeting the population.
2. The preeminence of this type of power, called government, in the formation of a series of specific apparatuses which are enacted through complex systems.
3. How the administrative state of the 15th and 16th centuries gradually became ‘governmentalised’ (Foucault 2007, 108-9).

Through his concept of governmentality, Foucault fundamentally altered the way in which government and the exercise of power were studied in the political sciences (Brass 2000, 305). However, his conceptualisation of power and governmentality has not been without its critics, some of whose views are explored below.

Critiques of Foucault's theory of governmentality

Some of the criticisms of Foucault provide an opportunity to demonstrate how his 'technological' conception of power offered a more appropriate theoretical framework for the analysis of NGCSO participation. One key criticism concerns Foucault's treatment of sovereignty in relation to the diminished significance of the state. Brown (2006) pointed out that Foucault has been too dismissive of the state. She argued that although the modern state might appear to be a 'minor apparatus of governmentality and is of itself governmentalised', it still retains a significant measure of sovereignty since it remains the legitimate authority to 'wage war, terrorise, detain and police' (Brown 2006, 78). This retention of authority also extends to the state's capacity and legitimised role to make public policy and legislate on behalf of citizens. In the context of this thesis, Brown's argument places the institutions of government and public administration – the state – as legitimate sites through which sovereignty is exercised to govern and maintain necessary order in the policy-making process. She argued that the sovereignty of the state is not as diminished as Foucault claims because its ability to draw on and direct resources, and even the lives of its citizens – as in the case of war – in the pursuit of a course of action still remains a legitimised prerogative (Brown 2006, 79).

In a related criticism, Flyvbjerg (1998), drawing on Habermas, argued that democratic processes were directly linked to the sovereignty of judicial institutions of the state. Comparing Habermas and Foucault's understanding of modern democracy, Flyvbjerg (1998) outlined Habermas's view of sovereignty as it existed in the modern state. He cited an undated source in which Habermas argued that he 'wish[ed] to conceive of the

democratic procedure as the legal institutionalisation of those forms of communication necessary for rational political will formation' (Habermas undated, cited in Flyvbjerg 1998, 214). Habermas's analytical frame of reference was firmly grounded within the supremacy of law and sovereignty of the state because 'the authorisation of power by law and the sanctioning of law by power must both occur *uno acto* – under one action or actor' (Habermas undated, cited in Flyvbjerg 1998, 214). This contrasting view of the presence and role of state sovereignty is similar to Brown's critique of Foucault's governmentality in that both see the state as retaining 'a measure of sovereignty' (Brown 2006, 78). For Habermas and Brown, far from being a 'minor apparatus', the state is a prerequisite for the regulation of power by law. To turn Foucault's phrase against himself, Brown and Habermas argued the head of the king is still very much 'on' when understanding the exercise of power by the state.

While it is true that there are times when Foucault does appear to marginalise the role of the state, he nevertheless still understood that actions legitimised under its authority strongly reflected a system of government built on a 'collection of juridical subjects in an individual or collective relationship with a sovereign will' (Foucault 2007, 74). In this respect, Brown's criticism of Foucault loses some of its leverage, and does not undermine Foucault's governmentality approach for analysing policy development. The criticism that a governmentality approach does not adequately account for the sovereignty of the state in modern systems of government fails to provide a response to the fact that the exercise of power is wider and more complex than the singular enforcement of sovereign will through the institutions of state.

Political power is exercised ‘through a profusion of shifting alliances between diverse authorities … to govern a multitude of facets of economic activity, social life, and individual conduct’ (Rose and Miller 1992, 174). These ‘diverse authorities’ gain their power through their ability to collect calculated knowledge, inscribe social data and claim legitimacy for their plans and strategies because they are ‘in the know about that which they seek to govern’ (Rose and Miller 1992, 186). This profusion of powerful agents that can exercise power through technical means to gain political and social legitimacy points to a capacity for others, beyond the institutions of the state, to exert their will on citizens. It aligns with Foucault’s (1980c, 102) key insight that ‘we must escape from the limited field of juridical sovereignty and state institutions, and instead base our analysis of power on the study of the techniques and tactics of domination’. His call to ‘cut off the King’s head’ did not claim that the state does not play a role in government but rather to show that ‘relations of power … necessarily extend beyond the limits of the State’ (Foucault 1980b, 122).

A different criticism raised by Brown (2006, 78) was that Foucault’s idea of governmentality appeared to exclude political legitimacy from his conceptualisation of government. She stated this was because Foucault understood political rationalities – ways of thinking – as self-legitimising in the practices of government they engendered and, therefore, did not require singling out in the analysis of governmentality. She argued that if the state’s need for legitimisation ‘determines at least some portion of political life’ this should be taken into consideration because it will affect the ‘imperatives conditioning and organising governance’ (Brown 2006, 78). Therefore, a complete account of governmentality would, in addition to its study of the practices

through which the exercise of power is enabled and occurs, examine the problem of the state legitimising such practices as the singular accountable political entity to those it governs. In her view, Foucault's theory of governmentality did not do this because Foucault did not see the state as the only source of governance. For Brown (2006, 79), wherever the state is involved, 'the question of legitimacy is immediately at issue'.

The legitimisation of the institutions and activities of government in contemporary Western societies is important because they are the means by which laws are enacted and enforced in the government of a population (Hindess 1996). Hindess (1996, 145) argued that because governments were considered more important than other societal agents, Foucault missed the normative significance attached to them as the 'work of those who make and enforce binding decisions'. By not taking into account the normative significance of governments as the primary institution for law making and enforcement, Foucault failed to comprehend that the legitimisation of political power was based, at least in some degree, on the 'consent of its subjects' (Hindess 1996, 145). Therefore, Hindess (1996, 143) argued that the consent given to governments deserved more attention than Foucault gave it because the laws they make have an overwhelming capacity and responsibility to regulate individual conduct or the behaviour of the population. Foucault was criticised for failing to incorporate political legitimacy into his conceptualisation of governmentality because he did not give due consideration to the fact that, in order for a population to be rendered governable, some degree of consent is needed (Brown 2006; Hindess 1996).

However, this criticism is misplaced because Foucault did not dismiss the significance of political legitimacy in gaining consent regarding acts of government. Instead, he viewed consent and legitimacy as one of many discourses, ways of communicating and thinking, in contemporary societies, which did not demand prominence in the study of governmental practices (Foucault 1980b; Gordon 1991). The political legitimacy of a government to govern and enact policy decisions is not to be excluded from the analysis of power relations but rather should be considered as one rationality operating in the act of governing. Chapter 5 demonstrates how the Howard Government used its political legitimacy as the entity responsible for family law reform to gain the consent of policy participants to render them 'governable' in the policy-making process. A governmentality perspective illuminates how the Howard government sought to achieve consent through technical means to form power relations that reinforced its political legitimacy.

A third criticism focuses on how a governmentality approach presents a restricted analysis of the actual practices and processes of government. O'Malley, Weir and Shearing (1997, 509) argued that the programmatic emphasis of a governmentality approach resulted in the deconstruction of government into systems of political rationalities, programs, technologies, and techniques at the expense of understanding the 'messy actualities of what actually happens'. In their view, this weakened the diagnostic value of a governmentality approach because studies of government had become limited to examinations of political rationality and technologies that did not encompass crucial elements, such as the discursive nature of governing, its contestation and relational

basis. One consequence of this was the framing of government practices from a ‘mentality of rule’ perspective.

Under the ‘mentality of rule’ perspective the analysis of the discursive nature and rationality of government was ‘understood as the replies given by rulers (those in positions of authority) to the questions they pose themselves’ (O'Malley et al. 1997, 509-510). This constrains the analytic of governmentality to ‘describing mentalities of rulers’ and diminishes the analysis of government to the actions of those in positions of authority. O’Malley et al. (1997) criticised this for presenting a ‘univocal’ perspective of governmentality in the regulation of citizen behaviour. They argue that as a result of this ‘mentality of rule’ perspective a tendency exists to view the programs of government as if they were ‘written by one hand’ and sideline the role of contestation from the function of rule (O'Malley et al. 1997, 511). This is counter-intuitive for governmentality studies because, as Foucault (Foucault 1988b, 103) argued, it was in the interactions and resistances (contests) encountered in the use of governmental tactics and strategies that one understands how power happens. Ignoring or silencing the constitutive role of contestation within contemporary Western societies by paying exclusive attention to the mentalities of those in authority, who set programs of government, does not provide a full understanding of practices of government through which power is exercised (O'Malley et al. 1997).

The downplaying of the multivocal, internally contested nature of government dismisses the benefits and relational nature of contestation in politics. O’Malley et al. (1997, 510) argued Foucault repeatedly asserted that ‘politics is to be seen as a matter of struggle …

dependent upon the realisation and deployment of resources, tactics and strategies'. They maintained that his interpretation of power centred on social relations and found it surprising that such a view was 'virtually excluded from governmentality work' (O'Malley et al. 1997, 510). It was argued that governmentality approaches failed to conceptualise governing and politics as relations of contest. As such, the application of governmentality often did not fully account for the constitutive features of government, despite abundant evidence that contestations, resistances and social antagonisms shape governing through the systematic provision of alternatives (O'Malley et al. 1997, 510). This risked restricting the study of government practices to the rationalities and technologies of those who govern from positions of authority.

While O'Malley et al. highlight an important point they overstate what is at issue. Governmentality studies use the techniques and practices of governing as an analytic device, a tool with which to examine the programmatic nature of the government of citizens and populations in the context of liberal democracy, while maintaining individual freedom (Gordon 1991). This includes taking into account the question of multiple discourses and voices in arriving at particular outcomes. The governmentality approach applied in this thesis analyses the procedures, techniques, and tactics employed by NGCSOs to influence and persuade. That is, the use of governmentality as an analytic device in this thesis includes the many NGCSO voices that were expressed in contesting family law reform. The development of *A New Family Law System* reflected the discursive, contested and multivocal features of government highlighted in the criticisms put forward by O'Malley et al. (1997). Multiple discourses or voices were at play in contesting the rationality of equal parenting time and were important. It was

through the deployment of alternative resources, strategies and tactics by NGCSOs that insights were gained into the function of political acumen in negotiating power relations for political influence. In this respect, the technical focus of the governmentality approach offered the most applicable framework of analysis (Foucault 1980c, 93).

One important problem with a governmentality approach raised by Dean (2006) is that an analytics of government is not reducible to only what governments do. Dean is a leading authority on governmentality (Dean 1996, 1999, 2006, 2012; Dean and Hindess 1998). He argued that we cannot understand contemporary formations of rule 'purely in terms of government' (Dean 2006, 37). He pointed to the construction of markets and quasi-markets as a way of governing the choices and behaviours of people who no longer are 'citizens' but become 'customers', 'consumers' or 'clients'. In this circumstance, individual citizens have the freedoms of liberal government because they can 'make choice[s] in a market' to meet their particular needs but are still governed through having to conform to the way service providers 'elicit and shape' such choices (Dean 2006, 37). This analysis is most apposite in light of the welfare reform initiatives embarked on by the Howard government beginning in earnest in 2000. Given the emphasis on public-private partnerships that arose in the years leading up to the family law reforms, this alternative form of bio-politics exists in a context where governing conduct is achieved through a range of non-state institutions applying market and consumer-based rationalities. An example of this was the welfare-to-work policies introduced by the Howard government that made the conduct of citizens a matter of self-regulation and self-responsibility to conform to eligibility requirements now construed as consumer choice. This means an analysis of governing extends beyond the

direct actions of governments to contingent actions, now construed as the exercise of power by agents in the private sphere working in partnership with government.

However, an analysis of 'what governments do' can still provide insights into how they exercise power because of their involvement in governing the network of non-governmental agents they deploy to fulfill previous functions of the state. The libertarian view that a 'free market' is the most efficient and effective means for the distribution of limited resources holds that the role of government is to ensure that nothing 'interferes with the working of the market' (Maddison and Dennis 2009, 44). However, for a market to be 'free' relies on: (i) a large number of customers, (ii) a multitude of sellers for a product, and (iii) all people having equal and free access to information about all products (Maddison and Dennis 2009, 68-69). These conditions rarely, if ever, operate simultaneously and consequently, markets often fail to distribute goods and services equitably or to where they are most needed. To ensure goods and services are distributed in a way that meets the needs of its citizens, governments intervene to regulate the efficiency and equity of a 'market' (Maddison and Dennis 2009). Therefore, contrary to neo-liberal proponents, the reality is that markets are not stand-alone entities but rather what we call 'the market' is a combination of private enterprises operating under government regulation to manipulate the delivery of goods and services.

One example of this amalgam has been the growth of NGCSO-government partnerships that have been constructed by government to 'marketise' welfare provision and extend responsibility for its delivery into the private sector (Inglis and Rogan 1993; Keast and

Brown 2006). In Foucault's terms, the exercise of power through the regulation of 'markets' to fulfill what were once state functions, is one way governments govern at a distance through 'things that seem far away from the population, but which, through calculation, analysis and reflection … have an effect on it' (Foucault 2007, 72). This form of biopolitics is seen in how private sector employment services govern the conduct of their 'clients' in helping them find employment in the labour market. In redrawing the relationship between the state and private sector via the marketisation of employment services, successive Australian governments have enabled private actors to define new roles in governing the conduct of groups of citizens. In doing this, governments have also redefined how they engage with service users who are now seen as 'consumers with choice' to 'purchase' services that meet their needs (Brennan 1998; Earles and Moon 2000; Kerr and Savelsberg 2001). Through enabling, regulating and funding private service providers, the state remains indirectly implicated in governing the conduct of the population.

Governmentality as an analytical framework for this study

A governmentality approach was chosen for this thesis because it provided a framework for analysing 'the operations of modern political power and organisation' (Brown 2006, 75). Conventional theories of political power and influence pay too much attention to the institutions of state and too little to the practices through which the exercise of power is enabled and occurs beyond the state (Gordon 1991, 4). The advantage of a governmentality approach is that it is about how to govern. It provides a conceptual framework to apprehend the technologies, programs, calculations, techniques, and procedures used by governments and non-government agencies in the exercise of power

(Rose and Miller 1992, 175-176). In studying the Howard government's management of family law reform, a governmentality approach facilitated an analysis of the networks that connected NGCSOs and government officials in the policy process. Criticisms of Foucault's governmentality approach notwithstanding, its emphasis on the practices and technical structures that inform power relations offered the most appropriate analytic framework for this study.

The process of governing policy development involves a suite of practices and structures that are used to exercise power over participants towards the achievement of particular political outcomes. One example of how Foucault's theory of governmentality was applied to an analysis of governing centred on the regulation of the New South Wales motor vehicle repair industry. Colebatch's study of the New South Wales motor vehicle repair industry demonstrated 'how modes of governing are related to the agendas and practices of governments' (Colebatch 2002a, 425). Through a governmentality approach as a method of analysis, he showed how problems come to be framed and how the organisational structures through which they are addressed were composed (Colebatch 2002a, 419). To do this, Colebatch (2002a) used governmentality concepts, such as problematising, identities, technologies and programs, and governing at a distance. The analytical leverage provided by a governmentality approach was that it 'points to the way in which government is assembled from the interaction of a diversity of participants' (Colebatch 2002a, 431). This widened the analytical 'gaze' to consider 'the framing of ideas and practices' to help understand the many ways in which government was enacted (Colebatch 2002a, 432). In the thesis the advantages of a governmentality approach, as identified by Colebatch, were to: (i) identify the means by

which the family law system became a problem the Howard Government felt compelled to resolve, (ii) examine how the techniques and technologies employed in the policy process supported the government's political agenda, and (iii) observe how governing the policy process enabled the contribution of multiple participants to assist in delivering a particular political and policy agenda.

Dean (1999, 11) described governmentality as a 'calculated and rational activity, undertaken by a multiplicity of authorities and agencies, employing a variety of techniques and forms of knowledge that seeks to shape conduct'. He saw a governmentality approach as beneficial in analysing 'how thought was made practical and technical' by examining the organised ways of governing or what he referred to as 'regimes of practices' (Dean 1999, 18). His approach differed from that of Colebatch in that he focused on how discourses and rationalities became 'linked and embedded in the technical means for shaping and reshaping the conduct of citizens and the routines of public institutions' (Dean 1999, 21). He asked how rationalities as a form of thinking that strove to be clear about how things should or ought to be, framed the systems of thought informing the strategies and tactics used in the government of individual and group behaviour. Therefore, the advantage of a governmentality approach is that it uncovers the 'routinised and ritualised way we do things in certain places and at certain times' and shows how institutional practices themselves can be 'made into objects of knowledge and made subject to problematisations' (Dean 1999, 21).

To identify the regimes of practices used to govern, and their strategies and tactics in structuring power relations, Dean (1999) developed an 'analytics of government'. His

central concern was to show ‘how we govern and are governed within different regimes’ and ‘the conditions under which regimes emerge, continue to operate, and are transformed’ (Dean 1999, 23). By asking questions of how regimes of practices operate, his analytics focused on questioning the means by which power and authority are exercised. It sought to bring to light how the expression of rationalities could be found in the technical means of government. Dean’s (1999) ‘analytics of government’ informed an understanding of how participation in the policy process was structured to suit particular political objectives and rationalities.

The benefit of the governmentality approach was that it created a space in which questions about government, authority and power could be raised to ‘gain clarity about the conditions’ (Dean 1999, 36) under which NGCSOs strategised and acted. Dean’s ‘analytics of government’ sought ‘to formulate and consistently employ a specific set of questions’ concerned with how regimes of practices operate (Dean 1999, 23). His framework drew on existing governmentality research to formulate a set of analytical features that could indicate how such an approach might be undertaken. He provided a way to address the problem in most analyses of power, where too much attention was paid to the institutions of the state and too little to the practices through which power is exercised and occurs (Gordon 1991, 4). Table 1 details Dean’s framework to highlight how features of his approach informed the study of government, authority and power through the application of Foucault’s theory of governmentality. In it he identified four dimensions to questioning government practices that involved:

1. Characteristic forms of visibility, ways of seeing, and perceiving.

2. Distinctive ways of thinking and questioning that rely on definite vocabularies and procedures for the production of truth.
3. Specific ways of acting, intervening, and directing that rely upon definite mechanisms, techniques and technologies.
4. Characteristic ways of forming subjects, selves, persons, or agents (Dean 1999, 23).

These dimensions were used to form the structure of the study's analytical framework because asking questions based on them helps demonstrate how power relations operate through rationalities, problematising, visibilities, values, identities, and techniques within the practice of government.

Foucault (1980c, 102) had argued that 'we must escape from the limited field of juridical sovereignty and state institutions, and instead base our analysis of power on the study of the techniques and tactics of domination'. It was in taking this approach to understanding and analysing power that Brass (2000) argued Foucault had 'stolen' political science. The analytical framework used in this thesis was based on the four dimensions of questioning practices of government identified by Dean (1999) and incorporated dimensions from his analytics of government (see Table 1.1). Each dimension in Table 1.2 gives rise to core questions that framed the analysis of NGCSO negotiation of power relations and influence in this study. These dimensions are discussed briefly to show how they contributed to the theoretical understanding of power and power relations in the policy process.

Table 1.1 Dean's analytics of government framework

Analytic feature	Description
Priority given to 'how' questions	The focus on 'how' questions arise from the rejection of power as a zero-sum game played within an 'a priori' structural distribution. Here government is analysed in terms of its 'regimes of practices'.
Practices of government as regimes	This places regimes of practices at the centre of the analysis of government and seeks to discover the logic of such practices and how they exist through the medium of thought.
Examination of fields of visibility of government	The field of visibility refers to the characterisation of a regime of government, which might include the graphs and tables that aid visualising fields to be governed. This makes it possible to 'picture' who and what is to be governed, by whom and how.
Concern for the technical aspect of government	This concern questions the means, mechanisms, procedures, instruments, tactics and techniques that constitute authority, that is, the technologies of government.
Government as rational and thoughtful activity	This approach asks questions relating to the forms of knowledge that arise from and inform the activity of governing. It asks what forms of thought, knowledge, expertise, means of calculation and rationality are employed in practices of government and how do these give rise to specific forms of truth?
Attention to the formation of identities	This focuses on the forms of individual and collective identity through which governing operates, and on which specific practices and programs of government are involved in trying to form these identities.
Extraction of the utopian element of government	Here the focus is the utopian position that asserts government can make things better and improve things and the need to separate this position from the art of government in order to analyse regimes of practice.
Circumspection about the role of values	The focus is on the nature and consequences of the values enunciated in relation to programs and practices of government which form rationalities, the structure of specialised knowledge, their impact upon forms of political argument and how they get attached to different techniques.

Table 1.2 The analytical framework used in this study

Analytical dimension	Description/Key question
Visibility, seeing and perceiving	Examines fields of visibility in governing through analysis of available documentation in order to draw conclusions about values guiding interactions and processes: How do values inform government and influence outcomes for those in positions of authority?
Ways of thinking and questioning	Examines rationalities and processes of problematisation when the activities of government are called into question: How do ways of thinking inform the strategies and tactics used in government to solve policy problems?
Mechanisms, techniques and technologies	Examines how policy objectives are set and problems are solved: What means, mechanisms, procedures, instruments, tactics, and techniques are used by those in authority to deal with policy problems? In effect, how is power constituted and exercised in policy processes?
Identities and forming subjects	Examines the rules and practices governing individual and group identity and conduct: How do perceived identities shape the ways and means by which individuals and groups are governed? In this case, how did NGCSO identity and the service users they served shape their conduct and political influence in the family law reform process?

Visibility, seeing, perceiving and the influence of values

Regimes of government have 'fields of visibility' that make it 'possible to picture who and what is to be governed, how relations of authority and obedience are constituted … what problems are to be solved and what objectives are to be sought' (Dean 1999, 30). Dean and Hindess (1998) pointed to, among other things, books, manuals, legal documents, charts, maps, and flowcharts as the means through which the practices and techniques of governing (ie. regimes of government) were made visible as a field of study. For example, in the family law reform process, analysis of the documentation

from EPTS would reveal the strategies used to govern participation and discussions on this issue as it included NGCSO submissions, public hearing transcripts, and policy papers. By analysing these as 'fields of visibility' insights could be gained into how some NGCSOs structured their participation based on their understanding of the way in which problems in family law had been identified and addressed.

This process was influenced by an Australian family values discourse that influenced how the governing of the policy process was predisposed to particular policy objectives. These values informed government practices and the means by which desired ends might be achieved because they framed the way in which issues were viewed and led to preferred ways of thinking about, discussing and acting on family law. That is, they underpinned the means through which governing was enacted (Dean 1999, 34). From a Foucauldian governmentality perspective, it was important to examine not only how values informed the perspective of those in positions of authority but also of those who held different values and resisted the actions of those in authority. The Howard Government explicitly stated its position on equal shared parenting responsibility and sought to undo the past system that tended to favour mothers in custody arrangements. Therefore, conservative family values were an important factor in how the policy process unfolded around questions relating to parental and state responsibility for children, equal involvement of both parents in deciding custody arrangements and in caring for children post-divorce, and acting in the best interests of children affected by divorce.

Ways of thinking and questioning and problematisation

Ways of thinking (rationalities) inform what it means to be governed and rendered governable (Gordon 1991, 3). Rose and Miller (1992, 1972) argued that rationalities are 'the changing discursive fields within which the exercise of power is conceptualised'. As such they inform the strategies and tactics used in governing the conduct of individuals and groups (Rose 1999; Dean and Hindess 1998). A 'governmentality' approach asks 'what forms of thought, knowledge, expertise, strategies, means of calculation, or rationality are employed in the practice of government' (Dean 1999, 31). Identifying the rationalities governing the Howard government's reform of family law and how they were employed in developing *A New Family Law System* was central to this thesis. An understanding of how ways of thinking informed perceptions of family law also provided evidence of how the family law system came to be thought of and constructed as dysfunctional, and therefore in need of reform.

Dean (1999, 27) used the term 'problematisation' to describe citizens and authorities questioning the conduct of those who governed (politicians, parents, and the professions) and those who were governed (citizens, children, and clients). Problematisations are relatively rare and involve calling the activity of government into question, and the moments and situations in which its activities are problematic. That is, they take place at 'particular dates and places, and occur[red] at particular locales or within specific institutions' (Dean 1999, 27). In this thesis, problematisation involved the practices of governing in regard to parenting arrangements in separated families and the limitations of existing policy in dealing with the formulation of agreements regarding custody. In particular, family law reform hinged on the assumption that

reaching agreeable parenting arrangements were problematic for parents, grandparents, politicians, community organisations, and advocacy and support groups. Therefore, understanding how governing parenting arrangements in separated families was 'problematised' in a manner that influenced the policy process gave insights into how some groups negotiated power relations by framing the issue of family law in their terms.

Mechanisms, techniques and technologies of governing

Dean (1999, 31) stated that 'if a government is to achieve particular ends, or seek to realise values, it must use technical means'. An analysis using a governmentality approach would focus on the 'practices of governing' – the mechanisms, procedures, instruments, tactics, techniques, and technologies used to establish authority and maintain or lose power. Governing involves the use of a combination of diverse procedures, forms of knowledge, and practices and techniques directed at achieving specific objectives and goals (Dean and Hindess 1998). A governmentality approach therefore examines the technical means by which knowledge and thought are given practical expression in the exercise of power (Dean 1999, 30). It asks, 'by what means, mechanisms, procedures, instruments, tactics, techniques and vocabularies is authority constituted and rule accomplished?' (Dean 1999, 31) Examining the mechanisms, techniques and technologies used to govern NGCSO participation revealed how the Howard government conducted the policy process and NGCSO participation in family law reform. This examination enabled the analysis of NGCSO involvement to move beyond the traditional didactic of 'who had power over whom' to a more complex and

nuanced understanding of how mechanisms of power were negotiated and participation methods strategised in order to influence policy decisions.

Identities and forming subjects to be governed

For Foucault, how the subject was formed was a central question in his conception of government and he was intensely interested in the discourses shaping identity. By implication, then, a governmentality approach directs attention toward individual and group identity and asks how identities are created and negotiated. What factors govern or shape individual or group behaviour or conduct? Dean and Hindess (1998, 11) argued that practices of government:

> attempt to specify and fix our identities in definite ways in the service of particular ends. The 'dangerous individual' or the 'long-term unemployed' as much as 'active citizen' or the 'enterprising person' are personal and collective identities made-up through particular forms of reasoning and technologies so that they might be worked with and upon to different ends.

In his analysis of the regulation of motor vehicle repairs in New South Wales, Colebatch (2002a) demonstrated how the creation of an 'industry' was an important step in giving trade representatives an identity by which they could establish a complaints system that was run by people who understood the trade. Through the formation of this collective identity, disparate groups of vehicle repairers were able to come together to take action to contain the activities of a bad repairer or have them cease their operation, thereby using acts of government in the service of protecting the industry's reputation. Hence the conduct of individual repairers and enterprises was

regulated by industry control through the establishment of subjects that could be governed toward particular ends.

In the development of *A New Family Law System*, the creation of identities – that is, the way particular systems and groups were portrayed by government and NGCSOs – had a significant impact on the framing of family law issues and the proposals put forward as viable solutions. A 'biased' legal system, 'neglected' or 'at risk' children, parents and children as 'victims', 'parental responsibility', 'neglectful parents', 'dependent mothers', 'absent fathers', and so on were various identities employed in the family law reform process. Each carried a meaning that was favourable or unfavourable and would affect how different constituents' needs and interests would be accommodated through the family law reform process. The Howard government, and the family values it promoted, favoured heterosexual families, working mothers and equal parenting arrangements. By implication then, it was assumed that NGCSOs extolling these values would have greater influence in the family law reform process and in the development of *A New Family Law System*.

Conclusion

There are numerous models in political science that seek to account for the structure and machinations of power (Dowding 1996, 90). This is based on the assumption that, in competitive and contested political environments, power is a contested concept. It is the currency used to influence decision-making (Dowding 1996). For example, the command and obedience model of power privileges a particular understanding of politics that focuses on political divisions, the ways in which they are created and

perpetuated in society, and the power relations sustaining them over time (Brass 2000, 315). On the contrary, Foucault (1982, 220) believed that views of power as the result of 'dominance', 'control', 'obedience' or 'luck' failed to capture *how* power was exercised in contemporary policy contexts where participants were said to be free to act in ways of their own choosing in response to the actions of others.

Foucault's governmentality framework with its focus on the practices, rationalities, techniques, and tactics of government provides a sophisticated means to study the mechanisms used to govern NGCSOs in the policy process and limit or allow their political influence. The theory of governmentality enables the machinations of the family law reform process to be explained. By focusing on the technical means through which power relations were created and analysing how NGCSOs navigated their way into and through the family law reform process, insights could be gained into the development of political influence. Hence, of central importance in the analytical framework (Table 2, p. 34) were questions of *how* participants in the policy process were governed. How was their conduct towards particular policy ends managed?

Using a Foucauldian framework enabled the constituent parts of so-called 'normal' practices in the policy process to be identified and scrutinised. It provided a lens through which to identify the practices to which NGCSOs were subject and which they had to negotiate in order to influence government officials and, ultimately, *A New Family Law System*. In short, a governmentality framework enabled an analysis of the political 'craft' and 'skill' of NGCSOs in seeking policy outcomes in their clients' interests. The next chapter reviews the scholarly literature about interest groups in

Australia, with particular attention paid to the issue of political influence and provides a detailed background on the NGCSOs studied in the policy process.

CHAPTER 2

Interest Groups and Political Influence in Policy-Making

'The motives for forming groups are as various as human imagination and contrivance' (Maddison 1788, cited in Marsh 2002, 353).

'There is no area of public policy where collective actors do not seek to influence the decision-making process' (Fenna 2004, 151).

Interest groups are the most popular form of political participation, outside of political parties, for citizens in Australia to voice political and policy concerns. The range of groups in Australia is diverse and wide-ranging. To list just a few, interest groups in Australia include the: Australian Council of Trade Unions; Returned Services League; Business Council of Australia; Refugee Council of Australia; Australian Chiropractors Association; Australian Mushroom Growers Association; and Friends of the ABC (Matthews 1997, 270). However, the one defining similarity among interest groups is that they voice political concerns by making claims on government regarding the formation or administration of public policy on behalf of the service-users' interests they represent without their wanting to take over the responsibility of government (Davis et al. 1993; Warhurst 1998; Matthews 1997). They are a ubiquitous feature of the Australian political landscape and at various times have exerted considerable influence on policy decisions through their economic and social standing and capacity to develop strong relations with the government of the day (Economou 1998; Marsh 1995, 2002; Singleton et al. 2006). Broad frameworks have been developed to provide an understanding of the political influence of interest groups in terms of the interests

they represent, their engagement in political processes, and their relations with government. However, this body of work does not sufficiently account for differences in the power of interest groups based on the political strategies they employ and their effectiveness, in favourably negotiating contextual and structural complexities in the policy-making process.

Interest group policy participation has been conceptualised in several ways. Typically, the analysis of participation has been based on categorisations that create irreconcilable dualities. The problem with either/or types of categorisations is that boundary issues occur for interest groups and their relationship with government and choice of tactics change over time, and are driven by context and circumstances (Matthews 1997; Vromen and Gelber 2005). In short, binary forms of conceptualisation do not provide the necessary level of sophistication required to gain a deeper knowledge of the way in which interest groups negotiate power relations to affect political influence. An understanding of these processes is vital for those seeking to understand how interest groups go about achieving policy outcomes. Understanding political power, who exercises it and how, is a key focus of such analysis (Vromen and Gelber 2005, 7). Just as power is central to politics, the 'study of power is central to political analysis' (Smith 1997, 33). Therefore, the study of interest group power and how it is obtained and exercised to effect political influence requires an understanding of their relationship with government regarding their capacity to influence policy decisions. These relationships are made more complex by the fact that they occur within a political context or system which is already well-disposed to some groups over others due to, among other things, racial, gender, religious, or ethnic differences between interest

groups and those in positions of authority, not to mention converging or diverging political objectives.

One categorisation used to account for the behaviour and influence of interest groups is based on whether they represent wide or narrow interests in the political aims they seek to achieve. The term *sectional* is used to describe groups that 'defend the interests of particular groups or sections of the community' where 'membership is only open to people from those particular sections' (Singleton et al. 2006, 410). Matthews (1997, 269) noted that sectional groups are termed thus because they also seek to 'promote the material interests of a section of society'. Therefore, sectional groups represent narrow interests in that they seek political aims for the benefit of their particular interests and membership, rather than the broader community. Examples of sectional representation can be seen in prominent Australian interest groups such as the Australian Council of Trade Unions and the Business Council of Australia.

The Australian Council of Trade Unions is the peak organisation for the representation of organised labour and the union movement in Australia. It represents the interests of the union movement and its members that, although a diminishing section of society, still command significant political power through the affiliation of unions such as the Australia Workers' Union, Community and Public Sector Union, Construction, Forestry, Mining, and Energy Union, and the Shop Distributive and Allied Employees Association. The 2007 'Your Rights at Work' campaign was an example of the Australian Council of Trade Unions defending the interests of its members by seeking the repeal of the Howard Government's *Work Choices* legislation. Historically, the

Australian Council of Trade Unions has been able to exert considerable political power during periods of Labor government due to affiliation of some of its member unions to the Australian Labor Party and common ideological positions (Davis et al. 1993; Kelly 1992; Matthews 1997; Warhurst 1993).

The Business Council of Australia is another prominent and, at times, politically powerful sectional interest group. As the name suggests, the Business Council of Australia represents the interests of the Australian business community. It is truly sectional in that membership of the Business Council of Australia is limited to the Chief Executive Officers of the 100 largest companies in Australia. It is an interest group that has considerable economic and social power through the employment of over 1 million people and the revenues their activities and investments bring to the Australian economy. Some of its members include BHP Billiton, Commonwealth Bank of Australia, Leighton Holdings, Macquarie Group Limited, Rio Tinto, and Wesfarmers Limited. The Business Council of Australia seeks political action to serve the interests of its members in areas such as emissions trading, regulation, taxation, and workplace relations. Its representation of major corporate interests, although frequently oppositional to those of the Australian Council of Trade Unions, is also narrow in the sense that it is focused on its members rather than the broader community.

Warhurst (1993) argued that corporate-styled policy making saw a limited range of sectional interests form close relations with government through the establishment of professionalised and high resourced organisations, such as the Australian Council of Trade Unions and the Business Council of Australia. This corporatist context typically

saw ‘economic’ or ‘producer’ interests take precedence in policy-making and the negotiation of socio-economic political arrangements with governments (Warhurst 1993, 116 & 117). The significance afforded to privileged sectional groups was considered problematic by Mancur Olsen (1982) who argued in *The Rise and Decline of Nations* that corporatist styled policy-making leads to decreased competition and increases protectionist measures because of the positions advocated by sectional interests. Brittan (1975 cited in Marsh 2002, 353) used trade unions as an example of how sectional interests seek monopoly-style privileges for their members which they exploit to stifle economic growth. This criticism of powerful sectional interests aligns with the argument that the line between national and sectional interests often becomes blurred because ‘national interests’ are made to look like anything that supports a particular group’s policy position (Singleton et al. 2006, 416).

The other major type of interest group is termed *promotional* because such groups ‘promote a cause which they think everyone should favour’ and where ‘membership is open and anyone is eligible to join’ (Singleton et al. 2006, 409). Examples of promotional groups include the Australian Medical Association, the Australian Conservation Foundation and the Council for Civil Liberties. The promotion of environmental awareness and political consideration with groups such as Greenpeace, the Australian Conservation Foundation, and the Wilderness Society can be seen in their seeking to move the policy debate away from sectional economic interests to a ‘broader’ public interest (Fenna 2004, 155). The extent to which the Australian Conservation Foundation has achieved mainstream and political acceptance as a group of significance is reflected in its Chief Executive Officer, Don Henry’s frequent appearances in the

media, and inclusion in political deliberations as the representative for the environmental movement and community environmental concerns. The increase in its membership to over 40,000 has led governments to consider it necessary (or expedient) to involve the organisation in policy formation (Fenna 2004) thereby demonstrating that some promotional groups are also powerful. However, Vromen and Gebler (2005) argued that most promotional groups tend to be portrayed as organisations which are left out of internal policy deliberations with government, that is, on the 'outside' of government. They suggested this was because promotional groups typically champion issues and rights rather than represent sectors of the community with powerful economic interests (Vromen and Gelber 2005). While this may be true in most circumstances, the line between sectional and promotional for some interest groups is not so black and white, and is dependent on the issue in question and the political context.

A third category of interest group describes those organisations that display both promotional and sectional characteristics and because of this are termed *hybrid*. Hybrid interest groups undertake activities that both defend the interests of a particular section of the community and promote causes they believe have universal appeal (Singleton et al. 2006). One example of a hybrid group is the Returned and Services League. One of the primary functions of the Returned and Services League is to advocate and defend the interests of returned soldiers in the political sphere. This is typically sectional in that it represents a narrow range of interests, namely returned service personnel. However, the Returned and Services League also adopts a promotional role to advocate interests it believes should have wide community support and appeal. It vigorously promotes

defence policy that supports the care and protection of returned soldiers and their families, and in the Republican debate it actively campaigned for the Monarchy to remain as the constitutional head of state (Singleton et al. 2006, 410). Hybrid interest groups illustrate the challenge in establishing clear boundaries that neatly delineate one group from another that can accommodate the complex nature of political engagement.

Categories of any nature are bound to be problematic but are useful for analytical purposes. However, categorical 'distinctions [of organisational types] break down if they are pushed too hard' (Singleton et al. 2006, 410) because all interest groups share a common need to argue persuasively, speak out on a range of issues and do what they can to attract members and resources. Put another way, the demarcations discussed previously are to an extent misleading, because all groups are sectional in representing the interests of their members yet must also find ways to promote the interests of one section of the community as being to everyone's advantage (Singleton et al. 2006, 410). What is needed to understand better how individual organisations help shape government decisions is a more definitive account of the effect they have on political relations in achieving their policy aims (Vromen and Gelber 2005, 318). Rather than frame the relationship between interest groups and government according to the interests they represent, their complex and at times divisive interactions could be assessed on aptitudes necessary to convince governments of the merits of certain courses of action (Saunders and Walter 2005).

Another factor seen to be important in interest group influence is whether or not they are 'insiders' or 'outsiders'. These terms are used to describe the political status of an

interest group based on whether an organisation is included in or left out of internal policy deliberations with government (whether they are in or out of the 'policy tent') (Davis et al. 1993, 140-141; Halpin 2002, 490). Grant (2004, 408) introduced the notion of insiders and outsiders in 1978 to point to the inadequacies of the promotion/sectional distinction in understanding the strategies of interest groups and how they fit into the polity landscape. Insider groups were said to be recognised by government as legitimate spokespersons for particular interests or causes and who were therefore allowed to engage in a dialogue with it on issues of concern for them. In return, an insider group implicitly agreed to abide by certain rules of the political 'game' (Grant 2004, 408). Being on the 'inside' of government was seen to be advantageous because it allowed an interest group direct and frequent access to government, giving them greater opportunities to advise and persuade government toward particular courses of action (Grant 2004; Halpin 2002; Singleton et al. 2006). However, these benefits also bring perpetual tensions and strategic compromises. In order to work with government, closely held organisational values might be compromised (Economou 1998, 375). Being part of the deliberation process also makes it harder to criticise policy decisions. This is because being an insider denotes implicit support for government objectives and guaranteed approval of the decisions reached. The trade-off of access for compromise is typically of such benefit for interest groups that they are reluctant to lose or risk their insider status by being seen by government as hypocritical, or worse, distrustful (Lovell et al. 1998, 350).

Outsider groups are not 'subject to the disciplines imposed by the acceptance of the informal rules of the game' (Grant 2004, 409). It is therefore easier for groups 'outside'

of the inner workings of political decision-making to engage in activities that publicly criticise government policy and develop negative public pressure. While this provides a level of freedom in exchange for political legitimacy and recognition, not all groups are 'outsiders' by choice; some groups are outsiders by 'necessity' because, although they would like to be an inside organisation, they might lack 'the necessary resources or skills to gain recognition' (Grant 2004, 409). By comparison, the political influence of insider groups derives from their privileged status and skills to: (i) be able to talk the language of government and the public service, (ii) appreciate understatement and comments made in deep code, (iii) inform through informal consultations, (iv) present an accurate well-researched case, and (v) know how to bargain (Grant 2004, 409). These give insider groups a distinctive advantage in the policy process because they have greater and more effective means of access to decision makers and that makes it more likely they can achieve their policy aims.

However, not all insider groups automatically achieve their policy aims and at times outsider groups do enjoy political success. The 'insider' or 'outsider' status is also subject to factors that do not necessarily have anything to do with the policy in question (Vromen and Gelber 2005, 320). For example, a gay interest group in a government unfavourably disposed to gays would never be able to gain insider status no matter how just their causes. A group of lesbian mothers would also be unlikely to have received much support from the Howard government in the family law reform process. One strategy to minimise the risk of political dependency for influence is to incorporate the benefits of being both an insider and outsider into the operations of an organisation. A politically active organisation like Greenpeace has developed a 'wet suit' and 'business

suit' approach to exert political influence. That is, it chooses to maintain an outsider status and engage in public protests (wet suit strategy) while also engaging in formal dialogue with government and business over environmental issues (business suit strategy). The dichotomy of insider/outsider provides a better understanding of how political influence can be gained through the relationship an interest group has with government and the level of access they have to advise and persuade government officials. However, the status given to a group is changeable and strongly linked to the political context and government with which they seek influence (Vromen and Gelber 2005). Political status as a binary is too simplistic to sufficiently account for the political influence of some groups over others through their negotiation of complex power relations in the policy-making process.

Political context and influence

Prevailing economic, social and political issues significantly impact on the relationship between interest groups and government and their capacity to exercise influence. The socio-economic context in which an interest group seeks political influence, as previously discussed, is heavily influenced by the policy priorities that reflect the political agenda and party political interests of the government. The Howard government in the early 2000s in the aftermath of 9/11 used every opportunity to promote their Australian values and family values policies thus maximising opportunities for interest groups that supported these causes. This is discussed in greater depth in Chapter 4 with specific reference to the political context surrounding family law reform. Here the point is merely to note the importance of considering the context in which a given policy issue might emerge.

The impact of economic, social, and political issues on the influence of interest groups had been demonstrated in much earlier developments in the post-war years (1945 onwards) with the introduction of a welfare-based, state-managed economy and egalitarian policy objectives. It was a system that provided interest groups with the opportunity to exercise a level of political influence in social issues (Marsh 1995, 51). Governments became reliant on the cooperation of interest groups to assist them in achieving their broad policy agenda of economic and social well-being. Price and wage stability and expanded services for marginalised social groups were characteristic of this time (Marsh 1995, 52). Interest groups quickly developed an important role as providers of information to assist government in policy formation and to act as conduits between government and the community in disseminating policy information. This participatory role and higher levels of government involvement provided interest groups with new opportunities to 'set' the policy agenda of the major political parties, and at times occupy powerful positions (Marsh 1995, 101-102).

The environmental movement in the 1980s demonstrated how the political context affected the level of legitimacy, access and influence afforded to interest groups and underscored the growing alliance between Labor and the Greens in Australian politics which persisted with the Gillard government. Economou (1998, 375) contended it was the electoral needs and complexion of the Australian Labor Party that determined the level of influence given to the environmental movement in its transition from 'eco-nuts' to mainstream politics. He argued it was Bob Hawke's desire to attract anti-dams support at the 1983 federal election that opened the door for the environmental

movement to develop a stronger and more influential position based on the Australian Labor Party's urging voters to 'vote for the wilderness by voting for Labor' (Economou 1998, 374). It was the electoral necessity of the 'green vote', in the political context of that time that acted as 'an important lever' environmental groups could bring to bear on the policy process and their relations with government (Economou 1998, 375).

The Hawke Government's political need for 'green votes' determined its willingness to take seriously the policy agenda of environmental interest groups. Power brokers and strategists in the Australian Labor Party at the time, like Senator Graham Richardson, realised the political value in legitimising the claims of environmental groups and made sure select organisations were afforded access to senior members of the then Hawke Government (Economou 1998, 374). Environmental groups were able to exert political influence and shape policy decisions because they were politically valued to provide feedback to government on the goals of and implementation issues relating to specific policies, supply expertise and external authority, and 'test' community reaction to policy initiatives (Maddison and Dennis 2009, 155-56). The political imperatives of the greens and government created a receptive environment for green interest groups to influence policy decisions.

Another example of a harmonious political relationship was the Hawke-Keating Government's partnership with the Australian Council of Trade Unions in delivering the *Prices and Incomes Accord*. Davis et al. (1993, 140) argued that during this period in the 1980s and 1990s, the Australian Council of Trade Unions held a position of privilege in negotiations on the *Prices and Income Accord*. The labour movement's

disproportionate access to and influence with government resulted in 'union-friendly' decisions that allegedly were made without public scrutiny because of Prime Minister Keating's personal relationship with Bill Kelty, Secretary of the Australian Council of Trade Unions 1983-2000. And preceding Keating's prime ministership, in the Hawke years there was also a cozy relationship between his government and business entities such as Robert Holmes a` Court, Allan Bond, and Kerry Packer (McEachern 1991). A similar pattern of privilege was evident during the Howard era with the Business Council of Australia playing a prominent role in the development of economic and social policies (Errington and Van Onselen 2007). The political agendas of different Australian governments demonstrate the importance of the political context in studying interest group influence. Political context frames how and why certain groups receive more favourable treatment over others in the consideration of their interests.

Some groups are able to exert considerable influence by securing positions of political privilege through using favourable economic, political or social circumstances to steer the policy debate. This occurs when governments value the input of some groups to the exclusion of others and electoral and political consequences favour one course of action over another (Halpin 2002, 489-490). Therefore, the study of contextual features such as: (i) the issue at stake, (ii) the government of the day, and (iii) the legitimacy afforded to a group's policy input, alone does not offer a complete understanding of why some groups can take advantage of favourable circumstances to achieve their policy aims (Matthews 1997, 276-277). Other factors including the participation methods employed by an interest group, the electoral cycle, and community expectation may also prove

effective in generating political power and require consideration in the analysis of interest group influence.

Politics, participation and influence

Interest groups must also think of and structure their participation as 'political' interactions if they are to influence and persuade government to make policy decisions that favour their members. If an interest group wants to influence policy decisions it must engage in the policy process with political considerations in mind (Singleton et al. 2006, 415) because in many respects politics and interests are more or less inseparable. There is no such thing as a politically neutral relationship between interest groups and government because whenever anyone stands to gain or lose from a policy decision, interests and politics are inevitably involved (Matthews 1997; Singleton et al. 2006; Vromen and Gelber 2005).

A working knowledge and keen understanding of how the political priorities of government can match the policy aims of an interest group is crucial in their developing a relationship of influence. During the development of the Keating Government's *Working Nation*, as Deputy Secretary of the Department of Prime Minister and Cabinet policy, Edwards (2001) noted how Ministers and their advisors were focused on creating the right political outcome from the policy process and the decisions made. She observed that the government was 'keen to see results quickly and wanted to work on that … the government was also keen to get publicity about placing unemployed people in programs' (Edwards 2001, 168). Political considerations are almost all-consuming in the development of policy, and those seeking to influence policy decisions should target

a government's need to stay in power through their interactions and decisions (Edwards 2001, 187-188).

Influential groups understand that governments are always seeking community support for their policy agenda to justify the decisions being made through external and expert legitimisation (Cowan 2004; Fenna 2004; Vromen and Gelber 2005). Colebatch (2002b, 43) argued that the Australian policy process often involves mobilising already well-disposed or highly influential authority outside of the government to formulate, legitimise and enact policy. Engaging influential groups is as important for the government as engaging government is for interest groups. Those groups that provide political support are given privileged access to Ministers, their advisors and senior public service officials (Economou 1998; McEachern 1991). Yet the political nature of public policy means that opportunities to provide political support ebb and flow with the changing of governments, their values and principles, and political agendas (Matthews 1997). Therefore, influential interest groups build positive relations and sound reputations with those in positions of political power so they are ready to take advantage of favourable circumstances and achieve insider status when the time arrives (Client Solutions 2006). To make the most of their opportunities for influence with government and other powerful operatives, interest groups greatly benefit by placing themselves in a position to recognise government initiatives they can support (Economou 1998; Grant 2004). At the same time, governments do their homework to identify any highly influential interest groups that might thwart their policies and do their best to engage them from the inside.

To gain a position of political privilege, recognition and influence a suite of participation methods are used by interest groups to directly or indirectly advance their members' interests. These include: (i) campaigning through the media via interviews, articles and letters to the editor, (ii) party and policy promotion during election campaigns, (iii) forming alliances and networking through coalitions and within policy communities, (iv) ensuring the visibility, credibility and legitimacy of an organisation through increased membership and resources, (v) lobbying government ministers, ministerial staff, and senior public servants, (vi) providing research and issues analysis as an 'expert' in government submissions and consultative bodies, and (vii) using professional lobbyists (Singleton et al. 2006, 410-414; Keen 2006, 33; Gray et al. 2002, 101). It is through the use of such participation methods that interest groups are able to enact and implement their tactical and strategic engagement in political and policy processes.

The tactics employed by interest groups provide an insight into their political acumen. The appropriate selection and successful application of specific tactics is crucial for an interest group in order to secure political decisions in their members' interests. The ability to accurately comprehend the political and social context surrounding a policy issue and use this knowledge to enact effective tactical engagement is indicative of political acumen (Matthews 1997; Singleton et al. 2006; Vromen and Gelber 2005). Alinsky (1971, 125) put it more succinctly, 'tactics means doing what you can with what you have'. The effective use of resources to gain a position of political privilege and power is at the heart of demonstrative acumen through the selective and timely employment of tactics.

Effective policy participation through the use of tactics was detailed by Alinsky (1971) in his seminal text *Rules for Radicals*. He stated that, 'In a world of give and take, tactics is the art of how to take and how to give' (Alinsky 1971, 125). His central message was that effective and persuasive political action should be based on a clear rationale that provides meaning and purpose towards clearly defined outcomes. Astute interest groups and activists use informed tactics to guard against the implementation of ad hoc and impulsive actions that readily disintegrate and lead to political defeat. Alinsky (1971) outlined 13 tactics on which activists and interest groups should base their strategic action.

Framed in terms of conflict and power the tactics of effective political action were as follows:

1. Power is not only what you have but what the enemy thinks you have.
2. Never go outside the experience of your people.
3. Wherever possible go outside of the experience of the enemy.
4. Make the enemy live up to their own book of rules.
5. Ridicule is man's most potent weapon.
6. A good tactic is one that your people enjoy.
7. A tactic that drags on too long becomes a drag.
8. Keep the pressure on.
9. The threat is usually more terrifying than the thing itself.
10. The major premise for tactics is the development of operations that will maintain a constant pressure upon the opposition.

11. If you push a negative hard and deep enough it will break into its counterside.

12. The price of a successful attack is a constructive alternative.

13. Pick the target, freeze it, personalise it, and polarise it (Alinsky 1971, 125-129).

This suite of tactics highlights constituent components of effective political action that, if shown to be appropriately matched to specific circumstances, can indicate a level of political acumen.

Two key features of influential participation were also identified by Alinsky as enhancing or diminishing power dynamics. He argued that a successful engagement strategy must understand that competition for power exists between all political combatants, even those in positions of power. The fact that 'power is not static' meant that powerful interests can be played against each other through 'calculated maneuvering' to create more favourable power relations (Alinsky 1971, 146-148). Timing was the other feature shown to be the difference between success and failure. As regards to the timing of tactics, he argued that 'the pressure of time should be ever-present in the mind of the tactician as he begins to engage in action (Alinsky 1971, 156). This was because sustained interest can only be held over a limited time. Therefore, applying the right tactic for the right amount of time was a crucial aspect of effective participation. However, despite the identification of engagement tactics and strategies, it can be difficult to account for why some interest groups are more politically influential by participation methods alone, when across many policy contexts these are often indistinct (Singleton et al. 2006, 411). Nonetheless, through the analysis of the participation of interest groups, some variables have been shown to account for differing levels of political power and influence.

The formation of alliances and networking through coalitions was the central focus of Tattersall's (2010) research. She studied coalitions within the labour movement and developed three propositions regarding those that are successful. She argued that coalitions are most successful when they achieve social change while operating in a way that builds the organisational strength of those participating in the coalition (Tattersall 2010, 3). The strategic choices of a coalition's participants in response to the political context were also a significant factor in determining their level of success. The ability of an organisation to benefit from the resources of coalition partners was the final proposition made by Tattersall (2010) who found that unions profited from working in concert with others. In exploring what it took to build an effective coalition strategy she identified the common goals, organisational relationships and geographic organisation among participants as key factors that shaped the level of success in affecting social change (Tattersall 2010, 11).

Tattersall argued that 'coalitions are a dynamic and potent strategy capable of achieving social change' (Tattersall 2010, 142). Strong coalitions were effective as agents of social change because they were strategic about bringing in powerful partners so that membership could be limited to a number that enabled efficient communications and internal negotiations to occur. They also had organisational leaders who participated directly in the decision-making of the coalition. In addition, a coalition was strongest when the 'shared interests of organisations combined with the social legitimacy of public interest' (Tattersall 2010, 145). She described this as 'wielding self-interest with a sword of justice' (Tattersall 2010, 145). Lastly, a coalition's campaign was more successful when it 'strategically focused on building political pressure' and was

mindful of electoral and legislative opportunities (Tattersall 2010, 146). The capacity to work in and possess the features of a successful and strong coalition was an important factor in the influence of NGCSOs.

Marsh (2002) came to the following conclusions as to why some groups are able to exert political power and influence after analysing interest groups in the late 20th century. He drew on his analysis of Australian interest groups to highlight that the intensity of concern around an issue was just as significant as organisational and financial resources, where drawing on high levels of intensity was more important in getting an issue onto the political agenda than sheer numerical representation (Marsh 2002). Secondly, coherent organisation itself was a significant aspect of power and always present in effective interest groups. Thirdly, ideas, images and narratives were powerful resources in political campaigning. Fourthly, influential groups had endurance in the pursuit of their political goals over the lives of several governments and, at times, despite initial public indifference. Finally, all influential groups enjoyed access, in varying degrees, to the formal and informal machinery of government (Marsh 2002, 358). This feature of influential and politically powerful interest groups is seen in their efforts to make sure they are in direct contact with politicians and party representatives through co-membership in policy communities and political networks (Singleton et al. 2006, 420). Marsh's (2002) features of influential participation are used later in the thesis to discuss the role of political acumen in supporting NGCSOs to shape the policy decisions.

However, it has been shown that the demonstration of political influence is not always straightforward and that one must exercise caution in attributing power to more obvious features of policy participation. Matthews (1997, 284-286) warned about some of the pitfalls to avoid when studying influence and power in interest groups. He noted that the actions of an interest group alone need not be the sole factor in their having directly influenced policy outcomes. To assume that this is the sole factor can prove misleading because most policy decisions are shaped by more significant and powerful factors that affect policy decisions such as the political commitments taken by political parties, the constituents affected by particular issues, and the nature of the issue itself. Conclusions regarding political influence that are based on causal hypotheses linked to policy outcomes ignore the complexity of decision-making in Australian politics.

The assumption that an organisation with greater resources will automatically be more influential is flawed because it ignores circumstances where smaller, less-resourced interest groups can carry significant political influence. The reality of interest group participation is that the resources available to an organisation are only as effective as the strategies used to deploy them. Insider groups do not automatically benefit from having greater levels of access to government and are often co-opted for the purpose of sanctioning, legitimising and 'selling' predetermined decisions, rather than providing genuine policy input. Finally, informal situations are often just as influential in shaping policy decisions (Matthews 1997). It is also necessary to examine what takes place outside of formal policy processes, as the formal policy process is not always the best, or only, place to gather evidence of influence when an interest group gets its policy position adopted by government.

To influence policy decisions interest groups must strategise and structure their methods of participation with the political complexion and electoral needs of the government in mind (Matthews 1997, 289). Therefore, political interplay between interest groups and government is an important feature of influential participation because of the impact this has on the decision-making process and the relationships of power it entails (Dowding 1996, 1; Fenna 2004, 2). Politically, the electoral cycle and desire to stay in government also play a large part in determining 'what items get on the agenda and when and whether they are pursued past a certain point' (Edwards 2001, 10). Singleton et al. (2006) observed that it is impossible to separate policy from politics because the former is the business and product of the latter. Conversely, it has also been argued that political considerations such as electoral cycles and remaining in government dictate the policy decisions taken (Edwards 2001). This thesis examines how an understanding of power relations between the Howard government and NGCSOs, in light of the political context, informed the participation of some organisations so as to influence government and achieve their policy goals. The political elements of family law reform and their implications for NGCSO political influence are explored in detail later in the thesis but for now, in order to provide an organisational context for that analysis, the following section offers background on the organisations whose participation is studied.

NGCSOs studied in the thesis

The NGCSOs studied in this thesis were selected on the basis of their having made both a submission and given public hearing evidence during EPTS (HRSCFCA 2003c, 215-223). The rationale for the selection criteria of the 43 NGCSOs in the study sample is

outlined in Chapter 3 but suffice to say here they represented a range of client interests. The categorisation of client interests helped to locate NGCSOs in relation to other organisations and assisted in the later analysis of their policy positions and negotiation of power relations. The linkage of particular organisations to their client interests and policy positions helped to contextualise their participation within the political environment and the challenges and opportunities this presented NGCSOs. The political agenda and ideological foundation of government has a significant impact on the capacity of an NGCSO organisation to influence policy decisions. This was particularly the case in family law reform, where the NGCSOs competing for influence had to negotiate deep-seated political views. The relationship between NGCSO and government interests was vital in understanding the effect power structures set on certain outcomes had on their participation. The areas of client interest within the NGCSOs are defined below. In using these categories I acknowledge that individual NGCSOs can, and often do, service client interests across the definitional boundaries created for the purposes of reviewing organisations in this thesis.

Areas of NGCSO client interest used in the thesis

1. *Children and youth:* advocacy of children and youth rights and well-being.
2. *Domestic violence:* refuge and support services for victims of domestic violence.
3. *Families and relationships:* Counselling, education and dispute resolution services for families and couples at all stages of their relationship.
4. *Fathers and men:* advocacy and support services for fathers separated from their family.

5. *Grandparents:* advocacy and community education on grandparents' rights.
6. *Legal support:* provision of advice, advocacy and representation in legal proceedings.
7. *Welfare advocacy:* support services and advocacy for those on welfare payments.
8. *Women's support:* information, referral and support services for women in crisis situations, often incorporating the needs of their children.

These categorisations were applied to the NGCSOs studied in this thesis to place individual organisations within specific interest groups to assist in the analysis of NGCSO participation in the policy process. Table 2.1 presents the grouping of NGCSOs according to the categorisation.

Evidence of a gendered politics emerged from this categorisation of NGCSOs and suggested this had an effect on the capacity of some organisations to gain political influence. The categorisation along client interest lines showed that the number of children and youth (n=4) and women's support (n=3) organisations were fewer than those representing fathers and men (n=11). Viewed this way, the assessment could be made that an imbalance existed between the representation of women and children's interests and those of men in the policy process. Yet this is not the evidence I draw on to point out gendered politics. Although the categories help break down the NGCSOs into easily identifiable groups, a more considered assessment of client interests shows a different pattern of representation in the interests of women and men.

A number of NGCSOs, while representing other interests, were also strong advocates of women's interests (see Chapter 6). These organisations came from some NGCSOs who provided family and legal services. Adding these to the 11 NGCSOs that directly represented the interests of women yields the result that there were fewer organisations advocating the interests of men in the study sample. This higher number of women's advocates was also reflected in the NGCSOs who made a submission to EPTS.

Table 2.1 Individual NGCSOs and their area of client interest

Area of service deliver	Organisation(s)
Children and Youth	Australian Association for Infant Mental Health Australians Against Child Abuse National Children and Youth Law Centre Youth Affairs Council of Victoria
Domestic violence	Central Coast Domestic Violence Committee Dawn House Domestic Violence & Incest Resource Centre Muswellbrook Women's and Child Refuge Warina Women's & Children's Refuge Co-operative & Society
Families and relationships	Anglicare Western Australia Australian Family Support Services Association Catholic Welfare Australia Family Services Australia Joint Parenting Australia Pine Rivers Neighbourhood Centre Relationships Australia Shared Parenting Council of Australia Sole Parents Union Uniting Care Burnside
Fathers and men	DADs Australia Dads in Distress Fairness in Child Support Fatherhood Foundation Lone Fathers Association of Australia Men Again Men's Advisory Network Men's Information and Support Association Men's Rights Agency No To Violence Tasmanian Men's Health & Wellbeing Association
Grandparents	KinKare
Legal support	Aboriginal Legal Services of Western Australia Family Law Foundation Federation of Community Legal Centres Illawarra Legal Centre National Association of Community Legal Centres Top End Women's Legal Service Women's Law Centre of Western Australia Women's Legal Service
Welfare advocacy	National Welfare Rights Network
Women's support	Immigrant Women's Speakout Association National Council of Single Mothers and their Children Women's Information Referral Exchange

To account for the discrepancy between the larger advocacy of women's interests and the policy outcome of a presumption of equal shared parenting responsibility and greater involvement by fathers, it is argued that the presence of gendered politics under the Howard government affected the capacity for political influence. A more detailed analysis of gender politics in the policy process and what this meant in terms of political influence for NGCSOs is made in Chapters 3 and 8. There was a disconnection between representation in the inquiry process and the policy outcomes that favoured one set of interests over another.

Marian Sawer (2002) noted that the establishment of power relations by the Howard government was heavily gendered to suit its political purposes. Her analysis of the discursive shift towards governing for the 'mainstream' under the Howard government and its implications for community representation noted how NGCSOs who voiced feminist concerns were shut down and forced to merge with non-gender-specific organisations. The effect of this was to significantly weaken 'policy input from those most involved in creating and delivering services to women' (Sawer 2002, 45). She explained how the Association of Non-English Speaking Background Women was de-funded and told to 'mainstream' its representational role through the male-dominated Federation of Ethnic Community Councils of Australia. This was the advice given to an organisation originally created because the male dominance of ethnic community councils did not allow for women's perspectives to be heard (Sawer 2002, 45).

An overt example of gendered politics involved the 1999 defunding of the National Council for Single Mothers and their Children. At the same time, the Howard

government provided ‘the Lone Fathers Association national secretariat funding of $50,000 a year for two years’ (Sawer 2002, 45). The former Minister for Family and Community Services (Senator Jocelyn Newman) said at the National Lone Fathers Conference ‘there are not many opportunities for men or fathers to have input’ and that this funding was ‘to redress the gender imbalance in policy development’ (Sawer 2002, 45). Sawer made the point that the exclusion of women’s advocacy groups by the Howard government in policy deliberations was overt gendered politics against women’s interests in order to support its social and political objectives. She argued that in this environment the voice of non-custodial male parents was privileged over custodial female parents. As a consequence, NGCSCOs representing women’s interests found it more difficult to be heard because the Howard government considered feminist positions outside of ‘mainstream’ community concerns.

Organisational size was the other feature examined to determine if the resources available to an NGCSO had an effect on their level of political influence. Table 2.2 categorised NGCSOs according to organisational size which was based on staff numbers and financial resources (annual turnover). A ‘small’ NGCSO was an organisation with less than 10 staff and an annual turnover not exceeding $1 million. A ‘medium’ sized NGCSO had less than 50 staff with a turnover not exceeding $4 million. A ‘large’ organisation was greater than this.

The most noticeable feature of the NGCSOs was that over half of them (27) were ‘small’ organisations. Out of the 43 NGCSOs, only three were considered ‘large’ organisations: Catholic Welfare Australia, Relationships Australia and Uniting Care

Table 2.2 NGCSOs and their organisational size

Size	Organisations
Small	Australians Against Child Abuse Australian Association for Infant Mental Health Central Coast Domestic Violence Committee DADs Australia Dawn House Fairness in Child Support Fatherhood Foundation Federation of Community Legal Centres Illawarra Legal Centre Joint Parenting Australia KinKare Men Again Men's Information and Support Association Men's Rights Agency Muswellbrook Women's and Child Refuge National Association of Community Legal Centres National Children and Youth Law Centre National Council of Single Mothers and their Children National Welfare Rights Network No To Violence Pine Rivers Neighbourhood Centre Shared Parenting Council of Australia Sole Parents Union Tasmanian Men's Health & Wellbeing Association Top End Women's Legal Service Warina Women's & Children's Refuge Co-operative & Society Women's Information Referral Exchange Youth Affairs Council of Victoria
Medium	Aboriginal Legal Services of Western Australia Anglicare Western Australia Australian Family Support Services Association Dads in Distress Domestic Violence & Incest Resource Centre Family Law Foundation Family Services Australia Immigrant Women's Speakout Association Lone Fathers Association of Australia Men's Advisory Network National Association of Community Legal Centres Women's Legal Service Women's Law Centre of Western Australia
Large	Catholic Welfare Australia Relationships Australia Uniting Care Burnside

Burnside. Despite having greater organisational resources, they did not dominate the representation of NGCSOs in the policy process. In part this was due to most NGCSO

input being limited to the presentation of written submissions and the giving of oral evidence in EPTS and discussion papers. These consultative mechanisms are avenues for individual input and benefit smaller NGCSOs, because it provides them equal opportunity to contribute to the policy process.

The costs – staff time, paper, printing and travel expenses – are relatively low and affordable. Therefore, small to medium organisations were able to provide input on a more equal basis with large NGCSOs. Though organisational resources did play a part in enabling some NGCSOs to attain a position of greater influence in the policy process, political influence relied on more than the size and capacity of any individual organisation. Also a factor was the political context and established power relations. These played a decisive role in benefitting NGCSOs supporting the government's electoral promises and political needs (Halpin 2002). The intensity of interest in and concern about an issue was important in getting it onto the political agenda (Marsh 2002). Hence questions should be asked about the role the political context and power relations played in some NGCSOs achieving their policy aims and whether and how shared interests or participation enabled them to get their concerns onto the political agenda in the first place. This is examined in the next two chapters to provide insights into the political environment encountered by NGCSOs and its effect on their participation and goal achievement.

Conclusion

Interest groups are ubiquitous and at times influential participants in the policy-making process. Central to understanding the influence of interest groups is the relationship

between power, politics and policy. Interest groups are, first and foremost, political actors because their purpose is to make claims on government through voicing the political concerns of the interests they represent. The literature concerning the role of interest groups in the policy process and their political influence offers elementary categorisations that account for the higher levels of influence of some organisations over others. However, these are broad in definition and highly contextual. Political influence due to a group representing sectional or promotional interests (or both), or their political status with government in policy deliberations (insider/outsider) is too simplistic to account for wider factors in policy engagement. While these categorisations help to situate interest groups in relation to governments and party political affiliations they do not provide a deeper understanding of how an interest group or groups, negotiate complex power relations in order to exercise political influence and shape policy decisions.

The political context surrounding interest group participation in policy processes was shown to be a decisive factor in determining levels of influence. Several authors demonstrated that the interconnection between political agenda, electoral need, policy issue and political party ideology was critical to the relationship and level of access and influence an interest group, or groups, had with the government of the day (Economou 1998; Edwards 2001; Marsh 2002; Matthews 1997). The act of governing is to exercise power in the political sphere, which means interest groups and NGCSOs must understand the inseparability of politics, interests and power. The significance of context suggests that it should inform the investigation of NGCSO participation and influence in the family law reform process. This chapter has demonstrated the need for

contextual analysis in providing a foundation for understanding the socio-political environment in which power relations took place in the policy process. It has also framed the policy participation of NGCSOs in terms of politics and political context. A review of NGCSOs studied in the thesis offered initial insights into the political context surrounding the policy process.

The client interests and organisational size of individual NGCSOs indicated the presence of gender-based politics, driven by the political and ideological agenda of the Howard government. The NGCSOs in the study sample were categorised according to eight areas of client interest and whether they were a ‘small’, ‘medium’, or ‘large’ organisation in terms of staff and annual turnover. It was found that, despite a greater number of organisations presenting the dangers and impracticality of equal parenting time (see Chapter 4), the government introduced a presumption of equal shared parenting responsibility into family law, to allow greater involvement by fathers. The amount of resources available to NGCSOs also pointed to the significance of political context in determining influence, as organisational size had no bearing on any one agency affecting policy decisions. Chapter 3 outlines the methodology of the study to provide background on the data used to analyse NGCSO policy participation. It also establishes the qualitative methodological framework as the most appropriate for the governmentality approach for the analysis and conceptual understanding of power relations within the reform process.

CHAPTER 3

Methodology

'Qualitative methods contribute to understanding political actors as conscious social beings who shape the world of politics, as well as being shaped by it'

(Devine 1995, 137).

A methodological understanding of the research process provides a frame of reference for the collection and analysis of data in this thesis. The methodological considerations and techniques employed in the study of NGCSO participation involved a qualitative framework for the analysis of power relations and their negotiation. The adaptation of Foucault's theory of governmentality placed the analytic emphasis on the instruments, rationalities, strategies and techniques in the exercise of power. This favoured a qualitative methodology in the collection of data from policy development documents, questionnaires, and interviews for evidence of power relations in governing the policy process and its negotiation by NGCSOs. This chapter details the rationale behind the research methodology, the methods used to collect data, the sources from which data was collected and how that data was analysed.

Several authors have argued that a qualitative methodology is well-suited to empirical analysis because of the emphasis on using multiple methods to study phenomena as they take place, within their natural setting (de Vaus 2001; Sadovnik 2007; Stake 2000; Denzin and Lincoln 2000). The study of power relations in family law reform was disposed to qualitative research because it supported the collection and analysis of

empirical data regarding NGCSO participation in the policy-making process using several methods. The material used to study power relations from a governmentality approach also favoured a qualitative methodology because it was through written and spoken words that technologies of power were able to be identified. That is, it was through the study of words that the tactics, techniques and strategies utilised by the government and NGCSOs in seeking to shape power relations were able to be identified and analysed. Therefore, the analysis of power from a governmentality perspective involved a process of analysing the written and verbal data from various documents and participant accounts to discover why it was that some NGCSOs were more effective at exerting political influence. The qualitative framework used in this thesis supported the comprehensive analysis of the power relations in the policy process and the participation of NGCSOs by informing appropriate research methods for their study.

Brass (2000) and Gordon (1991) argued that Foucault's theory of governmentality focused on the practices of government and the use of technologies of power to act on the conduct of people. The collection of data and its analysis was therefore directed towards how technologies of power were applied in the policy-making process. In using a governmentality approach, data regarding the structure of power relations in governing the reform process and how NGCSOs negotiated these to influence policy decisions was critical. The analytical framework was used in Chapter 5 to analyse documentation from the policy process to identify the government's use of rationalities, strategies, technologies and techniques to govern the actions of participants. The data collected from the NGCSO submissions, public hearing evidence, questionnaires, and

interviews is similarly analysed in Chapter 6 to identify how these organisations attempted to apply technologies of power for their political advantage.

The qualitative methodological framework

Qualitative research is an approach to the study of phenomena that attempts to make sense of, or interpret, it in terms of the meanings people associate with it. Described as 'multi-method in focus, involving an interpretative, naturalistic approach to its subject matter' (Denzin and Lincoln 1994, cited in Sadovnik 2007, 417) it involves the collection and use of empirical materials. The methods used to collect empirical material in qualitative research methodology involves observation, communication, and documentation to understand the context in which phenomena are being studied (Denzin and Lincoln 2000; Sadovnik 2007). This includes case studies, personal experiences, interviews, historical records, and text to support the interpretations that are made (Sadovnik 2007). Through these methods qualitative research emphasises how social experience creates and gives meaning to the phenomena being studied and the processes by which this occurs (Denzin and Lincoln 2000).

The documentation, records, and personal experiences of the policy process provided material to construct an understanding of power relations through the actions and motives of government and NGCSOs. The research of their behaviour in the policy-making process relied on an interpretive approach to understand better how ideas, meanings and motivations shaped their conduct and selection of strategic actions. Robson (2002, 24) defined the interpretive nature of qualitative research as a relativist approach that rejected the view that a single 'truth' could be found which explained the

actions of all people in a particular setting. He argued that people's behaviour is dependent on the ideas and meanings they associate with their social experiences and the processes through which these occur. A qualitative framework was appropriate for the study undertaken in this thesis because it facilitated the collection of data to support an interpretative analysis of what constituted political influence from the experience of participants in the policy-making process.

Research design

A case study research design was used to facilitate the qualitative study of NGCSO policy participation. Robson (2002, 178) defined case study research as 'an empirical investigation of a particular contemporary phenomenon within its real life context using multiple sources of data'. It has also been described as a holistic, in-depth investigation of the phenomena being studied (Robson 2002; Sadovnik 2007; de Vaus 2001). Therefore, the holistic design of this case study incorporated multiple data sources from the EPTS submissions and public hearing evidence, policy development documents, party political statements, speeches, questionnaires and interviews. This range of data supported an in-depth investigation of power relations to provide an understanding of the context and operation of power relations and political influence. The case study design was better suited to the smaller sample of NGCSOs in this study because of the capacity to draw on multiple sources with a degree of flexibility. This helped achieve a high level of understanding of the policy process from the data collected, rather than hope 'size would matter' through sourcing a single data set from a large sample (Silverman 2006, 20). The flexibility to adjust the collection of data as needed, was another benefit in the case study design because it allowed the study to 'evolve' as

unanticipated features of participation and influence ‘showed’ themselves from within the data (Robson 2002). The research methods employed to collect and analyse data from within the case study design are detailed next.

Research methods

The research methods used to select the study sample, collect documentary sources, questionnaires, and interviews and then analyse the data are outlined in this section. The methods were selected to suit the case study design and the need to collect data from several sources that supported the identification of technologies of power and the mapping of power relations as they functioned in the policy process. The first step in the collection of data on NGCSO negotiation of power relations was to determine which organisations would make up the study sample.

Study sample

The study sample was derived from the 183 NGCSOs who made submissions to EPTS and government officials involved in the policy process. Of these 183 NGCSOs, 43 were chosen for the study sample because they also gave evidence at a public hearing. The rationale for their selection was that their testimony provided the study with data of NGCSO participation from two sources of documentary evidence. Appearing before the Committee also provided NGCSOs in the study sample an additional opportunity to interact directly with the Committee and persuade it of the need for the policy changes they advocated. It was anticipated the additional participation of the 43 NGCSOs would provide further evidence of how they sought to negotiate power relations. The public hearing was advertised by media release from the Committee chair, notices in local

newspapers and the inquiry website (HRSCFCA 2003c, 15). NGCSOs who wanted to give evidence responded by making a request to the Committee chair. The EPTS report made no mention of the selection criteria or who was responsible for deciding which NGCSO appeared before the Committee (HRSCFCA 2003c). In the absence of a selection process I speculate that some of the factors for the selection of the sample of NGCSOs may have included: (i) an organisation or its key representative having a well-known reputation, (ii) a strong request put to the Committee, (iii) lobbying of several committee members to appear, (iv) already having an established relationship with government officials, or (v) possessing a highly public and political profile through prominent campaigning on family law reform.

The government officials who volunteered to be interviewed were the other element of the study sample. Committee members, along with senior Howard government politicians and senior public servants (n=17) involved in the policy process were invited to take part in an interview discussing the reform process, NGCSO participation and political influence. Committee members or ex-Ministers who were no longer in parliament were invited to participate in the study through appropriate parliamentary channels. Those who were still sitting members were contacted through their parliamentary and electorate offices. In all, five government officials agreed to be interviewed. Together with the 43 NGCSOs listed in Chapter 2, this brought to 48 the total number of respondents comprising the study sample.

Data collection

Documentary sources

A variety of documentary evidence regarding NGCSO participation and policy development was obtained from the public record via online searches. The benefit of searching for documentation online was the ease with which data was accessed. Data on NGCSO participation in EPTS was conveniently sourced from the public record through the House of Representatives Standing Committee on Families and Community Affairs on the Australian Parliamentary website. The NGCSO submissions and public hearing transcripts were sourced through the EPTS web link. Other Inquiry material that was sourced included the EPTS report and media releases made by the Committee. These additional documents provided evidence of the mechanisms of power used to govern the policy process (Chapter 5) and the values that framed family law reforms (Chapter 4).

Other documents accessed online related to the development process and were used to inform the analysis of the political context. The documents sourced for this purpose provided data on the ideological and political context of the policy-making process (Chapter 4) and included: (i) *A New Family Law System Implementation of Reforms: Discussion Paper (2004),* (ii) *Government Response to Every Picture Tells a Story (2005),* (iii) *Future Directions: It's time for plain thinking (1988), (iv) Delivery of Primary Dispute Resolution Services in Family Law: Next Steps (1997),* and (v) *Out of the Maze: Pathways to the Future for Families Experiencing Separation (2001).* An analysis of the text contained within these documents demonstrated the policy objectives sought by the government and the ideology and values that informed these.

The next chapter examines this data and discusses how it 'sets the scene' for understanding the political landscape in which NGCSOs had to negotiate power relations. *A New Family Law System Implementation of Reforms: Discussion Paper* (2004) and the *Government Response to Every Picture Tells a Story* (2005) were of particular importance because they detailed the specific restructuring of the family law system. Their articulation of policy decisions, first as a discussion paper, and then as the official policy statement, was used to compare the participation of NGCSOs against their having achieved policy aims that were reflected in these documents. The exploration of which organisations achieved their policy aims, in light of the political context and power relations governing the reform process, was the analytical path this thesis used to study effective strategies and tactics for power negotiations.

Public records of the policy-making process were collected as a source of data because they provided an accurate account of NGCSO participation. By that I mean they were a non-subjective record of what took place at specific points in the policy process. The policy documents from Family Law Pathways Advisory Group, the Committee, the Howard government, and NGCSOs provided a true and accurate representation of what was 'said' without the risks of potentially inaccurate or biased data that relies on the recollection of events. The analysis of this archival, documentary data sought to gain information on:

1. The ideological and political context framing the policy-making process.
2. The NGCSOs' policy positions in response to the inquiry's terms of reference.
3. The arguments they made to the Committee.

4. The extent to which their particular positions were reflected in *A New Family Law System*.

Burnham et al. (2004, 165) argued that as a source of data, public records enable research questions of political phenomena to be examined from documents that were part of the political process at that time and therefore provide valuable information regarding the socio-political dynamics and public debate that took place.

In addition to the data collected from policy documents, information was sourced from questionnaires and interviews to provide valuable insights into the 'behind the scenes' activities, conversations and relations that impacted on the generation of political influence. This data helped 'fill in the details' of the interactions that took place between government officials and NGCSOs, which were not necessarily formalised and recorded in EPTS. As Colebatch (2002b) argued, it is often the unseen informal interactions that have the greatest impact in persuading governments about the policy decisions they make. Therefore, these sources of data were important in building a more complete picture of NGCSO participation, the effect of their involvement on the decision-making process, and the experience of organisation representatives and government officials. Through an analysis of the informal interactions it was anticipated evidence would be gained on the drivers of political influence outside of EPTS.

Questionnaires

Each of the 43 NGCSOs within the study sample were sent, via email, a participant information statement, consent form, and questionnaire that included a statement of willingness to take part in a follow-up interview. This package of information was sent to the managing director of each NGCSO, whose email address was obtained from an

initial introductory phone call to the organisation. If the managing director was not with the organisation at the time of EPTS, they were asked to pass the questionnaire to an employee who was involved in the submission and public hearing process. Sending the questionnaire electronically served two purposes. First, it collected data regarding the EPTS experience and other insights related to policy participation and political influence. Second, the recording of questionnaire responses electronically reduced data entry time into the analytical software (NVivo 8) because they could be directly entered into the computer while avoiding the issue of illegibility that sometimes occurs in hardcopy replies. The questionnaire comprised 11 questions focusing on contextual issues, government decision-making and interaction with the Committee, policy influence, political understanding, and participation tactics. The questions were:

1. Give three words that best describe the context (environment) in which you find the policy-making process operates, *e.g., bureaucratic, contested, cooperative, disconnected, economic, market-based, opportunistic, political, power-plays, and theory-driven.* Why did you select these words and how does this impact on your engaging in the policy-making process?
2. What do you consider affects the level of influence an organisation or industry sector has in the policy-making process?
3. How would you rate your understanding of the policy-making process and its political nature? (poor, average, good, excellent) Please, provide details of your experience and examples to support this rating.
4. From your organisation's previous participation in the development of policy what lessons have you learnt about exercising influence in the policy-making process?

5. In participating in the policy-making process is your intention to (i) influence or (ii) inform the government and policy-makers, or (iii) both?
6. How does this affect your choice of tactic and when presenting policy arguments and proposals? That is, what was the thinking behind saying what you said in the way you said it?
7. How do you think politicians and public servants view your organisation's role in the policy-making process? In what ways does this affect your capacity to influence policy decisions?
8. What methods do you use to influence policy-makers? (lobby a politician, letter to editor, opinion piece, meetings with public servants)
9. What do you see as the benefits and/or limitations in using these methods in terms of influencing policy decision-making?
10. Why do you think that some organisations have their ideas/solutions adopted by government and others do not?
11. In what ways do you consider you demonstrate political understanding in the policy process? Can you give any examples that might illustrate this?

Open-ended questions were also used to enable participants to reflect and elaborate on their experience of and views regarding NGCSO policy participation in terms of understanding power relations and the strategies employed to utilise that knowledge to maximise political influence. This enabled participants to answer in their own words, rather than have to select from a series of pre-determined responses. The rationale for the open-ended format was to encourage and capture the experience of the policy process in as much or as little detail as respondents wished to provide while placing no

restrictions on the scope and size of the answers given. The open-ended format helped facilitate a level of freedom in the opportunity for respondents to reflect on their policy activities, strategies and the efficacy of these in terms of influencing policy decisions (Babbie 2001).

The data collected from the questionnaires was used to map the mechanisms employed by NGCSOs to negotiate power relations in their favour. The data highlighted the extent to which NGCSOs were assisted and informed by the context in which the policy-making process took place. In recalling events as they had occurred, the questionnaires provided a stronger understanding of the participation of NGCSOs through anecdotal evidence of tactics, techniques and strategies used to influence government officials. The questionnaire data was applied to the analytical framework to analyse the participation strategies of NGCSOs and seek answers as to why some organisations were more influential than their counterparts. This analysis of their 'lived' experience with government officials provided a complementary and deeper understanding of the relational dynamic that took place in the structuring of power relations. In all, six organisations responded to the request to complete the questionnaire, and each volunteered to participate in a follow-up interview.

Interviews

The purpose of conducting interviews on the condition of anonymity and confidentiality was to:

1. Gain a rich and deep appreciation of the factors that contributed to the decision-making process, and the way in which participation took place

outside of EPTS that was not captured in the submissions and public hearing evidence.

2. Enquire into factors that were attributable to political influence in the family law reform process.

To ensure the anonymity of respondents and interviewees, they were identified in this thesis as NGCSO1, NGCSO2, GOV1, and GOV2. Interviews were conducted with the NGCSOs who responded to the questionnaires and government officials (n=5). This included three Committee members, a senior Howard politician and a senior public servant. A schedule of questions was provided via email to interviewees as a conversation guide prior to conducting the interviews. The NGCSO interviews were conducted using online video conferencing (Skype) because of the organisations being based interstate and the challenges associated with travel costs and time constraints to conduct in-person interviews. The interviews with government officials were held in-person during a two day placement at Parliament House. All of the interviews were digitally recorded so that the data could be stored as an MP3 file for audio analysis and protected storage purposes. After each interview, the interviewee was sent a copy of their interview for their information and the vetoing of any material. None chose to alter their transcripts.

The rationale for the interviews with government officials was to provide a point of reference against the data regarding NGCSO participation and influence on policy decision-making. These interviews focused on: (i) the role and place of NGCSOs in policy making, (ii) the level of influence these organisations had on family law reform policy decisions, and (iii) the policy activities attributable to influential organisations

that separated them from their counterparts. The data collected from government officials helped clarify and better understand what were the most influential strategies employed by NGCSOs and why they were effective in the policy process. This information was of importance because it was sourced from those responsible for the formulation of official policy advice to Cabinet and executive government.

The aim of the follow-up interviews with the NGCSOs was to explore in more depth the themes that emerged from their responses. In the interviews, respondents were asked to re-visit the ideas expressed in their questionnaire responses and reflect on why the strategies and tactics they employed did or did not result in political influence and the achievement of their policy aims. This data provided further insight into the participation methods used by NGCSOs so as to better understand the impact of certain actions in creating political influence *vis a vis* the political environment in which they were being carried out. The detailed accounts of the family law reform process from the interview data gave a rich and deep appreciation of the factors that contributed to the decision-making process, and the way in which participation took place outside of EPTS that was not captured in the submissions and public hearing evidence. The interview schedules for government officials and NGCSOs were as follows:

Government official interview schedule

1. In your experience of policy making, what would you consider to be the general role or contribution of interest groups, and more specifically Non-Government Community Service Organisations (NGCSOs)?
2. What three words would you use to describe the policy participation of NGCSOs in policy making?

3. What was your general approach to interactions with NGCSOs?
4. What are the strengths and weaknesses of the NGSCOs' approaches to influence policy debates and decision-making?
5. What would you regard as the driving force behind the call for the inquiry?
6. What were your impressions of the involvement and/or contributions of NGCSOs to the inquiry?
7. What factors would you say dominated the policy decisions and recommendations of the inquiry committee?
8. To what extent might the contributions of NGCSOs have influenced the Committee's views on the issues?
9. Do you have any other thoughts on what might have influenced the committee process and the recommendations?
10. How would you define 'influence' in the policy process?
11. What distinguishes those who have been influential in the policy process from those who have not?
12. Was there anything about the contributions of NGCSOs during the enquiry and subsequent Cabinet deliberations that stood out?
13. Would you describe the contributions of NGCSOs as politically astute? If so, why? If not, why not?
14. What, if anything, demonstrated political astuteness on the part of NGCSOs?

NGCSO interview schedule

1. Your thoughts, comments and experiences that relate to the questionnaire themes.

2. In what ways do you think these findings impact on the ability of NGCSOs to exert influence on policy decisions or reflect your experience of policy participation?
3. Politics is arguably the central theme – How does it impact on your ability to participate in ways that allow your message to 'cut through' and influence policy positions? How do you manage the political process and machinations?
4. Several people had experience in the public service before moving to their current position. Do you think it makes any difference if you know what takes place in the policy process? Or does the politics of the day dominate?

The interview format was semi-structured because of the lack of *a priori* categorisation in the questioning process, which was employed in a flexible manner as recommended by Denzin and Lincoln (2000, 653). This flexibility enabled the study to explore topics and the actions of those in the inquiry as they arose in conversation, so as not to limit the fields of enquiry. Silverman (2006) used the term 'open-ended' to describe this interview approach because it is based on probing, flexibility and a reliance on building a rapport with the interviewee. The aim of conducting 'opened-ended' interviews was to capture the language of the interviewees in sharing their experience of interacting with each other in the policy-making process.

However, one caveat must be noted regarding the reliability of the oral testimony given. The family law reform process occurred 5 years prior to the interviews being conducted. In this circumstance it was reasonable to assume that interviewees may have had

difficulties in recalling events and would be more likely to defend their actions with the benefit of hindsight (Fleming 1998, 21). Where possible, comments were checked against other assertions and against available records. Despite these potential problems, the data collected from the interviews complemented the documentary and questionnaire evidence and provided a strong understanding of some of the issues related to the negotiation of power relations and exercise of political influence by NGCSOs.

The interviews (n=11) and questionnaires (n=6) provided data on how NGCSOs navigated the highly political, emotionally charged, less structured, and relational processes that were of critical importance to influencing policy decisions surrounding family law reform. This data enabled a better understanding to be developed about how the policy participation of some NGCSOs achieved higher levels of political influence than others, despite individual organisations having similar levels of access through the inquiry process.

Data analysis

The data collected through the public record, questionnaires and interviews was analysed using content analysis. This analytic technique was performed to find extracts of keywords and phrases that illustrated political ideologies, policy objectives, tactics, techniques, strategies, and understanding of the exercise of power in the policy-making process (Burnham et al. 2004, 236). As an analytical methodology, content analysis 'utilises a set of procedures to make valid inferences from text' (Weber 1985, cited in Bauer and Gaskell 2000, 133). It has been described as a 'research technique for making

replicable and valid inferences from data to its context' (Krippendorff 1980 cited in Bauer and Gaskell 2000, 133) and provides a systematic process by which data extracts facilitate a comprehensive understanding of the phenomena being studied. In this thesis, the process of content analysis involved:

1. Selecting text from the data sources obtained through the study sample.
2. Constructing a coding frame.
3. Piloting and revising the coding frame and defined coding rules.
4. Testing the reliability of the codes.
5. Coding all material and establishing the reliability of the process.
6. Setting up a data file for the analysis of qualitative extracts through NVivo 8 (Bauer and Gaskell 2000, 149).

Content analysis was well suited to the study of NGCSO participation because the exploration of extracts demonstrated the underlying thinking and strategic motivations behind government and NGCSO actions in the establishment and negotiation of power relations. These were then used to highlight themes on which an interpretative understanding of political influence could be made. This drawing of valid inferences to substantiate research findings offered a means by which accurate interpretations of the political influence of NGCSOs could be reliably drawn from representations found in the content of the data that was analysed.

Coding frames were constructed for the analysis of data in Chapters 4 to 7. These varied to facilitate a content analysis specific to the aim of each chapter. The coding frame for Chapter 4 involved searching for extracts that demonstrated the ideological position and values that informed the policy objectives the government wanted to achieve through

governing the policy process. This frame was applied to the text of the policy development documents named earlier and inferences were made regarding the political context and the implications this had for NGCSO participation. The ideological themes drawn from this content analysis were also used as the basis for a discussion on the policy position of NGCSOs in relation to the ideological stance of the government. These NGCSO policy positions were themselves identified from coding the submission and public hearing data according to the policy themes advocated and the organisations who advocated them.

The analytical framework informed the construction of the coding frame for Chapters 5 and 6. The governmentality features of: (i) visibility, seeing and perceiving, (ii) ways of thinking and questioning, (iii) mechanisms, techniques and technologies, and (iv) identities and forming subjects (outlined in Chapter 1) were applied as the coding frame for the submission, public hearing, questionnaire and NGCSO interview data. Coding the data against this criterion gave evidence of the mechanisms of power used by the government to govern the policy process towards particular objectives (Chapter 5). It also highlighted the techniques and strategies employed by NGCSOs in using these mechanisms to exert political influence. The extracts taken from this analysis provided evidence by which a detailed understanding of the operation of power relations informed the exploration of NGCSO policy participation and political influence in the context of family law reform.

Lastly, the interview data from government officials (Chapter 7) was coded against the participation methods and influence of NGCSOs in the development of *A New Family*

Law System. Extracts from the coded data demonstrated the features of NGCSO participation that government officials found were more effective at influencing their thinking and the decisions to be made by government. These extracts were used to examine NGCSO participation further and to identify attributes of political influence that government officials thought were demonstrated by particular organisations. The research methods detailed in this chapter facilitated a comprehensive understanding of the power relations that existed and the means by which they operated for the targeted study of political influence. However, no research is 'perfect' and the next section critically reflects on the methodology and methods used in this thesis.

Critical reflection

There have been several methodological concerns raised by scholars about content analysis of relevance for this thesis. These are discussed to demonstrate that the qualitative research methods used in this thesis were appropriate for the study of power relations. The rationale for this was also to show that the criticism of qualitative research as unrepresentative and unreliable, when compared to quantitative methods, is misguided (Devine 1995, 141). The first concern was that content analysis can have reliability issues regarding: (i) the selection of units of analysis, and (ii) the coding of contents (Bauer and Gaskell 2000). Determining which units of text from the data are used for analytical purposes is often subject to the judgment of the researcher and are applied without rigid assessment processes being established. This questions the reliability of the analytical process on which interpretative findings are made on the phenomena being studied. Yet as Bauer and Gaskell (2000) argued, no content analysis can yield perfect reliability where human judgment is involved. Nonetheless, poor

coding definition that leads to excessive and complicated codes do have a negative effect on data reliability (Bauer and Gaskell 2000) and therefore needs to be guarded against. To minimise reliability issues the analysis of power relations was managed by setting clear definitions and restricting the coding criteria to the analytical framework and larger analytical themes such as ideology, values, political influence and so on. When discretion was exercised it was not in the altering of major, higher level, coding definitions but in selecting extracts related to them. In this way the selection of units of analysis and the coding of content was consistently and reliably applied across the data.

The issue of validity is another concern raised by scholars in regard to the process of content analysis. Bauer and Gaskell (2000) have argued that qualitative data is open to different interpretations and at best can only map readings and intentions by exclusion or trend. The risk is that interpretations may not be totally accurate. Therefore, making sure research findings are valid relies on coding that is related to words in the text so that the extracts taken as evidence accurately represent the whole body of the text (Bauer and Gaskell 2000). These were important considerations. It was necessary to ensure that the validity of interpretations in this thesis was based on data analysis that accurately reflected the content associated with influential policy participation. In the content analysis that was performed, extracts from the data were carefully labelled to ensure their coding accurately reflected the content of the text and its overall meaning. For example, when coding power relations, great care was taken to maximise the analytical validity by basing interpretations on the theoretical framework and its features of governmentality as the guiding principles. With appropriate care, qualitative

research can be kept robust and rigorous to produce findings that are based on reliable analytical processes and valid interpretations of data.

Another area of concern was that of a reliable sampling strategy. In short, the response to the questionnaire and interview request was not high with only six NGCSOs and five government officials responding. This limited the amount of data regarding NGCSO participation from which a more encompassing understanding of their experience could be made. Reminders were sent and some organisations offered apologies for being unable to participate in the study but this did not increase the rate of return for the questionnaires. The reasons given for an NGCSO's inability to participate were: (i) the submission author no longer at the organisation, (ii) new policy staff and managing director with no knowledge of their participation in the inquiry and (iii) a lack of time to be able to complete the questionnaire. The government officials who did not participate expressed an inability or unwillingness to schedule an interview due to prior commitments.

Robson (2000) has noted that in case study research one will never complete their sampling strategy in full. 'Real life' research risks that data sampling may not be as comprehensive as anticipated (Robson 2002). With the inquiry occurring almost ten years ago, the risk of a less than desired response was high due to factors such as the highly transitory nature of employment in the community service sector, changes in parliamentary representation, and the ease of refusal in voluntary research participation. In qualitative research documentary evidence can be used as a 'fall back' to counteract sampling issues such as those experienced in this study (Robson 2002). Therefore, this

study used the submissions and public hearing evidence as its 'fall back' from which data could be taken from the entire NGCSO sample.

A degree of ambiguity always exists within qualitative research because no observation or interpretation is perfectly repeatable. Despite arguments to the contrary by proponents of quantitative research, this ambiguity does not diminish the ability or capacity of qualitative methodology to provide clear and valid interpretations from research data (Stake 2000). 'Triangulation' was used to minimise 'misinterpretations' from the data, capture multiple perceptions of NGCSO participation, clarify meanings and verify the repeatability of observations. While this 'triangulation' was not that typically associated with the combining of quantitative and qualitative methods, it did incorporate the principles of triangulation in using mixed methods from within a qualitative framework (Gilbert 2006; Mason 2006). In defence of qualitative triangulation, Gilbert (2006) argued that the positivist approaches of quantitative methodology limits the scope by which political discourses operating in social phenomena can be investigated.

The value-free, positivist objectivity alleged to characterise quantitative research was not appropriate for this study because of the need to capture the political discourses, socio-political features and subjective experiences of government officials and NGCSOs in the policy-making process. Any ambiguity in the use of qualitative methodology did not affect the validity of the interpretations made regarding the actions of NGCSOs and if anything, enhanced the understanding of what constituted political influence through the use of multiple data sources. The qualitative case study research

in this thesis combined enough flexibility to accommodate the risks of 'real life' research while ensuring rigorous standards of reliability and validity to give substantiality to the interpretations and findings that were presented (de Vaus 2001; Sadovnik 2007). The methodology and methods detailed in this chapter achieved 'good qualitative analysis' that documented political influence through referencing data that was systematically collected and analysed (Fielding 1993 cited in Devine 1995, 145).

Conclusion

The qualitative analysis of power relations and NGCSO participation required the collection of empirical data. The methodology outlined above enabled the techniques, technologies and tactics used to negotiate power relations and gain political influence to be identified and understood. The case study approach combined several qualitative research methods of data collection. The NGCSO submissions and public hearing evidence, open-ended questionnaires and semi-structured interviews provided data for the analysis of the ideological and political context, and mechanisms of power NGCSOs had to understand and navigate in the policy process. The text regarding NGCSO participation and influence captured through the data was analysed through a process of content analysis. This involved coding the data according to extracts based on strict definitions to facilitate an interpretative understanding of influential policy participation. To ensure rigorous process standards were upheld, various strategies were employed in conducting the content analysis. Their aim was to maintain a reliable analytical process and interpretative validity of the extracts used to substantiate research findings.

The qualitative research methodology used in this thesis was the most suitable means to study NGCSO's participation in the development of *A New Family Law System* and better understand how it shaped political influence. The use of multiple methods within the case study research design aided the collection of qualitative data that could then be analysed to outline and map the negotiation of power relations by NGCSOs. The analysis of coded extracts provided interpretative findings of what represented the effective negotiation of power relations in the policy process. The lessons this presents to NGCSOs in regard to political influence are discussed later in this thesis. The next chapter examines the political context of the policy process through the ideological perspectives and values that underpinned the policy objectives sought by the Howard government. How these helped shape the terrain on which these power relations operated is important in understanding why the participation methods of some organisations were more effective than others.

CHAPTER 4

The Political Context of Family Law Reform

'I have expressed before, and I will say it again, that one of the regrettable features of society at the present time is that far too many young boys are growing up without proper male role models'- John Howard (PDHOR 24 June 2003, 17278).

The Howard government's ideological position framed the policy-making process and set the political context for family law reform. The purpose of detailing the political context is to provide an understanding of the policy 'landscape' NGCSOs had to consider when negotiating political power relations. Economou (1998, 375) has argued that interest group influence is largely due to the electoral needs and complexion of the political party in government. The political context of family law reform is significant to the study of NGCSO participation because it demonstrates how the ideology and values of the Howard government privileged certain community interests and NGCSOs over others. The government's policy objectives and underlying political values therefore underscored the political context within which family law policy reform took place. An understanding of how the political context was structured helps situate the network of power relations and policy objectives that affected NGCSO participation within a broader environmental framework.

The analysis of the political context provides a means to situate NGCSO negotiation of power relations. The chapter maps key ideological positions and values regarding family law policy expressed by John Howard during his political career and in various

policy documents. These ideological positions and values were important guides for NGCSOs to identify areas in which they could demonstrate that their policy proposals, if adopted, would align with these. John Howard's own ideological positions on family and family law are important for understanding the dynamics of the reform process because, as Prime Minister, he set the political agenda of his government. His level of control over Cabinet and the policy process was such that no policy 'saw the light of day' if it did not carry his imprimatur (Errington and Van Onselen 2007, 323). He made sure that the policies of his Party did not contradict his core values. Howard's ideological positions and values concerning family therefore provided what Dean has termed a 'rationality' or frame of reference for the policy process. That is, rationalities frame systems of thought that inform the strategies and tactics used in governing individual and group behaviour (Dean 1999).

In short, the way the Howard government 'thought of' family law and families framed the policy questions it sought 'input' on. For John Howard the family, as he understood it, was a cornerstone of Australian society that was non-negotiable (Errington and Van Onselen 2007). With that as a given there were three key ideological themes of relevance for this thesis that characterised Howard's ideological outlook. Each of these can be detected within the various family law reform policy statements and documents and they therefore helped to frame the political objectives sought through the reform process. These key themes were: (i) freedom of choice, (ii) personal responsibility and (iii) social conservatism. As will be demonstrated, each of these themes exposed an underlying gender politics pursued by the Howard government.

Freedom of choice

Freedom of choice was a powerful ideological theme that informed not only the family law reform process but nearly every aspect of Howard's personal politics and his government's neo-liberal agenda. Howard's preference for individuals to have the freedom to choose was evident in statements he made over his political career. In 1988, as Opposition leader he and National Party leader Ian Sinclair released a policy position paper entitled *Future Directions: It's time for plain thinking* (hereafter *Future Directions*). In this paper Howard maintained that a government led by him would 'restore the family and family values to their central role in Australian society' through giving families 'effective control of their own lives, taking full responsibility for the decisions they make and the consequences of their decisions' (*Future Directions* 1988, 1 and 3). For John Howard the role of a future government led by him was to allow families to have the freedom to choose what was best for them in meeting their circumstances and needs.

Seven years later, in a speech titled *The role of government: A modern liberal approach* Howard again argued that 'it is the responsibility of government to provide a framework which enables the maximum range of choices to be taken by Australian families' (Howard 1995, 17). He reiterated his position in *Future Directions* by saying 'it is not for government to dictate the choices parents make regarding child care arrangements … these are matters which should be resolved by families and parents' (Howard 1995, 17-18). Further, that 'expanding choices available to families will be a major component of our policies for government … it should not be a footnote' because he believed 'it is the clear responsibility of government to provide a framework which

enables the maximum range of choices to be taken by Australian families' (Howard 1995, 18).

This desire to embed freedom of choice in the family law system can be found at various stages throughout the policy process. In July 1998, a paper titled *Delivery of Primary Dispute Resolution Services in Family Law: Next Steps* (hereafter *Next Steps*) outlined the government's intention to decrease the role of litigation in family law disputes (*Next Steps* 1998, 2). In *Next Steps* the point was made that 'when relationships break down families need accessible and affordable assistance to manage disputes that arise' (*Next Steps* 1998, 1). The aim of reducing litigation as the primary method to resolve family law disputes was to enhance the capacity of families to manage conflict among themselves without lawyers and courts assuming responsibility for familial decisions. *Next Steps* stated:

> Use of primary dispute resolution to reach agreement without a judicial hearing on issues relating to children and property should be the norm. Litigation is only necessary in a small minority of cases where other dispute mechanisms have not worked or are not appropriate (*Next Steps* 1998, 1).

Rather than continue to have families locked into a litigious, one-way legal system the government had taken the first steps in establishing a framework for family law that would offer greater choice in the resolution of disputes.

Two areas of improvement to dispute resolution identified in *Next Steps* were greater access to services and better community understanding of alternatives. These aspects of family law highlighted how choice and the freedom to choose were central to the reform

process. In discussing improved access to dispute resolution services, community-based services were targeted as sites of service delivery because:

> Greater use of community infrastructure would ensure a more diverse choice of providers and enable more clients to access the full range of services offered. It would also enable a greater … spread of services (*Next Steps* 1998, 3).

Community awareness of alternatives to litigation and the courts through a public education program was also identified as supporting the wider exercise of choice by families in finding suitable resolution services. The freedom to choose from a greater range of services was linked with the issue of accessibility in *Next Steps* as a way of moving family law disputes away from the courts and litigation processes. At a deeper level, the measures highlighted show how freedom of choice informed the ideological frame of reference from which the government viewed family law reform.

Through its efforts to provide better alternatives, the government's 'freedom of choice' approach became more evident as a policy objective through the Family Law Pathways Advisory Group (FLPAG). The Attorney-General (Daryl Williams MP) and Minister for Family and Community Services (Senator Amanda Vanstone) established the FLPAG in May 2000 to advise the government on how to achieve an integrated family law system that would be 'flexible' and build 'individual and community capacity to achieve the best possible outcomes for families' (Attorney-General's Department 2003, 7). The emphasis on flexibility and individual capacity, the reference to community capacity notwithstanding, signaled that for the government, choice was an underlying reform value, and that the capacity to choose needed to be enhanced. This policy intent

can be seen in the government's asking the FLPAG to 'formulate' a set of recommendations on how to:

1. Provide stronger and clearer pathways to early assistance that ensure people facing relationship break down are directed to services most suitable to their needs.
2. Help families to minimise conflict, manage change more successfully, and meet new obligations and commitments.
3. Improve the targeting, coordination and accessibility of information and support for families during transition to and settling of new arrangements.
4. Better coordinate service delivery between the range of agencies (both public and private) involved in assisting families interacting with the system (*Out of the Maze* 2001, v).

Each of these, in part, contains the objective of enhancing the capacity for freedom of choice within the family law system: be it clearer pathways, coordinated and accessible information, or the delivery of services through a range of agencies.

The FLPAG gathered the information that informed its recommendations through public submissions, a nationwide consultation program with consumers, service providers and interest groups, a literature review, and a commissioned research project by the Australian Institute of Family Studies. In July 2001 the FLPAG report, *Out of the Maze: Pathways to the Future for Families Experiencing Separation* (hereafter *Out of the Maze*), made 28 recommendations to government for the development of an integrated family law system. One recommendation aimed at supporting freedom of choice was that a principal function of an integrated family law system should be to

provide ‘service and intervention options to help family decision-making’ where ‘families would move along a chosen pathway’ and ‘switch pathways as their needs or circumstances changed’ (*Out of the Maze* 2001, ES2). The FLPAG stated that family decision-making was the key to more sustainable arrangements and guidance and intervention should be consistent with each family’s particular circumstances (*Out of the Maze* 2001, ES2). This was explored in section 2.4 of *Out of the Maze* titled ‘Service and intervention options – helping family decision making’ which highlighted the importance of providing families with the capacity to choose from a wide range of services and service providers depending on their needs and circumstances.

The first recommendation stated in *Out of the Maze* was that ‘Wherever possible, family decision making would be encouraged, with parents making their own decisions about their complementary roles, with appropriate support from the family law system’ (*Out of the Maze* 2001, ES3). This was in accord with the government’s view that changes to the family law system should encourage and facilitate the resolution of family disputes among family members, with the support of specialised services chosen by the families themselves. The freedom for a family to choose which ‘pathway’ it would follow in negotiating and maintaining new familial arrangements reflected the view of Howard and his government that the most effective form of government was a ‘smaller government with less interference’ (*Future Directions* 1988, 1). This position was expressed right from the start in *A New Family Law System* where the Howard Government was adamant that the new system had to give parents the freedom to choose what was best for their children rather than ‘fighting in the courtroom’ (*A New Family Law System* 2005, 1).

The value of freedom of choice was significant to the policy process because it informed the government's view that the family law system should, in most cases, support rather than dictate family decision-making. This led to a concerted effort to move dispute resolution away from the courts and into community-based mediation services where families could be free to choose (negotiate) arrangements that suited their circumstances. From an ideological perspective, greater freedom and choice were the hallmarks of the brand of liberalism championed by Sir Robert Menzies in forming the Liberal Party (Howard 1996). In his 1996 Sir Robert Menzies lecture, *The Liberal Tradition: The Beliefs and Values which Guide the Federal Government*, Howard said: 'It is our tradition which has led, and won, the great debate of ideas over issues such as greater choice and security for families' (Howard 1996, 10). To the government's thinking, it was strengthening the family unit (post-separation) by seeking to establish a system that supported choice through mediation rather than imposed decisions as a result of rulings on litigation.

In terms of policy development, the government's position on freedom of choice meant that it was committed to a course of community-based mediation as the means to enable better outcomes for separated families, their children, and the community at large. As early as 1998 it said 'the government is committed to providing better alternatives … in primary dispute resolution to reach agreement without a judicial hearing … should be the norm' (*Next Steps* 1998, 1). Six years later it was proposing a national network of Family Relationship Centres, run by community service organisations, and compulsory mediation sessions for separated couples with an approved dispute resolution service

provider before they could take a parenting issue to the Family Court, except in cases of proven violence and harm (*A New Approach* 2004). The political objective of providing families freedom of choice in reaching parenting arrangements on their own terms resulted in a policy process structured to achieve this outcome (see Chapter 5).

The decision that mediation was the most appropriate path for upholding freedom of choice was ironic in the sense that families were to have no choice but to attend such sessions. The government amended the *Family Law Act* to 'require parents to attend dispute resolution, such as mediation, before taking a parenting matter to court' (*A New Family Law System* 2005, 2). Exceptions to this amendment included circumstances of entrenched conflict, family violence, substance abuse or child abuse (*Family Law Amendment (Shared Parental Responsibility) Bill 2005* 2006). Therefore, the vast majority of separating families would have to attend mediation sessions in which they were expected to devise and agree on a parenting arrangement.

This raised serious concerns for a large number of NGCSOs who saw the potential for intimidation and violence to continue on victims, almost entirely mothers, and the inherent risks of exposing children to these situations. I provide greater details of NGCSO policy positions later in the thesis but here I want to highlight that the push for freedom of choice led to policy-driven circumstances that were potentially harmful to children. I do not question the sincere intentions of the Howard government in wanting to reduce conflict and its harmful effects on families and their children. It is just that in the political context informed by an ideology of freedom of choice for families to decide what was best for them, this resulted in some people having no alternative other than to

place themselves in the harmful situations they were likely wanting to escape in the first place.

Howard and his government had a deep political conviction that 'families are at their strongest when they have effective control over their own lives' and that genuine choice is the foundation for responsibility (*Future Directions* 1988, 1). The focus on a community-service and mediation-based dispute resolution family law system was aimed at providing families with the 'effective control' and choice they required for their wellbeing. Criticism of freedom of choice for families was a criticism of one of the government's core principles. In Howard's 1995 *Role of Government* speech the theme of choice, freedom to choose and the right to decide were regularly spoken of as he outlined his thoughts on 'a modern liberal approach' (Howard 1995). With specific reference to families he said:

> It is not for government to dictate the choice parents make regarding child care arrangements. These are matters which should be resolved by families and parents. It is the clear responsibility of government to provide a framework which enables the maximum range of choices to be taken by Australian families (Howard 1995, 18).

While acknowledging the need to screen for violence and provide victim support services, the government was not swayed by the argument that the risks outweighed the benefits of having families exercise their 'freedom' in negotiating their own parenting arrangements. Clearly freedom of choice was a key ideological position for the Howard government. Equally important was the issue of personal responsibility.

Personal responsibility

Personal responsibility was another ideological theme that influenced the political context of the policy process. One of the changes to the *Family Law Act* was the introduction of a presumption of joint parental responsibility, except in cases involving child abuse or violence (*A New Family Law System* 2005, 2). *A New Family Law System* and the *Family Law Amendment (Shared Parenting Responsibility) Bill 2006* both specified greater parental responsibility as a policy goal. New provisions for greater parental responsibility required the courts to consider substantial sharing of parenting time in appropriate cases and the encouragement for parents to consider substantially sharing parenting time when developing parenting plans outside the courts (*A New Family Law System* 2005, 2). These amendments to the *Family Law Act* were aimed at recognising 'the importance of children having the opportunity for both parents having meaningful involvement in their lives' (*A New Family Law System* 2005, 1-2). It was said in *A New Family Law System* that too many children grow up 'without the involvement of both parents in their lives' (*A New Family Law System* 2005, 1). Therefore, greater personal and parental responsibility for their children was to be supported through legislating for shared parenting arrangements in family law.

When Howard announced to the parliament in 2003 that he would have the House of Representatives Standing Committee on Family and Community Affairs (hereafter HRSCFCA) undertake an inquiry into child-custody arrangements in the event of family separation, he stated:

> I will be sending a reference to the House of Representatives Standing Committee on Family and Community Affairs. That reference will, amongst

> other things, while noting that the best interest of the child is the paramount consideration, be asking the committee to investigate what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted' (*PDHOR* 24 June 2003, 17277).

From this statement it is clear Howard considered equal parenting time an appropriate mechanism to support parental responsibility in the best interest of the child. The personal and political importance he placed on personal responsibility was a powerful ideological force that informed the political context in which the reform proposals policy debate took place.

Such was the emphasis on personal responsibility that the Bill introduced to the House of Representatives legislating the family law reforms was titled the *Family Law Amendment (Shared Parenting Responsibility) Bill 2005*. This Bill put forward amendments, as noted previously, that 'advanced the Government's long-standing policy of encouraging people to take responsibility' (*Family Law Amendment (Shared Parental Responsibility) Bill 2005* 2006, 7). The changes to the *Family Law Act* were thought to be needed to ensure that 'parents fulfill their duties, and meet their responsibilities, concerning the care, welfare and development of their children' (*Family Law Amendment (Shared Parental Responsibility) Bill 2005*, 7). While the principle of responsibility was championed by the Howard government, it was not the exclusive domain of conservative politics. The concept of 'parental responsibility' was introduced

to the *Family Law Act* in 1995 under the Keating Labor government. What the Howard reforms introduced was a new subsection 60B(1) that added objects (a) and (b) to Part VII of the *Family Law Act*. The new subsection 60B(1) stated that the best interests of children were to be met through:

1. Ensuring that children have the benefit of both parents having a meaningful involvement in their lives to the maximum extent consistent with the best interests of the child.
2. Protecting children from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.
3. Ensuring children receive adequate and proper parenting to achieve their full potential.
4. Ensuring that parents fulfill their duties, and meet their responsibilities, concerning the care, welfare and development of their child (*Family Law Amendment (Shared Parental Responsibility) Bill 2005*, 7-8).

The personal responsibility of parents was the primary means by which the *Family Law Act* would promote the best interests of children. A clear set of principles guided the objects outlined in subsection 60B(1) towards greater parental responsibility, except where this would be detrimental to the child's best interests.

These principles demonstrated the importance placed on responsibility as an underlying value in family law. Objects (c) and (d) of subsection 60B(2) of the *Family Law Act* articulated distinct principles relating to parental responsibility. These stated that 'parents jointly share duties and responsibilities concerning the care, welfare and development of their children' and 'parents should agree about the future parenting of

their children' (Family Law Amendment (Shared Parental Responsibility) Act 2006, 6). Through this Bill, the government put in place laws that added to the requirement of parents to take personal responsibility for the care and wellbeing of their children. For Howard the 'responsibilities of marriage' meant both parents should take equal responsibility for the wellbeing of their children because 'often one of the parents abdicates responsibility to the other or the community at large' (*Future Directions* 1988, 17-18).

Personal responsibility was also closely linked to freedom of choice as an ideological feature in the political context surrounding the policy process. The neo-liberal governmental paradigm under John Howard gave succour to the belief that if an individual was provided with enough suitable choices they could be expected to act responsibly because they would naturally utilise the resources at their disposal by the most efficient means (Pusey 1991; Stilwell 1993; Wheelright 1993). This position follows the principle of *homo-economicus* or the rational maximiser that argues an individual can be held responsible for their own welfare because they are expected to utilise the most efficient means to meet their needs through logical (rational) deduction from the choices available to them (Wheelright 1993, 17). In the context of families experiencing marital breakdown, rational maximisation was expressed in policy terms of parents being expected to act responsibility when given the freedom to make logical decisions regarding the fulfillment of their duties concerning the care and welfare of their children. This policy position was hardly surprising considering that as Leader of the Opposition in 1988 Howard stated:

> As a general rule and in recognition of the principle that both parents have a direct responsibility for a child's well-being, joint legal custody orders should be made, unless the court in the interests of the child orders otherwise … As far as practicable, each parent should share in decisions concerning a child's well-being and future (Future Directions 1988, 18).

The ideological inclination that prioritised personal responsibility established a political context that supported the greater involvement of fathers in their children's lives. The explicit policy intention for greater parental responsibility meant that in order to ensure both parents were involved, a new family law system would have to be more responsive to the needs of fathers. *Out of the Maze* reported that in 1999 nearly one million Australian children lived with only one of their natural parents, very often the mother (*Out of the Maze* 2001, ES4). Men dominated the written submissions and consumer forums held by the Family Law Pathways Advisory Group and made it very clear that they felt the legal system was unfair and biased against them. Many men made the point that they believed this was due to 'the feminist views of staff in key service agencies' such as legal aid commissions, the Family Court of Australian and the Child Support Agency (*Out of the Maze* 2001, 9).

The Howard government's solution to address this inequity and imbalance within the family law system was to introduce reforms that increased the likelihood of both parents, and especially fathers, having meaningful involvement in the lives of their children. For NGCSOs representing the interests of fathers and men, the political desire for greater responsibility conveniently fed into their objective of removing systemic barriers that

prevented dads from taking a more active parenting role. This context made it easy for the fathers' and men's organisations to lend support and validation to the government's position that parenting agreements should be based on equal shared parenting responsibility. Howard's commitment to personal responsibility here morphed into equal shared parenting responsibility, which also reinforced the idea of freedom of choice. And both underpinned the third ideological theme, that of 'social conservatism'.

Social conservatism

A socially conservative view of families was another feature of the ideological framework that informed the government's thinking. The emphasis on families and the perceived need to conserve the 'traditions' of family was informed by the rationale that 'the family is the cornerstone of society…by strengthening the family we are strengthening society itself' (*Future Directions* 1988, 1). This ideological position was evident in Howard's 1996 Sir Robert Menzies Lecture, *The Beliefs and Values which Guide the Federal Government*, where the place of family as a political focal point was a constant theme. He saw the emphasis on protecting family ideals as one of the Liberal Party's 'enduring values' in providing an important bulwark for individual enterprise and resilience in Australian society (Howard 1996, 15). Therefore, the political aim of the Liberal tradition he would bring to government was to provide families with a greater sense of security and confidence to make their own choices without the interference of the state (Howard, 1996). To achieve this political objective the Howard government's social conservatism would make policy decisions aimed at restoring the traditional nuclear family unit as the 'cornerstone' of Australian society.

The importance placed on supporting families is a worthy political objective and area of attention for government. However, what was unique to John Howard was his socially conservative view that the traditional nuclear family was under threat and had to be supported, even defended, by the government. One expression of the conservatism of Howard and his government was in their endorsement of the 'normal' Australian family as a nuclear unit with two parents (mum and dad) and their two or more kids. This traditional framing of family was evident in the political documents, comments and reform proposals put forward. The cover image of *Future Directions* was one of the most transparent examples of the conservative thinking that informed Howard's view of what a 'good' family should look like. The picture of the 'ideal' family that adorned the cover of *Future Directions* was of a happy mum, dad and two children standing outside their verandahed house on a quarter acre block, complete with white picket fence, and Holden car—presenting a picture of familial domesticity that projected comfortable prosperity, security, strength and self-reliance (*Future Directions* 1988). The message of this image in *Future Directions* was that a conservative government led by John Howard would stand for conservative values that it believed gave Australian families the sense of confidence and security needed to fulfill their aspirations. The cover image of an 'ideal' family was indicative of the social conservatism driving the political agenda to reinstate the 'family' as the cornerstone of Australian society.

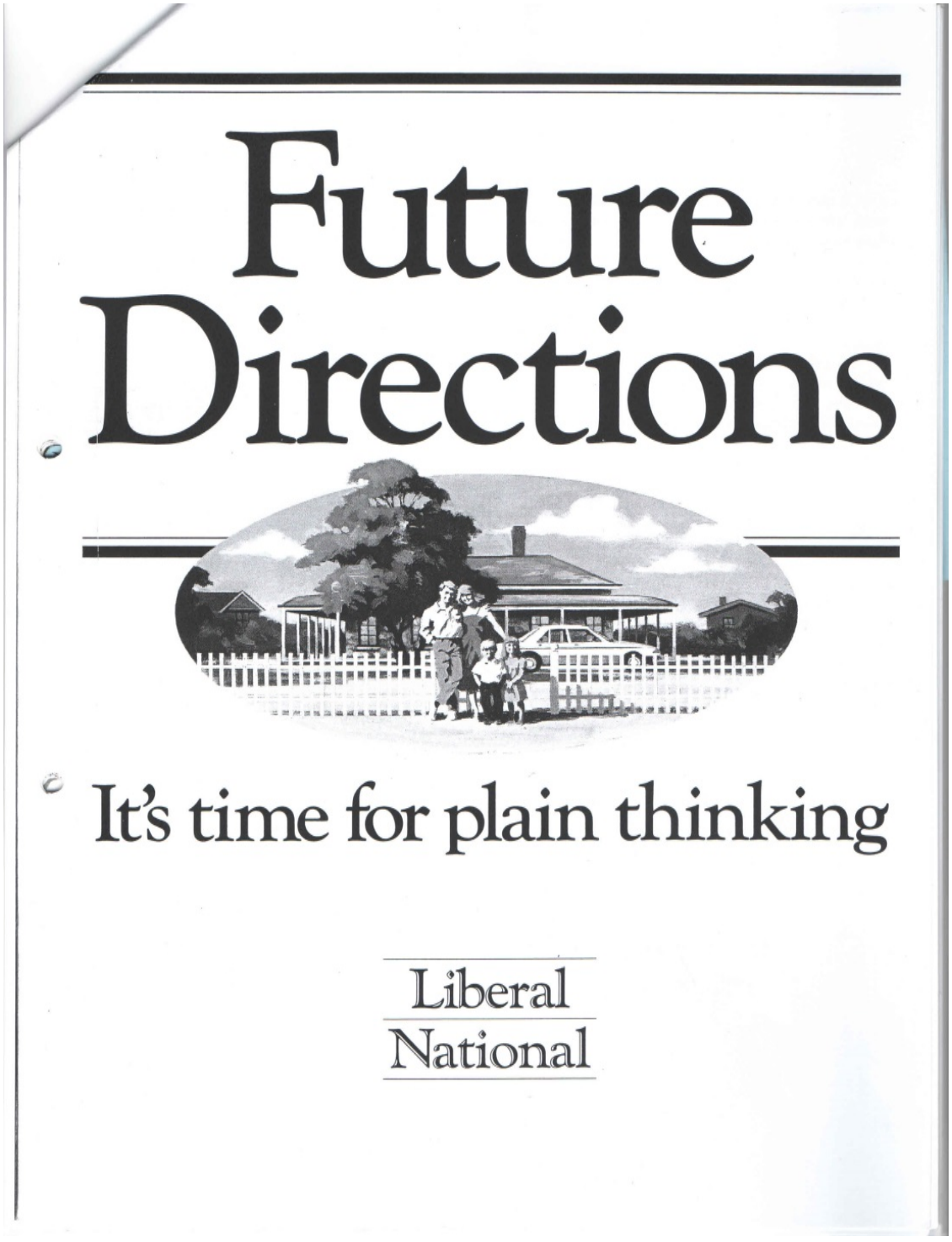

Figure 4.1 Cover image of *Future Directions*

This image underscores the conservative view that a nuclear family was the most appropriate arrangement for a strong family unit that would provide the care necessary for a child's wellbeing. The view of family held by Howard that underpinned his government's social policies carried a strong gender bias, which influenced the reform process. A framework based on the traditional, nuclear family privileges men as fathers and the nominal heads of the household and hence places fathers in a position of significance in the family unit. A family unit without a father's presence was not quite a 'complete' family and from a conservative perspective was not fully equipped to 'properly' provide for a child's upbringing. This gendered assumption permeated a large part of the political environment that informed the government's reform outcomes and policy process. NGCSOs representing the concerns and interests of women and children or voicing their opposition to equal parenting time had the challenge of working within a policy framework that reflected the favouring of fathers in a political attempt to strengthen Australian families through their having traditional nuclear structures.

Errington and Van Onselen (2007, 18) suggested that the Howard government's political aim was to return to a Menzies conservatism when 'Australia had a sense of family, social stability and optimism'. They argued that Howard's childhood experiences, during the Menzies era, found expression in his political ideology. Howard held Menzies and his government in the highest possible regard and treated them as something of a benchmark for conservative government. He rarely missed an opportunity to praise Menzies and point to the influence of his form of Liberalism on his own thinking. In *The Beliefs and Values Which Guide the Federal Government* he said:

> He (Menzies) forged modern Australian Liberalism … with values that need to be related to the great issues of the day, and of the future … We recall the achievements of the national governments that he led, as well as the values that were a driving force behind them … Menzies' political genius lay in that basic affinity with the aspirations of the Australian people (Howard 1996, 1 and 13).

For Howard, the social conservatism of Menzies resonated with Australian people, families, their values, aspirations and was something he wanted to bring to his prime ministership and the conservative governments he led.

The conservatism that guided Howard's thinking situated the traditional nuclear family unit as the most appropriate location to provide for a child's welfare and wellbeing. One of the strengths Howard associated with more traditional family units was that they were also self-reliant families. A self-reliant family was also a strong family and a strong family was the best possible circumstance in which to raise a child. This view was informed by his upbringing and family which valued self-reliance as a mark of familial strength and wellbeing (Errington and Van Onselen 2007, 282). A major reform element of the new system was to move away from institutions dictating parental choices about what was best for their family, something the family itself should be making. In 1995 Howard gave one of his 'headland' speeches *The Role of Government: A Modern Liberal Approach* in which he indirectly criticised the Whitlam, Fraser and Hawke governments for taking decision-making away from families:

> Too often in the past Australian families have been required to mold or modify their behaviour and their decisions and to limit their choices to accommodate the

> on-going requirements of existing practices and institutions. *That process ought to be turned on its head* (Howard 1995, 17-18).

Instead, families should be supported and trusted to have the freedom and know-how to make decisions appropriate for their needs and circumstances.

Under the family law reforms being proposed, parents would be encouraged to reach agreement on parenting arrangements through supervised mediation session outside of the courts, where they were free to choose the best way to meet their responsibilities according to their family's needs. Rather than telling families what to do, a new family law system would focus on supporting the decision-making process of families to facilitate greater self-reliance in parents reaching agreements to better meet the needs of their children (*A New Approach* 2004, 19-20). Under its family law reforms, the government anticipated that families and their children would benefit from being more self-reliant. Keeping the decision-making within the family unit increased the likelihood of fathers being engaged in the upbringing of their children because, as the nominal head of a family, they would be reluctant to deal themselves out of their children's lives if parenting arrangements were made between parents rather than the courts. The importance of keeping parents' decisions with the family was recommended to the government as a reform outcome; 'the family law system, in whole and in all its parts, be designed to maximise the potential for families to function cooperatively in the interests of children after separation … with particular attention to the ongoing parenting roles and support needs of both parents' (*Out of the Maze* 2001, ES1 and ES3).

The need to support separated families to be self-reliant and to maintain, as much as possible, traditional parenting roles, was framed as being in the best interests of the child. Making children's interests a policy priority, also gave succur to the political aim of ensuring that parents would maintain traditional parenting roles in meeting their parental responsibilities. The rationale for maintaining traditional parenting roles can be found in *Future Directions* (1988, 15) where Howard and his coalition colleagues argued that the family unit should be a mixture of caring (mother) and authority (father) in a setting (nuclear family) that fostered self-reliance and responsibility in individuals (parents) to develop tolerance and co-operation in the achievement of shared gaols (children's interests). The socially conservative view of the family unit and the support for traditional gender roles in parenting arrangements, even in the event of separation, highlighted the gender politics that operated throughout the Howard government.

Gender politics

The underlying gender politics pursued by the Howard government was the dominant feature of the political context surrounding family law reform. Each of the three ideological themes discussed in this chapter demonstrate how gender politics informed the policy position and outcomes sought by the Howard government. In the pursuit of freedom of choice, personal responsibility and social conservatism the politics of family law reform favoured the rights of fathers over those of mothers and children. It is this privileging of men's positions and rights that characterises the 'gender politics' of family law reform. The Howard government's support for equal parenting and the greater involvement of fathers reflected an anti-feminist streak in its approach to social

policy. It has been argued that, implicit in Howard's belief system, was hostility to feminism and its successes in advancing women's interests.

If fathers lacked access to their children, then who was to blame? Howard clearly thought it was not the fathers but the mothers and the family law system that favoured them. This favouring was itself an outcome of the feminist influences going back to at least the mid-1970s and the rise in women assuming the 'head' of the household was at odds with Howard's conservative view that this position was to be held by men. Hill (2006) has demonstrated how Howard's conservative ideology of gender structured work and family policy initiatives to maintain traditional sexual divisions of labor within Australian households. She argued that the Howard government's family policies and broader institutional environment led to inequitable outcomes for women because of the assumption that a man should rightfully be the 'head' of the family unit (Hill 2006). However, Howard's vision of the white picket fence and mum and dad with three kids that privileged the father as the breadwinner and key decision maker, was not reflected in the majority of parenting arrangements where mothers were awarded 80% of child custody (HRSCFCA 2003c, 21-25). Howard attributed this lack of access for fathers to a family law system under the sway of feminist perspectives that dismissed the role of fathers. In the context of the gender politics underpinning the reform process, equal parenting time can be understood as code for undoing what was considered women's unfair advantages in getting the majority custody of children.

The desire for parents to have greater freedom in deciding the parenting arrangements for their children also reflected the gender politics of the Howard government. The shift

from court-based litigation to community-based mediation when determining the amount of time children would spend with each parent placed fathers in a stronger bargaining position in parenting negotiations. Rather than be subject to the rulings of a family court system that restricted fathers' access to their children, mediation placed mothers in a one-on-one situation with their ex-partners without the protections of legal representation and the courts. Although mediation would enable families to have more freedom to choose arrangements that best suited their circumstances, it also placed vulnerable women and children at risk of continued violence and abuse. This reflected how gender equity for women practically ceased under the Howard government. In fact, under Howard, gender equity became an issue of men's equality and restoring the imbalance that had occurred with feminism and the advancement of women's rights.

Prior to the Howard government's attack on women's gender equity it was generally accepted that the broader inequities faced by women were the result of the 'patriarchal structuring of society…in the distinct and ongoing economic, social and political oppression and disadvantage of women' (Webster 2007, 58). However, under the Howard government agencies and organisations whose job it was to promote and protect women's interests, such as the Women's Bureau, Sex Discrimination Officer, Affirmative Action Agency and Office of the Status of Women, were either shut down or had their advocacy role significantly reduced (Webster 2007, 60). Thus the Women's Bureau was shut down, the Sex Discrimination Officer removed from office and the position left vacant, and the Office of the Status of Women was reduced to 'merely commenting on submissions understood by the department (Prime Minister & Cabinet) to be of relevance to women' (Webster 2007, 60). A similar trend was portrayed by

Alston (2009) in her analysis of mainstreaming rural women's advocacy agencies within the administration of Australian drought policy.

The diminution of the advocacy and input of women's interests into public policy was offset by the rise in political support gained by agents for the interests of men and what were perceived to be their rights. In 1999, the Howard government defunded the National Council of Single Mothers and their Children and gave $50,000 to the Lone Fathers Association to fund a national secretariat for two years (Sawer 2002, 45). The Minister for Family and Community Services, Senator Jocelyn Newman, announced the funding when she opened the Lone Fathers national conference, telling the audience 'that this funding was to redress the gender imbalance in policy development' because 'there are not many opportunities for men or fathers to have input' (Sawer 2002, 45). This blatant gender politics could also be seen in the government's solution to redressing the imbalance of custodial arrangements in favour of mothers as the introduction of an automatic presumption of equal parenting time. Although it was framed in terms of parents taking personal responsibility for the wellbeing of their children it had an unmistakable male political agenda.

The Howard government's interest in gender equity did not relate to women. Critics of the women's movement, such as the Lone Fathers Association, found political succur in their argument that the feminist influence of women's groups was a policy overhang from the so-called 'political correctness' of the previous Labor government (Connell 2002; Sawer 2002). The mainstreaming of women's agencies reduced the voice and position of power for advocates of women's issues to contribute to public policy and

was reflected in the wresting of 'power' from mothers through a presumption of equal parenting time. Howard subscribed to the argument by the Lone Fathers Association of Australia that the family law system was creating a 'fatherless society' (2003c). This statement highlighted the anti-feminist thrust at the centre of Howard's gender politics that, along with his socially conservative view of family and family values, opposed the advancement of women's rights that had occurred since the 1970s (Webster 2007). Clearly, social policy under the Howard government was underlined by a gender politics aimed at restoring the place of men in Australian families, and society more generally (Hill 2006).

Conclusion

The political context that framed the development of *A New Family Law System* was informed by a neo-liberal and socially conservative political ideology. This ideological framework influenced the policy objectives of the Howard government. To a large extent, the personal views and values of Howard influenced the political context because of the domination he held over his Cabinet and government. This chapter has identified three key value positions: freedom to choose, personal responsibility and social conservatism, as the key ideological themes that informed the political context in which the family law reform process occurred. An examination of documents and statements during the policy development highlighted how Howard wanted to reform the family law system so that it would enable separated families to have the freedom to negotiate their own parenting arrangements from a service provider of their choosing. The intention of this was to encourage and support the responsibility of parents for the welfare of their children. If both parents were legally required to assume more equal

involvement when negotiating care arrangements it was assumed they would meet their personal responsibilities to their children. However, the push for greater personal responsibility was driven by Howard's trenchant social conservatism that privileged the traditional nuclear family. This view of the 'best' kind of family for children sought to enable fathers to re-take their traditional position of power as the nominal head of the family.

This 'best' kind of family view was informed by a gender politics that united the three ideological themes noted above. The political and policy outcomes sought by the Howard government demonstrated an anti-feminist agenda that was aimed at winding back the advancement of women's rights, which the Howard government believed had eroded the societal cornerstone of the family and had come at the expense of the rights of men. Gender equity had been a prominent political and social goal in Australia since the 1970s. This was in opposition to Howard's Menzian conservatism that placed men in positions of influence in society, and in particular, the family unit. The policy process was therefore underscored by a politics that was interested in redressing the feminist inspired gender imbalances that Howard thought had disadvantaged men. The next chapter analyses the governing of participation in the policy process to understand how the prevailing power relations were structured. Through this analysis it brings together the political context and exercise of power to provide an understanding of the policy environment in which NGCSOs had to operate in attempting to influence government decision-making.

CHAPTER 5

Governing the Policy Process

'We must base our analysis of power on the study of the techniques and tactics of domination' (Foucault 1980c, 102).

A key issue for this thesis concerns identifying the technical means used by the Howard government to achieve more equal parental responsibility, the freedom for families to choose their own parenting arrangements and the fairer treatment of fathers. This can be seen in their governing of the policy process. Dean (1999, 31) argued that 'if a government is to achieve particular ends, or seek to realise values, it must use technical means', by which he meant the means through which the government sought to 'achieve particular ends.' It refers to the network of mechanisms employed, namely the various instruments, technologies and techniques to police input into the policy process. These in turn had an impact on how the government exercised power in the policy process. These technical means provided the structuring context for the participation of NGCSOs in the sense that they constituted a system for governing the participation of those attempting to provide policy input. To map the deployment of these 'technical means' in framing the governing of the policy process is the purpose of this chapter.

A government cannot simply wish or hope to achieve a political outcome through the policy process. It must instead put in place a series of instruments that work towards the achievement of particular policy goals. Governing involves a combination of diverse procedures, practices and techniques that are put together to achieve specific objectives

and goals. The instruments employed in governing the making of *A New Family Law System* included a parliamentary committee inquiry, discussion papers, and government statements. They formed a set of technical means used to exercise power in governing the policy process so that it led to outcomes sought by the Howard government. The analytical framework outline in Chapter 1 provided the conceptual basis to identify how the instruments employed to police the policy process organised power relations. It enabled the study of power relations to illustrate how 'technologies of power' were directed to match the political context surrounding family law reform (Brass 2000). This is significant in the analysis of NGCSO participation because power relations were structured according to the gender politics of the government.

This chapter demonstrates how the political objectives of the Howard government were supported by the various instruments used to exercise power in governing the policy process. In particular, the ways of seeing and perceiving, thinking and questioning and treating certain identities are drawn on to highlight how the government set out policy objectives and proposed to achieve them in the policy process. The technologies and techniques used in governing the policy process are explored in the following sections, followed by a discussion of how they informed the power relations that supported the government's gender bias. How NGCSOs organised their participation to negotiate power relations to their advantage helps to explain why the actions of some organisations were more politically influential. The rationality (way of thinking) that underpinned how the government viewed the issue of family law reform was a crucial factor in governing the policy process and construction of power relations. The Howard government's statements of response to two key policy development events illustrate

the rationality behind the policy outcomes it sought and the power relations put in place to achieve them.

Government responses

The government used statements of response as a technology to reinforce the policy objectives it wanted to achieve through its governing of the policy process by making two key statements of response during the development of *A New Family Law System*. The first was titled *Out of the Maze*. It articulated the framework for the government's desired reform objectives. The government stated how it was working towards a family law system that provided early help, better outcomes for children and young people and was integrated to meet the needs of families (Attorney-General's Department 2003). The government pointed to the detrimental effect of entrenched parental conflict on children and how the government was committed to enhancing services to facilitate early conflict resolution and agreement in separating families. It also reiterated its aim to place 'a greater focus on the needs and interests of children' in order to reduce parental conflict (Attorney-General's Department 2003, 5).

Central to the government's response to *Out of the Maze* was the view that 'the quality of parenting that a child receives from both parents can mitigate the impact of family separation/divorce' (Attorney-General's Department 2003, 5). Of interest is how the government framed this in terms of addressing the disadvantage experienced by fathers. The government made the point that parental conflict is 'detrimental to the fathering role' with a direct rebuke of mothers for withdrawing from 'facilitating situations that facilitate the father-child relationship' (Attorney-General's Department 2003, 5). It

claimed that ‘when levels of conflict following separation and divorce are low, fathers tend to be more involved and child outcomes are better’ (Attorney-General’s Department 2003, 5). Here we can see that the burden for this conflict is being placed on mothers. The government praised the (father-friendly) recommendations of *Out of the Maze* for providing the family law sector with ‘a clear direction for ongoing and incremental improvements over future years’ (Attorney-General’s Department 2003, 8). As if by design, the terms of reference for EPTS dictated that the Committee should have regard to the Government’s recent response to the report of the FLPAG. The rationalities that informed the government’s response to *Out of the Maze* were directed at reforming a family law system that allegedly rendered fathers powerless to their ex-partners, much to the detriment of their children.

The second government response was in relation to EPTS and outlined its family law reform policy: *A New Family Law System*. This policy statement focused on introducing reforms that would enable separated fathers to have more involvement in the lives of their children. The requirement for parents to attend three mediation sessions was specifically aimed at encouraging them to consider substantially shared parenting time when developing parenting plans (*A New Family Law System* 2005). As highlighted in the response to *Out of the Maze*, this was directed at ‘reducing the conflict between separated parents and separated fathers having greater involvement with their children’ (*A New Family Law System* 2005, 19). If a parental conflict did make it to court, judges would also be required to consider substantial sharing of parenting time where appropriate. To facilitate the ‘negotiation’ of more equal (shared) parenting the Howard Government earmarked $397.2 million over four years from the 2005-2006 Budget to

fund the family law reforms and establish a national network of 65 Family Relationship Centres at a cost of $188.5 million (*A New Family Law System* 2005, 1).

The Family Relationship Centres would provide education and counselling services targeting family relationships, parenting skills and support for men's issues in helping to facilitate shared parenting. The other services to be funded under *A New Family Law System* demonstrated the government's desire to enhance services in the interest of men. The additional services included:

1. Fifteen new services under the Contact Orders Program ($23.3 million over four years).
2. Thirty new children's contact services ($17.0 million over four years).
3. Early intervention and prevention services ($61.6 million over 4 years) for up to 40 new pre-marriage and family relationship education services, 45 new men's and family relationship services, and 35 new family relationship counselling and skills services.
4. Additional family support services included the delivery of specialised family violence services ($7 million over four years).
5. Men's Line Australia ($12.4 million over four years).
6. Resources for mediation and similar services provided by agencies supporting the new Family Relationship Centres network ($13.4 million over four years) (*A New Family Law System* 2005, 2-3).

While enhanced contact and family relationship services would also assist women, the measures above can be viewed as mostly benefitting men to deal better with separation and have improved relations with their children.

The responses made during the policy process highlighted the rationalities (i.e. systems of thought and knowledge) used by the government in questioning the family law system. The forms of thought, or ways of thinking, within the government's responses showed how it viewed the issues within the family law. This is important for understanding power relations because the way an issue is thought of and discussed sets the framework through which it is viewed and its problems resolved. That is, power relations are engineered through the systems of thought that frame governing procedures towards the achievement of certain ends (Rose and Miller 1992). The 'ways of thinking' that informed the policy process called into question the ability, and willingness, of the family law system to treat parents equally and fairly in determining parenting arrangements. The outcome of parenting arrangements in which one parent, typically the mother, was granted the majority of custody was also questioned in terms of not being in the best interests and needs of children.

The rationalities used by the government viewed the family law system as producing unsatisfactory outcomes for children and their families. The damage caused by the adversarial legal system and resulting lack of access fathers had with their children was a major problem that the Howard government viewed as in need of radical reform (*A New Family Law System* 2005). This way of thinking and questioning informed the use of tactics to govern the policy process towards reform outcomes that would take parental negotiation away from the courts and establish a presumption based on more equal care by parents. The policy discourse that articulated the government's thinking was framed in terms of mediation, equal parenting time, the greater involvement of

fathers and enhanced parental responsibility. The previous section discussed how the government used EPTS and its terms of reference to structure policy input around its rationalities of equity, fairness and children's need through fathers having more meaningful involvement with their children after separation. To govern policy input towards this end the Howard government engineered power relations to reflect its thinking of what was wrong with the family law system and what was needed to resolve the issues it created for children and separated families.

The political context has shown to have been driven by gender politics that made the policy process more favourable to the interests of fathers. In the government's response the thinking can be seen that mothers had supplanted the role of fathers in the care of children. The government regarded the family law system as enabling mothers to keep fathers out of their children's lives and therefore, that equal parenting was needed to facilitate a more equitable and fairer sharing of responsibility. The claim that mothers withdrew from facilitating situations that might enhance the father-child relationship highlighted the Howard government's rationality that the family law system was detrimental to fathers (Attorney-General's Department 2003). *A New Family Law System* further reflected the government's thinking when it stated it would amend the *Family Law Act* to 'include a new presumption of joint parental responsibility' and require parents to 'consider substantially sharing parenting time' (*A New Family Law System* 2005, 2). This rationality informed the government's affirmation that shared equal parenting responsibility would be the starting point of all parenting agreements (except in cases of violence and abuse) so that fathers would have more involvement with their children (*A New Approach* 2004, 21).

This way of thinking in regard to resolving family law issues was reflected in the terms of reference used to define the parameters of policy input in EPTS. I discuss later in this chapter how participation in EPTS was policed to restrict policy input to the 'respective time each parent should spend with their children post separation' and 'whether there should be a presumption that children will spend equal time with each parent' (HRSCFCA 2003c, xvii). I demonstrate that the terms of reference were used to shape power relations so that participation in the policy process would be informed by the government's thinking surrounding the interests of children and the role of fathers. The terms of reference also reflected the government's thinking around equal parenting as being in 'the interests of the child' and fairness to 'both parents in relation to their care of, and contact with, their children' (HRSCFCA 2003c, xvii).

The government statements in response to *Out of the Maze* and EPTS illustrate how its thinking informed the tactics used in governing the policy process. The terms of reference for EPTS were one example of how power relations were constructed to match the government's rationality. The position of authority held by government enabled it to structure the parameters of policy input around its thinking and values on what would be best for separated families and their children. The father-friendly rationality of the government can be seen in how it set the scope of policy input towards the achievement of children on having ongoing quality relationship with both parents, and especially fathers. Strategies and tactics in creating power relations can be linked to the systems of thought that construct governing practices that align with particular views of a problem and the steps needed to resolve it (Dean 1999, 31). Through

informing power relations, rationalities shape what is to be governed and who is governable in policing the conduct of groups of people (Gordon 1991, 3).

The statements issued established the government's rationality as the primary perspective through which it would seek policy input and structure power relations by saying to participants 'here is how we see the issue, here is what we are doing about it, and would you care to comment on how we are going to proceed?' The government responses to *Out of the Maze* and EPTS outlined a policy framework for family law reform based on its views of parental inequity and the needs of family and children following separation. The responses were used as a mechanism for exercising power to support the thinking that attention had to be given to the ongoing parenting roles of both parents, especially fathers, to reduce the level of harm caused to children by separation (*Out of the Maze* 2001, ES3). Therefore, the government responses were a technology used to exercise power over the policy architecture it wanted to achieve as part of its political aims. The parliamentary committee inquiry into family law reform was the most significant event in the development of *A New Family Law System*. It was the largest and most involved consultation process undertaken by the government in seeking public input on its reform proposals for equal parenting time. It is examined next to highlight how it shaped power relations in governing NGCSO participation.

Parliamentary committee inquiry

Parliamentary committees are an important part of the policy process that allows governments to 'consult' with the community and interested stakeholders regarding specific courses of action being considered (Holland 2006). Their role as bipartisan

bodies is to audit and scrutinise government plans and policy intentions. The inquiries held by parliamentary committees affect the policy agenda because they can be 'effective pathways by which issues in the community find their way onto a government's agenda' (Holland 2006, 68). Therefore, the inquiry process can play a valuable, and influential, role in formulating and choosing policy options. Parliamentary committee inquiries provide valuable feedback through identifying issues with policy administration to improve implementation and evaluate the effectiveness of a policy program, and gauge community thoughts on certain policy issues (Holland 2006, 68). They are an instrument used by governments to investigate issues and receive informed recommendations on possible courses of action or comments on action already taken (Holland 2006, 75).

Yet inquiries are part of the political process and are susceptible to manipulation for political purposes. Prasser (2006, 58) argued that inquiries 'meet the short term political needs of government' and that this is a factor in why government's frequently resort to them. Many reasons exists for the appointment of an inquiry but those with greater political motivation include: (i) to assist governments in managing the policy agenda by the illusion of action, deflection of criticism, or the co-option of critics and (ii) to justify government decisions already made but not publicised or not formally decided (Prasser 1994, 8; 2006, 68). A problem with inquiries in the policy-making process is that they are too close to the political process. It has been suggested that they are too easily manipulated and too often 'one of the props of political theatre' (Prasser 1994, 13). Prasser (2006, 59) argued that understanding the political motivations behind why a government calls an inquiry requires analysis of the circumstances leading to an inquiry,

the reasons stated by the government and is important in knowing how power relations were informed in governing policy input and participation. The lack of impact of inquiry reports and their use for political 'witch-hunts' were cited as reasons to doubt their impartiality as a mechanism to provide policy advice or consult widely with the community (Prasser 1994, 13).

Therefore, inquiries are not the neutral instrument implied in Holland's analysis of their function in the policy process. One Machiavellian observation of inquires stated that 'the statesmen who nominated the commission can almost always determine the course it is going to take' (Dibelius 1930 cited in Prasser, 2006, 78). EPTS had six factors identified by Prasser (2006) as illustrations that a government has appointed an inquiry for political purposes. These included its narrow terms of reference, limited time frame (4 months), the government's capturing of the policy agenda (as a means of enacting gender politics) and finally, that it ignored a major finding of the Committee (Recommendation 12) because it did not suit its pre-determined political agenda. Through these it was clear that family law reform, and EPTS, was driven by ideological goals and other political motives.

Although inquiries possess a political vulnerability, parliamentary committee inquiries are extensively used and they are typically a two-stage process. The first stage is the seeking of written submissions through advertising. The second stage involves public hearings where witnesses are invited to appear and answer questions put directly to them by committee members (Holland 2006, 74). After the public hearings a draft report is prepared by the committee secretariat on the instructions of the committee

chair. A draft is circulated among committee members to negotiate additions and revisions, before a majority of the committee accepts the revised report (Holland 2006, 74). This two-stage process was followed in EPTS and through it the Committee made a series of recommendations that were accepted in the development of *A New Family Law System*. EPTS was an important part of governing the policy process because the government used it to police the format and scope of policy input from which recommendations amenable to its agenda would likely result.

The use of EPTS to investigate community reaction to the introduction of a rebuttable presumption of equal parenting time was very helpful in terms of governing input and participation in the policy process. Each stage of EPTS enabled the government to exercise control over the timing and format of policy input, as well as to frame the 'debate' it wanted to have with community members. For example, the submission process enabled the government to establish terms of reference and strict requirements for the acceptance of documentation. The parameters set for participation in making a submission were therefore part of governing the policy process that exercised power over the scope of NGCSO input. Likewise, the participation of NGCSOs in the public hearings was also policed to a large extent by the government.

Stating terms of reference was one technique used to shape power relations by establishing the conditions on which consultation into family law reform would take place in EPTS. For this inquiry the terms of reference governed the making of submissions to EPTS. Encouraged by the recommendations of *Out of the Maze* concerning a more equitable and fairer family law system for men, Prime Minister

Howard told the parliament he would be sending a reference to the HRSCFCA regarding:

> The factors that should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted (*PDHOR* 24 June 2003, 17277).

From this the following terms of reference were given to the Committee to 'have regard to the Government's recent response to the report of the Family Law Pathways Advisory Group' (HRSCFCA 2003a) so that that it 'should inquire into, report on and make recommendations:

> (a) Given that the best interests of the child are the paramount consideration:
>
> > (i) What other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted.
> >
> > (ii) In what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.
>
> (b) Whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

(c) With the Committee to report to the Parliament by 31st December 2003 (HRSCFCA 2003c, xvii)

These terms of reference affected NGCSO participation through governing the scope on which submissions focused their input on the issue of family law reform. They showed that the government was not interested in policy input based on alternative solutions to improving outcomes for children and their families. Instead, it demonstrated how the government had settled on equal parenting time as a policy proposal to achieve its political aim of greater parental responsibility through the increased involvement of fathers in their children's lives. Limits were set on the government's consultations with NGCSOs regarding their views on family law reform. An inquiry's terms of reference are a key indicator of whether an inquiry has been called for politically expedient reasons (Prasser 2006, 79). Some Committee members thought the government established EPTS to push for equal parenting time because it wanted to remove the risk of a father's group campaign during the 2004 election and gain the political support of a significant section of the community who wanted better rights for dads in family law (NGCSO3, NGCSO5). Therefore, the government used its terms of reference as an instrument to control policy input towards the development of stronger rights for fathers.

The submissions made by NGCSOs highlight the effectiveness of terms of reference as a governing mechanism. Just over 190 submissions were presented by NGCSOs to the inquiry and every single one was focused on the issues framed in the terms of reference. Although issues such as children's and parental rights (AACA 2003; AAIMH 2003a; LFAA 2003b), risks of violence and harm (CCDVC 2003a), family law (DID 2003), the

courts (YACV 2003a) and mechanisms for fairer child support assessments (NWRN 2003a), were discussed and various points argued in the NGCSO submissions, they all related in some way to the proposition of a rebuttable presumption. The exercise of power through the self-regulation of NGCSOs demonstrated an important aspect of governmentality that power is not so much the domination of one actor over another but rather the facilitation of self-censorship through the use of instruments and techniques (Foucault 2007).

Public hearings were the other technique used in governing participation in EPTS. At each public hearing oral evidence was taken from participants regarding the positions put forward in their submissions and views relating to issues that had arisen during the inquiry. The value of public hearings is that they enable Committee members to test policy proposals and weigh up competing policy aims (Holland 2006). They are also an opportunity for Committees to meet and hear 'first hand the views and experiences of the community' (HRSCFCA 2003c, 15). In preparation for public hearings, Committee members are provided an issues brief by the committee secretariat and often conduct their own research when devising questions. During public hearings much of the testing is 'between the competing arguments of different policy professionals' and through the deliberative process involved, critical assessments can be made regarding 'areas for potential change' (Holland 2006, 81). However, inquiries can, and are often, used by governments to suit political purposes (Bridgman and Davis 2004, 112).The public hearings conducted in EPTS were not the politically neutral, deliberative processes Holland (2006) alludes to. Committee members, particularly the males, had their own agenda aimed at enhancing fathers' access and rights because they believed men

received unfair treatment by the family law system (ALSWA 2003; CCDVC 2003b, 9). Overall, the Committee did assess competing arguments by sometimes playing the role of devil's advocate but this was not without moments of obvious personal and political motivation.

Selection as a participant to give evidence at a public hearing was the primary means by which the government could police this part of the policy process. Compared to the one-way flow of information in a submission, the deliberative and interactional nature of a public hearing allowed NGCSOs to engage directly with Committee members and argue their position. This presented NGCSOs with an additional, direct opportunity to persuade the Committee members. Only 43 NGCSOs were invited by the Committee secretariat to give evidence at a public hearing. This underscores the capacity of the invitation process to serve as a mechanism of governing policy input. While it is possible that some hearings may have received little interest and no vetoing was required, this is hard to believe considering the overwhelming interest shown by the community in EPTS (HRSCFCA 2003c).

When NGCSOs made a submission to the inquiry there was no restriction on which organisations could do so. The only stipulation was that they should present views in relation to the terms of reference, in a concise written format, and for that to be submitted to the Secretariat by the stipulated date of Friday 8 August 2003 (HRSCFCA 2003a). The public hearings, by contrast, placed limits on which NGCSOs were able to participate. In part, this may have been driven by the practicalities of having to gather evidence from around the country and review and report on it in a short period of time.

However, a comparison of NGCSO interests represented in the submissions and public hearings points to the fathers' and men's organisations having increased representation in the public hearing process.

One hundred and seventy seven submissions were made by NGCSOs with 76 representing the interests of women and children. This was almost four times the number of submissions made by organisations representing the interest of fathers and men (n=21). Yet the public hearing process had more men's organisations (n=12) as witnesses than those representing women and children (n=10) (HRSCFCA 2003c, 215-233). Although circumstantial and lacking evidence of deliberate bias, it can be argued this reversal of proportional representation enhanced the opportunity for those supporting equal time parenting to influence and persuade Committee members of the legitimacy of their policy position and reform proposals. The proportion of men's organisations in the public hearings cannot be attributed to an active bias in the selection of witnesses but this cursory appraisal illustrates that this aspect of the policy process favoured those organisations that supported equal parenting time. Taken in the context of governing the policy process, this indicated that power relations favoured those who supported the government's policy agenda.

The values expressed by the Howard government in policing policy input conveyed the outcomes it wanted to achieve in reforming family law. The terms of reference for EPTS illustrated the central set of values that informed the policy outcomes sought by the government. Consider the following statements from the terms of reference (HRSCFCA 2003c):

‘the best interests of the child are paramount’

‘children will spend equal time with each parent’

‘contact with other persons’

‘works fairly for both parents’

‘in relation to their care of’.

They highlight that the values of equality, fairness and care were at the heart of the government’s policy aims. These values were expressed in the terms of reference as a desire to introduce provisions for more equal parenting time as the best way to care for children’s needs. A rebuttable presumption of equal parenting time, as the government saw it, would address the need for equality between parents in regard to the amount of time children spent with each parent. It would also be a fair solution because it was equal and would remove the bias against fathers found in custodial arrangements delivered by the Family Courts. Lastly, more equal parenting was seen to be in the interests of children because both parents would be involved in meeting their care needs.

The tactic of using a parliamentary committee inquiry was also effective in governing the format and structure of policy participation. The logistics of managing national policy consultation through a committee process requires well-established administrative procedures. Without clear procedures in place to collate the some 1800 submissions, hundreds of form letters and hundreds of hours of public hearing testimony, the process of informing the Committee and government of community

views would be chaotic. While strict deadlines and formats had to be in place for receiving submissions and conducting hearings in a timely manner, such procedural considerations added another layer of power over how and when the government would take formal input into the policy process (HRSCFCA 2003a). The procedural aspect of participating in EPTS may not have been a primary tactic used to exercise power but it was a part of governing the policy process used by the government. Irrespective of the policy position taken by an NGCSO, they all had to submit to the authority of the government in dictating the conditions of participation if they wanted to provide input into EPTS.

EPTS was used to exercise power over NGCSO participation through framing family law reform according to a set of distinct problems and values. The way a particular population or issue is viewed and thought about affects the power relations put in place to govern conduct within it. The governing techniques used to exercise power were visible in the policy process through the values that guided how family law practices around determining levels of parental access and involvement in a child's upbringing were called into question. In particular, the values of equity and fairness were expressed in terms of the gender politics that informed the reform outcomes sought by the Howard government, a point I return to later in this chapter. The terms of reference used to police participation in EPTS demonstrated how the government framed policy input so that the reform process was amenable to its policy agenda. The strategy of using a parliamentary committee inquiry along with the tactic of governing participation according to strict terms of reference was a significant mechanism by which the government exercised power in the policy process. Another mechanism used in

governing the policy process was that of inviting input through participation in a discussion paper.

The discussion paper

A New Approach to the Family Law System: Implementation of Reforms – Discussion Paper (hereafter *A New Approach*) was the discussion paper used by the government to police input in final stages of the policy process. It was released in November 2004, following the tabling of EPTS in December the previous year, and outlined the specific reforms the Howard government wanted to introduce into family law and sought input on the best way to implement these changes (*A New Approach* 2004). In it the government announced its intention to 'amend provisions of the *Family Law Act* to refer to the need for both parents to have meaningful involvement in their children's lives and for children to have the right to spend time on a regular basis with both parents' (*A New Approach* 2004, 21). The proposed changes to family law outlined in *A New Approach* were therefore detailed as a suite of measures designed to support shared parenting as a way to enable more equal parental responsibility. In *A New Approach* the government stated:

> Equal shared parenting responsibility means parents share the key decisions in a child's life, regardless of how much time a child spends with each parent…As recommended by the Committee, the government proposes to make equal shared parenting responsibility the starting point under the Family Law Act by making it a rebuttable presumption (*A New Approach* 2004, 10).

More equal parental responsibility was a primary reform objective of the Howard government who saw it as central to the best interests of children.

The ineffectiveness, or unwillingness, of the family law system to support both parents to meet their responsibilities was considered problematic by Howard. He believed both parents should be responsible for the care and well-being of their children (*Future Directions* 1988) and as a result the notion of responsibility informed his government's policy aims. The Committee also found that the family law system was failing families in terms of having parents fulfill their responsibilities. EPTS stated that 'sections of the *Family Law Act* clearly demonstrate that both parents have ongoing responsibility for their children' and highlighted that 'we are convinced that sharing responsibility is the best way to ensure as many children as possible grow up in a caring environment' (HRSCFCA 2003c, xii).

It is clear that the government considered equal shared parenting responsibility as the basis on which children would be able to have meaningful relationships with both parents. The concept of equal shared parenting responsibility reflected the government's ideological stance that a parent's responsibilities to their children defined them as an adult and a person. The reform framework stated unequivocally that parents must 'share the key decisions in a child's life, regardless of how much time the child spends with each parent' and that they should be responsible for agreeing to a parenting plan before conflict has become entrenched (*A New Approach* 2004,19-21). The government framed a parent's responsibility for their children's care and well-being as a significant part of the kind of family law system it wanted to create. The creation of a parental identity around responsibility was one technique used in *A New Approach* to exercise power in

justifying equal shared parenting as enabling better outcomes for children in separated families.

The idea of 'responsible parent' was reinforced in *A New Approach* to frame the input it received around how a new family law system would enable both parents to have more equal involvement in the care of their children. The government asked a series of specific questions designed to help in the realisation of this aim. For example, after detailing how a new family law system would 'encourage and assist parents to reach agreement in shared parenting arrangements after separation', comment was sought on: 'What other ways could be used to encourage parents to develop shared parenting plans as the basis for their parenting arrangements after separation?' (*A New Approach* 2004, 3-4). The identities put forward in *A New Approach* had a significant impact on the solutions to family law issues participants were asked to comment on. The government's identification of a 'biased' legal system, 'neglected' children, and parents as people with 'responsibilities' in *A New Approach* (2004) was crucial in governing participation towards only commenting on the reform proposals it wanted to address as urgent matters in family law. Conveniently, the government was able to use these labels to fix specific identities in the creation of a family law system based on its aims of equal shared parenting responsibility and the greater involvement of fathers.

The government policed the 'discussion' held with NGCSOs through *A New Approach* by deliberately focusing on implementation issues rather than the appropriateness of the reforms being proposed. The power dynamic of the government, using various techniques to maintain control of the scope of policy input, continued with the

discussion paper. It only asked questions specifically targeted to implementation issues that had been identified and left little scope for participants to highlight other concerns. As an example, the government did not seek broader comment on shared parenting plans by asking: 'Should parenting plans be used?' or 'What problems arise when using parenting plans?'. It was clear that the purpose of *A New Approach* was not to facilitate a 'discussion' that debated the merits of the government's reform proposals. The definitive language in *A New Approach* reflected that the government had made its mind up and the invitation to participate was structured around a dynamic of 'here is an implementation issue, how do you propose we resolve it'. One example of this was the question: 'Apart from doctors, child care centres, lawyers and schools, who else in the community can help refer separating parents to Family Relationship Centres?' (*A New Approach* 2004, 3) This 'discussion' question was only concerned with who should be able to refer parents to Family Relationship Centres, not other equally important issues such as that of providing adequate protection provisions in these centres for women with a history of having suffered violence and abuse.

The government used the strategy of restricting participation to the answering of implementation questions it determined were important in governing input into *A New Approach*. The exercise of power by seeking input exclusively on how fathers could be more involved in their children's lives was a deliberate tactic to direct policy participation towards this. The government's unwillingness to seek further input on the notion of shared parenting responsibility highlights how it policed participation to seek input that assisted its policy agenda. Its idea of consultation in *A New Approach* was to only invite comment on circumstances of exception to attend dispute resolution,

implementation issues for rural and remote families, and the identification of entrenched conflict (*A New Approach* 2004, 10-12). While these were important considerations, they hardly demonstrated a set of questions designed to seek feedback on other possible means of facilitating parental responsibility. Therefore, the discussion paper was used to structure power relations that suited the political purposes of the government and its policy aims. The mechanisms that have been outlined in this chapter regarding governing the policy process all have one common feature: the use of gender-based power relations. By that I mean that the power relations established were informed by the gender politics highlighted in the previous chapter.

Gender-based power relations

The gender politics that informed the government's thinking influenced the structure of power relations used in governing the policy process. The analysis of the government responses, EPTS and *A New Approach* demonstrated how these mechanisms established a dynamic that policed policy participation towards the gendered outcomes sought by the Howard government. If a government were to achieve particular policy objectives and realise certain values then particular technical means must be used. This was reflected in how policy instruments were used to frame the family law reform process in gender terms. The government used its position of authority in the policy process to exercise power over the terms on which input would be sought and received as part of its decision-making. It therefore established a system of power relations designed to govern policy participation in such a way that the rights of fathers would be enhanced through family law reform. The empirical material in Chapters 6 and 7 supports the

contention that such power dynamics clearly advantaged the fathers' and men's NGCSOs.

The government's responses were informed by and illuminated a gender-based rationality that questioned the willingness of mothers to allow children to have a meaningful relationship with their father and for a family law system that would enable fathers to negotiate more equal parenting arrangements. This policy response can be seen as being motivated by the need to redress the removal of men from their 'natural' position of authority in the family unit that had occurred under feminist influences in Australian institutions. The gender-based rationality highlighted through the government responses was part of the Howard government's reverse gender mainstreaming. Rather than put in a policy process aimed at gender equity issues devoted to women's issues, the government reversed the focus so that men could achieve 'equity' across the family law system. Alston (2009, 139-140) has argued that, under Howard, women's issues were 'subsumed to male normative considerations' that was manifest in the dismantling of institutional structures dedicated to women's disadvantage and replacing them with alternate systems designed for gender equity. In family law this meant introducing reforms that strengthened men's positions in regard to negotiating parenting arrangements for greater levels of equal access that allegedly had been lost by men over the previous 30 plus years. Such thinking was at the heart of the power structures set up to enable, as much as possible, this gender-based outcome through the inquiry process.

The orientation of the EPTS around equality, fairness and the care and best interests of children was framed around the government's reinterpreted thinking about gender politics. The political and ideological context of the terms of reference was underscored by a gender politics that privileged men's rights and their traditional position in the family unit. The Howard government believed that a fairer family law system should support fathers to have greater rights of access to their children as a way to enhance parental responsibility and facilitate the maintenance of more traditional family units. This policy objective, admirable in principal, was supported in practice by a gendered set of tactics that restricted policy input in EPTS primarily to commentary on what conditions would enable equal parenting as a legal presumption for all but the most exceptional of circumstances. The terms of reference, when viewed through the lens of gender politics surrounding the policy process, can be taken as code for fathers re-taking their rightful place as head of the family unit. It also highlighted the government's political agenda of addressing the feminisation of child rearing created in family law under the guise of parental responsibility. It was an important mechanism in governing participation and exercising power over the inquiry process to serve gendered political objectives and realise the socially conservative values it considered appropriate for the upbringing and welfare of children.

The power relations established in EPTS were aimed at re-positioning men within the family unit through emphasising the need to provide a family law system for all Australians. *Out of the Maze,* which informed the government's terms of reference, stated that 'the community is concerned about aspects of the current family law system, which affects the lives of so many Australians … Men, in particular, feel angry and

frustrated, and believe that the system is biased against them' (*Out of the Maze* 2001, ES4). Considering that Howard wanted to redress the lack of fatherly involvement, it was no surprise that the terms of reference sought to remove the custodial dominance held by mothers. EPTS specifically asked participants to provide input on 'whether there should be a presumption that children will spend equal time with each parent' (HRSCFCA 2003c, xvii). The proposed shift toward equal parenting time was part of Howard's concerted effort to govern for the mainstream. This was the 'silent majority' negatively affected by the past 'political correctness' and the rise of feminist agendas.

Fathers were a significant part of Howard's silent majority. The power relations governing the policy process reflected the importance given to male gender equality in framing policy participation. In his efforts to mainstream government Howard deliberately reduced attention to women's disadvantage by arguing it was not in the community's interest to govern for special interests (Alston 2009, 143). However, what Howard meant by the 'mainstream' was what Alston (2009, 143) described as a 'disembodied masculinist norm' that women's gender equity principles held little sway against. The references to parental equity, responsibility and fairness was Howard's way of governing the policy process so that mothers would no longer receive preferential treatment that he thought the 'mainstream' community ceased to find desirable.

These were the inhabitants of what Dean has described as the 'fields of visibility' that make it 'possible to picture who and what is to be governed, how relations of authority and obedience are constituted … what problems are to be solved and what objectives are to be sought' (Dean (1999, 30). The analysis of how power relations were structured

by the Howard government in governing the policy process highlighted a gendered visibility that favoured men's perceived interests against those of women. The government responses, EPTS and *A New Approach* helped make 'visible' the mechanisms used to build the authority of the government to solve the problems created by a feminist family law system and enhance the position and rights of fathers. The tactics, techniques and technologies identified in this chapter provide a point of reference for understanding how power relations were informed by gender politics. NGCSOs had to negotiate these power relations created in light of the political context of the Howard government in order to influence policy decisions.

Conclusion

This chapter examined the governing of participation to identify the mechanisms used to establish power relations that supported the policy objectives of the Howard government. The power relations within the reform process are an important consideration in the study of NGCSO participation because they reveal how the Howard government policed the formats, terms and timeframes for policy input. They were how the government established a relationship of authority that NGCSOs had to contend with if they were to achieve their policy aims. It has been shown how the government used response statements, a parliamentary committee of inquiry, and discussion paper to police policy participation on terms that suited its political agenda. The government's response to *Out of the Maze* and EPTS highlighted its thinking around parental inequity and the needs of family and children following separation. Its rationality regarding the needs of children to have more equal time with both parents through the greater

involvement by fathers informed the structure of power relations in EPTS and *A New Approach*.

The terms of reference in EPTS highlighted the core values that underscored the policy objectives of the government. Equity, fairness and care were central in policing the scope of policy input sought from participants in the inquiry. The expression of values in setting up EPTS was significant because they pointed directly to the equal parenting reforms that the government wanted to achieve and to frame the inquiry. The discussion paper played an important role in governing the final stage of the policy process by policing input around the notion of supporting responsible parenting. It was used by the government to ask targeted questions aimed at facilitating 'responsible' parents to have equal sharing arrangements. The study of the instruments and techniques used by the government to exert power (authority) over the policy process showed that they were underscored by the gender politics that drove the reform process. That is, the power relations used in governing the policy process were gender-based.

The techniques of exercising power were deliberately used by the Howard government to support its political agenda of dismantling the advances made by women through the rise of feminism and thereby restoring the gender balance in favour of men. Through paying attention to the mechanisms, techniques and technologies used to establish authority it has been possible to understand the depth of Howard's gender politics that influenced the policy process and NGCSO participation. Chapter 6 analyses NGCSO participation to identify the strategies and tactics used to negotiate the political context and power relations. It provides an understanding of how various organisations

attempted to position themselves in order to gain authority and influence in the policy process.

CHAPTER 6

NGCSO Policy Participation

'What channels are there for those without corporate muscle to have some voice in the decisions which affect them?' (Sawer 2002, 48)

The effect of a government's political agenda and electoral needs on the receptiveness and potential influence of an interest group's policy input is well documented (Dalton et al. 1996; Economou 1998; Marsh 2002; Matthews 1997). To maximise their level of persuasion NGCSOs employ a range of strategies, tactics and techniques to negotiate the political context and power relations within policy processes. The structure of NGCSO participation highlights how various organisations chose to position themselves in response to the political objectives within the policy process. Their decision in selecting particular methods of engagement illustrates how NGCSOs seek political gain through their negotiation of the policy environment. Therefore, the structure of NGCSO participation is a key factor in understanding how they attempt to manage the relationship between their policy position and the political environment in order to obtain outcomes in their interests.

The technical means used by NGCSOs to negotiate power relations and influence policy decisions are aimed at realising specific policy aims and values (Colebatch 2002a; Dean 1999). For the fathers' and men's NGCSOs, Howard's view that the rights of fathers needed to be enhanced to enable fairer parenting arrangements fitted well with their own key objectives. It meant that their participation was structured around providing

community support and ‘expert’ validation for a position that was also ideologically central to the government’s proposals. This was a significant factor in the way they engaged in the policy process. For the NGCSOs who advocated against, or at least resisted, a blanket beginning point of equal parenting time and compulsory mediation, their participation task was different. For these NGCSOs the overt emphasis on equal parenting time masked a gendered reality that women (and children) often faced. The worry for these NGCSOs was that such a starting point would put a significant proportion of women (and children) at risk of abuse, poverty and violence. Hence, they negotiated the prevailing power relations with the intention of persuading the government not to institutionalise equal parenting time and compulsory mediation. They wanted to place emphasis on the *Family Law Act* being sufficient to deliver equal parenting arrangements, where appropriate.

This difference between the policy interests of fathers and mothers highlights the relationship between the policy position taken by an NGCSO and their understanding of family law issues based on their conception of gender. The fathers’ and men’s NGCSOs supported the introduction of equal parenting time because they saw it as a way to restore a father’s ‘rights’ to maintain a loving and nurturing relationship with his children following a relationship breakdown. The other NGCSOs who defended the interests of women and children opposed equal parenting time on the basis that a significant proportion of women and children were victims of male perpetrated abuse and violence and were often left in vulnerable circumstances following separation. They argued that equal parenting time would entrench and, in some cases, worsen this for women and children. Table 6.1 illustrates the gender-based split among NGCSOs

regarding their position on equal parenting time and shows how the fathers' and men's organisations supported the policy objectives of the Howard government. This alignment according to gender perspectives pointed to the key participation strategy of each group. The fathers' and men's NGCSO participation was aimed at reinforcing with the government that it was doing the 'right thing' and reminding it that its policies had community support. The other NGCSOs sought to persuade the government that it had to reverse its policy proposal regarding equal parenting time and changing the *Family Law Act*. The different policy outcomes among NGCSOs can be used to assess the effectiveness of various tactics, in the context of a highly gendered policy process, as part of studying the relationship between participation and political influence.

This chapter analyses the participation structure of NGCSOs with regard to the power relations and gender politics governing the policy process. It examines the way in which NGCSOs structured their submissions and public hearing evidence, lobbied government officials and attempted to shape public opinion in order to identify the strategies and tactics they used to gain political advantage. It concludes by demonstrating how, through their strategies and tactics, NGCSOs sought to exert pressure on the government to shape policy decisions. The methods of persuasion used by NGCSOs demonstrated how they tried to convince the government that serving their clients' interests would be to its benefit. The following section begins with the analysis of NGCSO participation through the structuring of their submissions and public hearing evidence.

Table 6.1 NGCSOs that opposed or supported equal parenting time

Opposed to equal parenting time	Support equal parenting time
Aboriginal Legal Services of Western Australia	Australian Family Support Services Association
Anglicare Western Australia	DaDs Australia
Australian Association of Infant Mental Health	Dads in Distress
Australians Against Child Abuse	Fairness in Child Support
Catholic Welfare Australia	Fathering After Separation
Central Coast Domestic Violence Committee	Fatherhood Foundation
Dawn House	Joint Parenting Australia
Domestic Violence and Incest Resource Centre	Lone Fathers Association
Family Law Foundation	Men Again
Family Services Australia	Men's Information and Support Association
Federation of Community Legal Centres	Men's Rights Agency
Illawarra Legal Centre	Shared Parenting Council of Australia
Immigrant Women's Speakout	Tasmanian Men's Health and Wellbeing Association
KinKare	
Muswellbrook Women's and Child Refuge	
National Association of Community Legal Centres	
National Council of Single Mothers and their Children	
National Welfare Rights Network	
No To Violence	
Pine Rivers Neighbourhood Centre	
Relationships Australia	
Sole Parents Union	
Top End Women's Legal Centre	
Uniting Care Burnside	
Warrina Women's and Children's Refuge Co-operative and Society	
Women's Information Referral Exchange	
Women's Law Centre of Western Australia	
Women's Legal Service	
Youth Affairs Council of Victoria	

Submissions and giving public hearing evidence

Several scholars have noted in-principle support is a common participation strategy for interest groups. They pointed out that finding a position of agreement or 'common

ground' is often sought as a place from which to begin policy negotiations in the hope of gaining concessions that meet their members' interests (Davis 1998; Stewart and Maley 2007; Yeatman 1998). The strategy of providing in-principle support in the form of written or verbal statements that corresponded with the broad policy objectives of the government was used by all NGCSOs in their submissions and public hearing evidence. The purpose of providing this type of support was to demonstrate a level of confirmation for the Howard government's policy aims of making children's best interests paramount, facilitating and supporting parental responsibility, and reducing conflict in the process of reaching parenting agreements. Through this strategy NGCSOs could show how their policy position aligned with the broad principles underpinning the government's proposed family law reforms. The objective of this strategy was to attain sympathetic treatment of their policy concerns by the Committee, and by extension, the government.

The Pine Rivers Neighbourhood Centre (2003a) agreed with the government that 'the best interests of the child are of paramount consideration'. Australians Against Child Abuse (2003) stated 'we should have a system that focuses on the child and supports the child over time'. The Federation of Community Legal Centres (2003) considered 'children's interests to be paramount over parents' interests', while Relationships Australia (2003b) argued that parents had to place their child's need for consistent care provisions over and above their own interests. The Sole Parents Union (2003) used stronger terms to advocate the importance of children's interests stating, 'in any Family Court proceeding to decide residence and access the overriding factor should be the best

interests of the child – nothing else; not parents' rights, not grandparents' rights, but what is in each individual child's interests'.

Greater parental responsibility was another reform outcome to which NGCSOs provided in-principle support. The government's belief that both parents should be involved in their children's lives to the benefit of the child, except in cases of violence and abuse, was endorsed in principle by all NGCSOs. They agreed with the general principle that parents should take personal responsibility for the welfare of their children, despite strong differences concerning the most appropriate way to achieve this outcome. The majority of NGCSOs argued that if the government was serious about reforming family law to support responsible parenting it should make the issue of protection from violence and abuse a primary concern of its reforms. They stated that the government had a responsibility to protect children from the risk of witnessing and being the victims of continued violence and abuse and the trauma this inflicts (CCDVC 2003b; Dawn House 2003b; DVIRC 2003b; FCLC 2003; FLF 2003; IWS 2003a; MWCR 2003). However, it does need to be noted that this majority was itself made up mostly of women's groups rather than being drawn from a cross-section of both women's and men's NGCSOs.

An immediate tension emerged between the principle of facilitating greater parental responsibility (and by extension, equal parenting time) and protecting children (and their mothers) from violence and abuse. The National Association of Community Legal Centres (2003) categorically stated adequate protections were needed as part of facilitating responsible parenting because the family law system was failing its duty of

care to protect children and their mothers from domestic violence. Immigrant Women's Speakout (2003b) asserted that if the government introduced a presumption of equal time parenting, 'children will be put at risk in the time it takes to rebut a presumption of shared residence where there are concerns of child abuse or domestic violence'. They further argued that if the presumption was introduced, increased funding to domestic violence support services would be needed to strengthen the community sector's capacity to deal with the consequences and protect affected children from further harm (IWS 2003a). A representative of Dawn House made the following point in their public hearing evidence:

> The harsh reality is that some parents are dangerous and damaging to their children … At first glance, equal shared parenting sounds fair but the 18 months following separation are the most dangerous for women and children. Any arrangement that imposes equal time with each parent will increase the number of contact changeovers and provide more opportunities for threats and violence (Dawn House 2003b).

The Domestic Violence and Incest Resource Centre (2003b) also noted that equal parenting time would result in victims of violence not being able to negotiate parenting arrangements on equal terms because of their fear of intimidation from a violent ex-partner. In nearly all cases this would negatively impact on the ability of mothers to take the necessary and responsible steps to remove their children from ongoing harm, intimidation and violence perpetrated through high levels of mandated contact with ex-partners (DVRIC 2003b). Their strategy of providing in-principle support for improved parental responsibility was aimed at negotiating the gender-based power relations that

supported equal parenting time. The hope of those NGCSOs opposed to this reform was that they would gain policy concessions by aligning with the government's stated concern for the wellbeing of children. The tactic was to demonstrate to, and therefore persuade, the government that the practicality of equal parenting time posed significant risks for women and children who had experienced domestic violence and ran counter to its ideological value of responsibility.

However, the NGCSOs representing the interests of fathers and men argued that equal parenting arrangements fostered responsibility because having both parents involved was essential to meet their children's developmental needs. They linked equal parenting time to the healthy development of children as it would fulfill a child's right to know, be cared for and have stability and consistency with both parents (FAS 2003a; LFAA 2003a; MISA 2003b). The Shared Parenting Council stated 'we are looking at getting a better living environment for children and better outcomes for children and we believe the shared parenting presumption will provide that for children of separated families (SPCA 2003b). The Fatherhood Foundation (2003) maintained that a lack of involvement by fathers was detrimental to the emotional and social development and overall wellbeing of a child. They also presented the argument that children have a right to equal access to both parents and as such had the right to benefit from both parents taking responsibility for their welfare (Fatherhood Foundation 2003).

The need for a family law system that supported parental responsibility was identified as an issue requiring urgent attention because it was argued too many children from separated families were growing up without the involvement of both parents –

especially the father (LFAA 2003c; TMHWA 2003a). The Men's Rights Agency (2003, 1) quoted a former United Kingdom Family Court judge in the opening statement to their submission, 'I don't think we realise the importance of a child having both parents'. DaDs Australia (2003b) and the Tasmanian Men's Health and Wellbeing Association (2003a) argued that as a starting point for negotiations equal parental responsibility would lead to a range of better outcomes for both children and parents. They argued that a presumption of equal time would foster greater responsibility through better and more frequent communication between parents, improved parenting arrangements, children feeling they retain both parents, less substance abuse, less self-harm, less youth suicide, and less father suicide (DaDs Australia 2003b; TMHWA 2003b). The legal assumption of the capacity of fathers to care for their children was advocated as a positive step to improve parental responsibility for separated families (MRA 2003; TMHWA 2003a) because it recognised that fathers should be equally involved in and take responsibility for the care of their children.

In-principle support was also given by NGCSOs to the government's policy aim of reducing conflict in the family law system. All NGCSOs agreed with the government that the levels of conflict found in the court-based system were counterproductive, even detrimental, to reaching suitable and workable outcomes for separated families. They unanimously called for an end to the damaging effects on families and children and young people when separating or divorcing parents entered the courts and family law system (AFSSA 2003; LFAA 2003c; MRA 2003; RA 2003a; UCB 2003b). The Lone Fathers Association (2003c) argued:

> If we can, we should take out the adversarial part of family law, along with the lawyers and everybody else, getting involved in it and arguing and fighting. The losers are the children. I don't think anybody understands that.

The Youth Affairs Council of Victoria (2003a) argued that it was the amount of acrimony and animosity between parents in the family law system that was most damaging to children. They found that relying on the courts to rule on parenting plans added to the level of conflict between parents because of the length of time it took for a resolution to be reached (YACV 2003b). Rather than reach agreement in a timely manner, the delays experienced in waiting for cases to be heard in court added to the frustration and levels of animosity felt by separated parents. Dads in Distress (2003) argued it could take up to six months for the matter to be put before the courts, far too long for parenting arrangements to be finalised through a court order. The Lone Fathers Association of Australia (2003a) asserted that a new family law system must reduce the level of conflict between separating parents for the sake and well-being of children and be restructured to provide more consensual ways for agreement to be reached on parenting arrangements. The Fatherhood Foundation (2003) also argued that 'we have to steer clear of the family courts'. Fathering after Separation (2003b) said 'people should be forced to sit in front of one person who says: This is what the family's rights are, and this is what is best for your kids. Try and work around it.'

However, while reducing the conflict created through the courts was generally seen by NGCSOs as a positive development it was not without significant reservation by some organisations. Dawn House (2003b) reported:

> At first glance such a presumption sounds fair. However, if there is a history of domestic violence, mediation aimed at a presumption places women and children at increased risk. The 18 months following separation are the most dangerous for women and children. An arrangement that imposes equal time with each parent will increase the number of contact changeovers and provide more opportunities for threats and violence.

The Muswellbrook Women's and Children's Refuge (2003a) also argued that 'the proposed changes to the *Family Law Act* appear to have been driven by the desire to placate certain adults (fathers and men) with little regard to the fact that, for many children, domestic violence is an ongoing threat after separation'. The government's aims of prioritising the interests of children, enhancing parental responsibility and reducing parental conflict, on the whole, received in-principle support as part of a strategy to negotiate power relations from a position of broad cooperation. The other participation strategy common to NGCSOs in the submissions and public hearings as means of persuasion was the use of evidence.

The strategy of using supportive data and research was motivated by the desire to present a rational, evidence-based argument that would be difficult to ignore. This approach was based on the traditional view that policy making is a rational and logical problem solving activity where a problem is best resolved through rational analysis and the logical application of resources (Laswell 1951; Easton 1953; Lindblom 1959; Dye 1972). The strategy of presenting evidence was used to demonstrate that the family law system was dysfunctional and needed 'fixing'. NGCSOs used a mixture of anecdotal evidence, expert opinion and research data to substantiate the claims they made

regarding the problems with family law and the kinds of reform needed. The Men's Rights Agency and Uniting Care Burnside provide examples of how evidence was used to support or oppose equal parenting time.

The Men's Rights Agency included various sources of 'evidence' in their submission to argue that the Family Court did not produce equitable and fair decisions that enabled fathers to maintain more involved engagement in their children's lives. Anecdotal evidence from the case notes of fathers who had received assistance from the Men's Rights Agency was used to support their claim that 'fathers emerge from the Family Court being allowed to see their children only 26 times a year and ordered to sign over up to 70-80% of the family assets to the mother, who retains the day-to-day care of the children' (MRA 2003, 3). This 'case notes evidence' was used to argue that Family Court decisions relegated one parent 'to the status of a visitor in their children's lives' (MRA 2003, 1). The Men's Rights Agency used their experience of assisting fathers to construct a picture of a family law system that was biased against fathers and the ability of men to adequately care for their children. A rebuttable presumption of equal care would at least see 'each parent is regarded as being equally important to their children' (MRA 2003, 23).

People with expertise in family law were another source of evidence used to validate and give credibility to policy positions. The Men's Rights Agency relied heavily upon this technique. Their submission included numerous excerpts and quotes from 'experts' whose statements supported the view that fathers' rights were being ignored in family law. In their opening submission statement they cited Dame Elizabeth Butler-Sloss, a

British judge and former President of the United Kingdom Family Law Division, regarding the importance of fathers having greater contact with their children: ‘In 1970 I don’t think we recognised the importance of a child having both parents the way we do now’. Another source of ‘expert’ opinion came from the former Parliamentary Secretary to the Attorney-General, the Hon Peter Duncan MP. The Men’s Rights Agency quoted Duncan regarding his view that shared parenting was an original intention of family law:

> The original intention of the late Senator Lionel Murphy was that the Family Law Act would create a rebuttable presumption of shared parenting, but over the years the Family Court has chosen to largely ignore that (MRA 2003, 4).

The use of ‘expert’ opinion that supported fathers having a greater and more equal role in their children’s lives was a tactic intended to substantiate the need for a legal presumption of equal time. The Men’s Rights Agency submission cited the views of Sloss and Duncan because of the authority their positions and experience in family law brought to their commentary. The idea was that the views of such distinguished ‘experts’ would carry weight, and some influence, with the argument being presented in their submission. In the case of citing Duncan’s statement on shared parenting, his experience as Parliamentary Secretary to the Attorney-General and former Attorney-General of South Australia was leveraged by the Men’s Rights Agency to use his legal expertise to substantiate the failings of the family law system. Their supposition was that if a member of parliament with Duncan’s legal experience said that the original intention of the family law system was to create a rebuttable presumption of shared

parenting, then this must the case. Therefore, by deduction the current application of family law was biased against fathers in its choosing to ignore this.

On the other hand, Uniting Care Burnside used research from the Families, Law and Social Policy Research Unit at Griffith University, Queensland as evidence of the risk of violence as a consequence of more equal parenting arrangements. They cited Kaye, Stubbs and Tomie (2003) to argue that a 'rebuttable presumption of joint residency will place women and children who are victims of violence at further risk of violence' (UCB 2003a, 4). In their study on negotiating child residence and contact in the context of domestic violence Kaye, Stubbs and Tomie (2003) found that 86% of the mothers interviewed described violence during contact change over or contact visits. This high incidence of reported violence was used to argue:

> Evidence such as this is all the more concerning given that … there are concerns that a presumption will force some children to live with violent fathers and force mothers to have to regularly negotiate with, and be in the presence of, violent ex-partners … community agencies are reporting contact from women whose former partner is threatening to take them to court … as a result of recent increased speculation around this issue in the media (UCB 2003a, 4-5).

Uniting Care Burnside also used anecdotal evidence in its submission to demonstrate how equal parenting time would be a regressive reform that, in some cases, could allow abuse and harm to be perpetrated against women and children. They cited case notes from a worker in their Hastings Women's Domestic Violence Court Assistance Scheme to make this point:

> A service user's ex-partner was granted permission in the Family Court arranged parenting agreement that he could call his son every day. This was despite the child saying he did not want to speak to his father…The agreement left it open for the father to verbally abuse the mother. Each time the father called he made comments to the mother like, 'Make him come to the fucking phone you slut'…This became a form of control used by the child's father and supported by the Family Court via a parenting agreement. If the mother refused to answer the phone or return the call she was taken back to Court for breaching the arrangement (UCB 2003a, 5).

This anecdotal evidence was used to highlight the risk of harm inherent in legislating a 50:50 presumption, because it would force some children and ex-partners into ongoing situations of abuse and intimidation. This and other case notes used by Uniting Care Burnside supported their argument that the proposed reforms ignored the right of children to protection from harm and to have their wishes heard when negotiating parenting arrangements. Evidence in the form of anecdotal experience, expert opinion and research was provided by many NGCSOs to support the arguments behind their policy positions. I only touched on examples from two NGCSOs to demonstrate this but throughout EPTS this was a common participation strategy. It was a strategy that was used to inform another prominent feature of policy participation, especially for the fathers' and men's organisations, namely lobbying of government officials. The use of this as a strategy in the policy process is outlined next.

Lobbying

Lobbying is defined as a 'direct approach made to government representatives with the intent of persuading them to accept a group's perspective' (Vromen and Gelber 2005, 323). In pluralistic political systems where most organisations have some level of formal access to government, lobbying is an important way to increase political influence and power because it can enable networks of strategic relations of importance to be formed (Marsh 2002). It is a common political practice that, when used effectively, can be a powerful tool in persuading (pressuring) governments to adopt particular courses of action that favour certain interests (Grant 2004; Maddison and Dennis 2009). Lobbying can be an effective participation method because it provides a mechanism to draw on strategic and influential political associations and relationships in order to persuade government to accept a particular way of viewing a policy issue. That is, lobbying can assist in shaping the political rationality around public policy. As Guy Pearse (2009) has demonstrated in relation to the mining and mineral sector, particular mining interests have derived considerable power from being able to frame public policy through their ability to draw on key relationships at critical points in the political system to influence policy decisions.

In this study of NGCSO participation the lobbying referred to relates to the organised meetings that took place with government officials in the lead up to and around the time of EPTS. These included meetings with Ministers and Members of Parliament in their electorate and parliamentary offices, and with senior public servants in the then Department of Families and Community Services. An analysis of how NGCSOs attempted to persuade the Howard government to accept their rationality regarding

family law reform revealed several features of the lobbying undertaken that helped create political pressure through creating sympathetic political relations. The first of these was to demonstrate a command of the facts to support an NGCSO's policy position. This was important because it gave government officials a sense of confidence and surety that they were engaged with an organisation that had 'done its homework' (GOV4). If an NGCSO was able to present its argument and supporting evidence with authority and assuredness, this helped them to convince the official they met with that the information provided was a trustworthy and authoritative source of policy advice (GOV4). The building of confidence and trust with government officials was a highly important feature of lobbying and will be discussed in the next chapter.

The second feature that was applied with particular effect, related to the use of storytelling to create a convincing and persuasive policy narrative. The issue of family breakdown is highly emotional, especially when the impact on children of parental separation is discussed. The emotive power of telling painful, sad and sometimes tragic stories provided significant leverage when prevailing on government officials to reform family law in particular ways. The data collected in this thesis highlighted how NGCSOs used personal stories, often told by a parent or affected family member, in their lobbying. Many government officials found themselves in the situation of being alone in their office, face-to-face with a mother who had lost a son to suicide because he was a father who had not seen his children in years, a father who hadn't seen his children in many years, or a women who had escaped domestic violence from a violent ex-partner (NGCSO7; GOV5). This was an impactful technique because being able to put the lived experience of a parent 'in the face' of government officials bypassed the

bureaucratic barriers found in EPTS (NGCSO2; NGCSO4). Stories were used by NGCSOs in their submissions and public hearings but when delivered in person, they had an emotive effect that was hard to create through the written word or under cross-examination from a Committee member.

A particularly effective narrative of harshly treated fathers who were being denied access to their children was created through the storytelling supported by fathers' and men's organisations. As a technique, the fathers' and men's NGCSOs structured their lobbying so that, as often as possible, it was primarily fathers who told their stories to government officials. One men's organisation encouraged its members to make contact with as many members of parliament as possible to share their stories of unfair treatment within the family law system (NGCSO9). Although representatives from these organisations met and lobbied politicians they invariably were accompanied by a father or affected family member (NGCSO9). To coin a phrase, the men's organisations deliberately kept their narrative 'real'. This had a marked effect on government officials as evidenced by one parliamentarian who some years later still expressed anger and rage when he recounted the 'fucking rough treatment' of the fathers he met and how they were getting 'fucked by the system' (GOV5). One NGCSO commented that 'reports and studies were no match for having a grown man inconsolable in their office or to hear of a family's heartache over a son who committed suicide because he could not see his kids' (NGCSO11).

These statements highlight how lobbying helped NGCSOs to make a personal and powerful connection with politicians. In particular, the personal and intimate style of

storytelling employed by the men's organisations proved effective in their lobbying to negotiate power relations. This was because the family law reform narrative they harnessed leveraged the emotion of family breakdown and removed the distance usually experienced by policy makers from the people affected by their decisions. The receptive narrative of poorly treated fathers was also assisted by the gender dynamics within the 40th parliament but for now I simply want to note how storytelling was an important feature of the more persuasive lobbying efforts of NGCSOs.

The third feature of the lobbying by the fathers' and men's NGCSOs was that they stood out with government officials. A common perception was that the fathers' and men's NGCSOs were 'more visible' than those organisations representing the interests of women and children (GOV3). It was universally acknowledged that through their participation the 'men's groups' had the ear of a lot of politicians. One government official accounted for the dominance of the 'fathers groups' in the political sphere because they 'put their evidence, people and pain in front of politicians with the aim of making members of parliament listen to their stories' (GOV4). I demonstrate in the next chapter how the mostly masculine gender make-up of the 40th Parliament and the larger number of socially conservative parliamentarians provided a political environment more willing to 'listen' to the needs of fathers. This political setting made it easier for the fathers' and men's NGCSOs to approach government officials knowing they could recruit a political advocate who would exert pressure within the government or parliament for reforms to improve fathers' right. The discrepancy in the political 'visibility' of the two NGCSO groups was a significant difference in their policy

participation and it enabled the call for more equal parenting time to almost monopolise the policy process.

The fourth feature of NGCSO lobbying was the linkage of political and electoral consequences with the policy decisions taken by the government. This aspect of NGCSO interaction with members of parliament was particularly powerful in terms of the politics of lobbying. The government was repeatedly reminded of this electoral influence through the extensive lobbying of Ministers and backbenchers. The fathers' and men's NGCSOs left the Howard government in no doubt of their willingness to use the emotive issue of fathers' rights in the 2004 election campaign to remove a government unsympathetic to their needs (GOV4). When asked about this, one NGCSO stated that this tactic was based on a collective understanding among men's organisations of the level of community dissatisfaction and the willingness of constituents to allow this to affect voting patterns (NGCSO10). It was reported that the fathers' and men's NGCSOs claimed and openly told members of parliament they could affect the votes of up to one million voters on the issue of family law. They threatened to use this electoral support to target marginal seats and remove the Howard government if it did not follow through on introducing reforms that gave fathers better access to their children (Jackman 2010, 20).

Outside the constraints of the inquiry, the lobbying tactics just described were aimed at putting a human face to the family law system. The stories fathers and their family members told of how they had been affected by unjust family law were used to reinforce the perception of a gender-biased and broken system. In *Divided Lives*,

Jackman (2010, 20) recounted how, ‘it was predominantly fathers, not mothers, who demanded their leaders’ intervention. By the early 2000s, Howard’s backbenchers were being besieged by fathers’ rights groups’. It was the concerted effort to enact a blanketed, forceful lobbying campaign that was the significant difference in participation between the two groups. The fathers’ and men’s NGCSOs seized the opportunity to negotiate power relations more freely beyond submission writing and giving public hearing evidence to question, lobby for and position the plight of fathers as one that required urgent redress. The tactic of face-to-face presentations of evidence and emotive stories was aimed at building supportive political relations with local members and senior members of government. The fathers’ and men’s NGCSOs went to great lengths to establish and nurture these connections as part of lobbying government officials. They wanted government officials to be in no doubt that the wider electorate viewed the family law system as supporting the withdrawal of fathers with damaging and tragic consequences (LFAA 2003c, a). The shaping of public opinion toward this assessment was another participation strategy used to negotiate power relations in the policy process.

Shaping public opinion

The fathers’ and men’s NGCSOs used the media to influence public opinion in favour of fathers having more involvement in their children’s lives. The data collected from questionnaires and interviews with NGCSOs revealed several tactics that were used to create community awareness and support for the plight of fathers in trying to maintain meaningful involvement following separation. The aim of employing a media strategy was to develop community support that could be converted to political capital when

lobbying the government. The one million voters that the fathers' and men's NGCSOs claimed they could activate against the government in the 2004 election was, in large part, due to the extensive media campaign and support of prominent and vocal journalists in the family law reform debate (Jackman 2010). As one NGCSO opposed to the reforms reported, the Committee was more influenced by the 'populist rubbish in the media' rather than by the evidence it presented regarding the risks to children of forcing families to have equal parenting time (NGCSO1).

The view that the media was not interested in giving balanced coverage of the family law system was held by NGCSOs opposed to equal parenting time. It was observed that for the media the 'politics came first and policy second' (NGCSO8). Another consideration was that with limited resources these NGCSOs also had to ask what was likely to be most effective and engaging in a 'media war' was not in their or their client's interests (NGCSO2). This lack of a coordinated media strategy was one area of participation that was a significant difference between the two NGCSO groups. One important aspect to the media 'absence' of the group opposed to equal parenting time was the fear of a negative political reaction to any public criticism of the Howard government. A common experience among NGCSOs during the Howard era was the fear of having funding withdrawn by the government if they caused political or public embarrassment. Maddison et al. (2004, vii) argued in *Silencing Dissent* that there had been such a serious deterioration in relations between the Federal Government and NGOs that 'many believe they had been frozen out' of funding rounds. The government therefore used its financial power as the primary funder of community services to limit public criticism of its policy decisions and political agenda. As one interviewee put it,

their organisation was keen not to be alienated by ‘bagging anyone’ (NGCSO3). In the context of the gender politics surrounding the policy process and public debate it is understandable that, for those opposed to equal parenting time, organisational energies and resources were not used to cultivate media relations to publically criticise the government.

However, an effective media strategy was an important part of shaping public opinion and exerting political pressure. The media’s capacity to direct public debate and present certain views at the expense of others is a powerful instrument of influence in the policy process (Maddison and Dennis 2009, 181). One NGCSO acknowledged the power of the media to shape public and political opinion when it argued that ‘the only way to influence policy was to highlight the failings (of family law) using the media’ (NGCSO3). One technique used by a men’s organisation to build and then sustain positive media relations was through the establishment of an annual media award (NGCSO10). Preceding EPTS and for a period after, this organisation would identify journalists and media outlets who had written or presented stories about men and fathers in a positive manner. It would then hold an awards night for nominations and present winners with awards across various categories recognising the contribution of the journalist, the outlet and media in building community awareness of fathering and its importance (NGCSO10). The awards were publicised through the organisation’s newsletter, website and participating media outlets. According to an interviewee, they had proven very effective at encouraging positive coverage of men’s/fathers’ issues and greatly improved this particular organisation’s relations with the media (NGCSO10).

The advantage of developing positive relations with journalists and media outlets as a participation strategy was that it provided additional political influence in the policy process. The NGCSO that created the media awards was particularly keen to point out how the awards and positive media relations were especially helpful in getting more extensive coverage of the issues facing fathers during the policy process to pressure politicians (NGCSO10). Bruce Hawker, chief of staff to former NSW Premier Bob Carr, described the power of the media to influence politicians this way:

> One of the questions I've been asked to answer is whether all politicians let the media influence their decisions. And I have a pretty simple answer to that one; Only the successful ones (Maddison et al. 2004, 181).

The fathers' and men's NGCSOs were able to harness the power of the media to send a coordinated policy message that gave them an advantage in gaining community and more importantly, political support (NGCSO2). The political influence of their 'lobbying' in stereo through the media was reported by several NGCSOs opposed to the government's reforms as a hard-learnt lesson in the politics of participation that they gained from their experience in the policy process (NGCSO6, NGCSO8, NGCSO12).

The application of political pressure through the media was an important participation technique because NGCSOs understood that politicians have to be seen to be responding to and mindful of community concerns. Some of the other techniques used to engage with the media included media releases, letters to the editor, opinion pieces in local newspapers, and radio and television appearances whenever possible (NGCSO1, NGCSO2, NGCSO4, NGCSO5, NGCSO11). In particular, media releases were a popular instrument used to get their views out to the community and attempt to shape

public opinion in their favour because they were cost-effective and required few resources. NGCSO2 noted that it helped them 'be a little unpredictable and not let the government have complete control of the agenda'. The distinct political intention of favourable media coverage was to put an organisation's 'message/information into the public domain and let those who continued to ignore it know they would find themselves out of office or a job' (NGCSO8). However, it is important to note that the use of the media does not guarantee the achievement of policy aims because, as NGCSO6 said, 'sometimes it works, other times it doesn't'.

The fathers' and men's NGCSOs were able to apply political pressure on the government through their ability to shape public opinion through the media. They were able to recruit journalists in national media outlets to their cause in redressing the 'raw deal' given to fathers by the family law system. Janet Albrechtsen, a well-known conservative commentator for the *Australian* newspaper, was one journalist happy to give public support to fathers and the Howard government's gender politics. In *Fathers given raw custody deal* she wrote 'that restoring fatherhood could be John Howard's finest legacy … mothers gained custody and fathers became fortnightly visitors in their child's life' (Albretchtsen 2003b, 11). Earlier that same year she wrote 'Just look at the attention given to motherhood … Fatherhood is still grappling to find a voice, let alone a foothold, in the national conscience. Too often fathers are optional extras in children's lives' (Albretchtsen 2003a, 13). The use of the media to shape public opinion was a participation strategy used to good effect by the fathers' and men's NGCSOs by playing to gender politics to build community support for reforms that addressed the unfairness felt by fathers in family law. The participation of NGCSOs in the policy process

through their submissions, public hearing evidence, lobbying and shaping of public opinion was part of how they attempted to persuasively affect power relations.

Strategic power games

The participation strategies and tactics discussed in this chapter were used to navigate the gender politics and gender-based power relations that underpinned the policy-making process. In order to exert a level of political influence, NGCSOs adopted various technical means to engage in what Foucault referred to as the 'strategic games' within power relations. In his analysis of power relations, Foucault argued that there is an interplay in power relations as 'strategic games between liberties' when the parties involved have the freedom, or liberty, to resist the actions of others, as well as the freedom to obey, if they choose (Foucault 1982, 221-22). NGCSO policy participation was a demonstration of how they both obeyed and resisted the dominant gender and political dynamics in the policy process. Their participation methods informed the strategic games they employed through shaping their identity with government, questioning and using values to reinforce or challenge the government's rationality around family law.

The creation and 'selling' of an identity is important in power relations because the identity given to a group or population affects the way they are governed, based on the way those in authority view them (Dean 1999). NGCSOs used this feature to portray their clients as victims of either the current or proposed family law system depending on their opposition or support of the government's reform proposals. The strategy of 'selling' an identity of victimhood to the government and public was an attempt to

affect political perceptions and the subsequent policy treatment to address the concerns of either parent. Dean and Hindess (1998, 11) argued that practices of governing attempt to 'specify and fix our identities in definite ways in the service of particular ends'. Therefore, if NGCSOs were to push back in an attempt to exercise power over the government they had to fix an identity that served the policy aims they sought.

Both NGCSO groups used evidence and in-principle support to substantiate their arguments for their client's identity as a 'victim'. However, considering the gender politics and gender-based power relations working against them, I argue it was the NGCSOs opposed to equal parenting time that used their victim identity to most effect. They were able to achieve policy concessions that, in light of the gender politics, were more difficult to achieve. While the Committee's recommendations, to varying degrees, addressed the concerns raised by NGCSOs representing mothers and fathers, the ability to gain a policy shift to that of *shared parenting responsibility* rather than equal parenting time was a significant achievement. The identity 'sold' of mothers and their children as victims of a rebuttable presumption of equal parenting time was successful in negotiating power relations because it was able to extract a policy concession from a government that held strong views on gender and was actively setting out to remove 'feminist' structures. NGCCSOs opposed to equal parenting time tactically aligned their policy input with the government's ideological theme of parental responsibility to ensure that children's best interests would be met. Therefore, despite it being practically impossible to stem the tide of 'giving fathers back their rights' they nonetheless brought the government back from an extreme position by using its own ideology against it.

The submissions and public hearing evidence from the opposing NGCSOs demonstrated how the reform proposals were not in the best interests of children and did not support responsible parenting. The National Council of Single Mothers and their Children provided evidence of how, under a rebuttable presumption of equal time, mothers who were victims of violence and intimidation would continue being 'targets of violence and abuse, thereby further endangering children and exposing them to harmful trauma (NCSMC 2003a, 1). They cited evidence that had shown children who witness violence suffer post-traumatic stress disorder with risks of possible lifelong mental disability and that separation from a violent relationship typically escalates violence against women (NCSMC 2003a). They argued that, while the government's policy intentions for greater parental responsibility were agreeable in broad terms, a rebuttable presumption of equal parenting was not an appropriate means to achieve it (AAIMH 2003a; CCDVC 2003b; IWS 2003a). The case was put that responsible care of a child was more complex than simply awarding each parent equal custody and that if the government was serious it could not in good conscience make women and children victims of unequal, unsustainable and unsafe family arrangements.

A pattern of in-principle support best described as 'we agree with the intention but …' was also used to have women and their children identified as being at significant disadvantage under equal parenting time. Many NGCSOs were concerned that greater parental equality would prove inflexible, unworkable and, in some cases, place single mothers at a higher risk of financial hardship and poverty (AACA 2003; AAIMH 2003b; CCDVC 2003a; Dawn House 2003a; DVIRC 2003a; IWS 2003b; MWCR 2003; NCSMC 2003b; RA 2003a). Dawn House (2003b) agreed that fathers had a role to play

in their children's lives but also many mothers were shift workers who may have to sacrifice work and income in order to meet their equal parenting obligations. They argued that some women would have to move to areas of low employment to accommodate shared parenting or face financially draining travel expenses. Enforcing such circumstances on mothers would be harmful to the children as there would be less money and resources from which to provide necessities (Dawn House 2003b; NCSMC 2003a; NWRN 2003b; PRNC 2003b; RA 2003a; SPCA 2003b). Equal parenting arrangements were constructed as unworkable and potentially detrimental as part of persuading the Howard government that single parent families with the mother as primary caregiver would be victimised in a way that undermined its intended outcomes and would produce harmful consequences for children.

The simultaneous need to agree with and oppose the government highlighted a degree of complexity required by NGCSOs opposed to equal parenting time to negotiate power relations through the use of evidence and in-principle support. They had to provide policy input in such a way that they could make a forceful point without totally alienating themselves from the government. The achievement of having shared parenting responsibility introduced into family law, while not everything they wanted, showed that they managed to exploit the use of an identity to convince the government to modify its proposition of equal parenting time. The traditional family position of power for men was a driving force in the gender politics that surrounded the policy process. As a group, the NGCSOs opposed to equal parenting time demonstrated a level of political understanding that enabled them to use the government's policy outcomes to their advantage. Their application of a 'yes but' strategy allowed them to align a

specific identity of female victimhood with political objectives of the Howard government. They showed how radically shifting care provisions to an automatic 50:50 custodial arrangement with fathers would, for a lot of children, be counterproductive and counterintuitive to the government's interests in a child's need to grow up in a safe and secure environment that it repeatedly said was at the centre of its reforms (IWS 2003a; NACLC 2003a; PRNC 2003a). The strategic tactic of questioning family law arrangements was also used by NGCSOs to influence power relations.

The fathers' and men's NGCSO groups structured their participation around a very public and political questioning of the operation of the family law system. Their lobbying of government officials and gathering of public support were aimed at persuading the government that its gender-based objectives reflected community sentiment. Stories of the inequity and unfair treatment of fathers were used to question and 'problematise' a family law system that had become captive to feminist interests. The impact this had on politicians and in the media has been highlighted. However, several examples illustrate how the fathers' groups questioned the fairness and intent of the family law system. The Lone Fathers Association (2003a) argued that a rebuttable presumption of equal shared parenting was needed to guard against the discrimination and disadvantage being visited upon children by not allowing them to benefit from contact with both parents (fathers). Men Again (2003b) spoke of how suicide and stress-related diseases claimed too many dads' lives as a result of a family law system that left non-residential dads seeing no future and consequently losing their desire to be productive members of society.

Questioning the function and fairness of the family law system was an effective participation strategy because it enabled the fathers' and men's NGCSOs to demonstrate politically and publically how far out of touch the system was with the views of Australian society. It has been established that the government wanted to redress the lack of involvement of fathers in separated families and to put in place reforms that removed the feminist bias within family law and restore the rights of fathers. Howard's mainstreaming of women's advocacy agencies and support services was evidence of how he actively sought to redress the feminisation of Australian institutions and civil society in the name of broader community interests and consensus (Alston 2009; Sawer 2002). The strategic management of the gender politics by the fathers' and men's NGCSOs demonstrated an ability to leverage the political context and fit it with a larger community view to provide the government succur, or social license, to address the gender imbalances that they perceived had developed in the family law system.

The need for more equal and fairer treatment of fathers in the family law system was communicated in a simple yet powerful way by DaDs Australia. The image on their submission cover page (see Figure 6.1) compellingly questioned the fairness, even humanity, of a family law system in which fathers were denied access to their children despite their obvious love and desire to be a part of their lives. The image of the forlorn and heartbroken father, sadly and dejectedly holding a picture of his child while being tied to a stake driven by a judge with his gavel (DaDs Australia 2003a) 'speaks' strongly to the problems within family law and has an emotional resonance that cuts to the essence of the fathers' and men's NGCSOs argument. In the illustration the father is smaller than the judge, his body language is one of defeat and his being staked and tied

embodies his absolute powerlessness. This image encapsulated the position of fathers in questioning the fairness and treatment they received under family law. The message conveyed to government in this image was that a significant problem existed because men were being discriminated against by a family law system that broke their hearts and spirits, to leave them with nothing but memories of their children.

Figure 6.1 DaDs Australia submission cover image

The rationality and values that informed the policy process were another leverage point used by NGCSOs to negotiate power relations. The statement made by Howard that 'many young Australian boys are at the age of 15 or 16 before they have a male role model with whom they can identify' (*PDHOR* 24 June 2003, 17277) illustrated how he considered family law decisions that awarded residency to one parent and relegated the other to 'visitor status in their children's lives' were damaging to men, boys and society at large. He considered the lack of access and contact fathers had with their children as one of the major issues to be addressed and this was reflected in the rationality used to frame the reform of family law. This way of thinking was underpinned by the value of parental responsibility as a policy principle on which the government argued for the enhancement of father's rights. All NGCSOs identified this ideological theme but the fathers' and men's NGCSOs were able to more readily leverage parental responsibility off Howard's socially conservative values. They were able to use the values of responsibility and conservatism to support the thinking that fathers' should occupy a position of authority in the family unit and ensure men's needs were given preferential treatment at the expense of women (Sawer 2002).

The NGCSOs opposed to equal parenting time also used the value of responsibility but were at a comparative disadvantage because they had to argue that meeting a child's needs was a more subtle and complex argument than just reinstating fathers to traditional family roles. The National Association of Community Legal Centres (2003) argued that section 68F of the *Family Law Act* was sufficient to allow for equal parenting time if it was in the best interest of the child. They claimed that the responsible course of action was to let the *Family Law Act* continue to guide the

determination of parental arrangements. However, it was clear from the gender-based power relations of the Howard government that they considered the rights of fathers, to 'fairer' mediation processes and levels of access to their children, superseded existing family law provisions that were not producing parenting outcomes that matched its socially conservative views on responsible parenting. This made structuring their participation to challenge the gender-based rationality of equity and fairness difficult because of the Howard government's thinking around the needs of one parent, that is fathers. Connell (2002, 324) argued that the Howard government 'had no interest in gender equity' but I disagree, it had great interest in gender equity as long as it was for men!

The role of fathers was expressly valued in the government's rationality concerning family law. Howards' comments on mothers having the majority of custody, young men lacking male role models and women as gatekeepers between fathers and their children indicated his contempt for the erosion of a fathers place in the family unit that coincided with the rise of feminism in Australia. The fathers' and men's NGCSOs were quick to seize on this aspect of the government's thinking in family law and accordingly structured their participation to promote the value of fathers. Their in-principle support, evidence, lobbying and media strategy was focused on the aim of buttressing the government's rationality that fathers were needed for the best interests of Australian children and families to be met. The Lone Fathers Association (2003c) argued the family law system was creating a 'fatherless society' and supported the myth that fathers were not needed by children.

The fathers' and men's NGCSOs pointed out that fathers brought vital emotional and spiritual support to a child's development and were much more than just a source of finance (DaDs Australia 2003a; DID 2003; FAS 2003a; FF 2003; MAN 2003). It was argued that children benefitted from having engaged fathers because they were able to receive the love and support they needed from both parents for positive developmental outcomes (JPA 2003; RA 2003b). The Shared Parenting Council of Australia (2003a, 13) stated that giving fathers equal access was valuable because:

> maintaining the once un-fettered access that children had developed with both their parents results is the best for children ... feelings of loss for the child are reduced when there is a maintaining of pre-separation relationships.

To be fair, the majority of NGCSOs opposed to equal parenting time also acknowledged the vital role of fathers in a child's development and wellbeing. Yet in the playing of strategic games to negotiate power relations the valuing of the contribution and role of fathers was a deliberate ploy used to reinforce the government's rationality that underpinned the policy process. For both NGCSO groups, values were an important component in structuring their policy input for maximum effect in order to negotiate power relations and influence the frame of reference through which family law reform was viewed.

Conclusion

NGCSOs used an array of technical means in their attempts to negotiate political context and power relations governing the policy process. The above discussion of strategies and tactics used to influence policy decision-making demonstrates how NGCSOs sought to realise particular policy aims through their participation. This has

revealed that, in the inquiry process, there was a high degree of similarity in the techniques used by NGCSOs. Despite seeking divergent policy outcomes the two identified NGCSO groups both structured their input around the provision of evidence and in-principle support to agree that change was needed but only the kind of change they advocated in their client's interests. Despite the gender politics working against the parenting rights gained by women, NGCSOs who opposed equal parenting time were able to adapt the ideological and political aims of the government to their own purposes. This represented a level of political acumen in using the strategy of creating an identity in the inquiry process that helped them to, at the very least, negotiate power relations for a shift away from the risks of mandated 50:50 parenting arrangements.

However, it was outside of the structures of EPTS that the fathers' and men's organisations were able to create with critical effect, to government officials, their identity as victims. The scale of their lobbying campaign and building of community and media support helped them cement a majority political view that they were being treated unfairly. This ensured that fathers would be the primary beneficiaries in a new family law system. Their collective and consistent messaging, along with a strategic, targeted campaign of lobbying parliamentarians, allowed them to build stronger and supportive political relations within the policy process. As one official noted 'there was a big strong lobby group of dads who had obviously caught the ear of a lot of people in this place' (GOV3). The challenge presented by the gender-biased policy process for NCGSOs opposed to equal parenting time was that they sought to persuade a government to maintain the status quo, whose Prime Minister wanted to turn family law 'on its head' (Howard 1995, 18).

The strategic games employed by NGCSOs to exert their own power in negotiating power relations relied upon how effectively they managed to have the government perceive them as 'victims' of the family law system. This was an important participation strategy because the identity of a group would affect the policy decisions made regarding how they would be governed within family law. The values of parental responsibility and the benefit of fathers were used in an attempt to influence the policy frame of reference. NGCSOs used these core values to structure arguments that challenged or reinforced the government's thinking surrounding family law. Finally, the fathers' and men's NGCSOs questioned the efficacy of family law to provide parental outcomes that were not feminist and which would not treat them unfairly. Through their lobbying and shaping of public opinion they were able to problematise the family law system in such a way that it enabled them to strategically create high levels of political and public support for their cause. The next chapter analyses the interviews with government officials to outline the participation features they contributed to the NGCSOs who were more successful in achieving their policy aims. It also discusses why the features identified enabled some organisations to be more influential.

CHAPTER 7

A Government Perspective on NGCSO Participation

'For change to happen you have to get politicians to listen' (GOV2).

This quote from a member of the Howard government reinforces the point that in order to influence policy decisions it is necessary to persuade politicians. Several scholars locate government as the legitimate site of political authority in Western democracies (Bridgman and Davis 2004; Brown 2006; Considine 2005; Davis et al. 1993). They argue that governments, through being democratically elected, are given consent and responsibility by the public to make policy decisions on its behalf. This authoritative perspective suggests that if an organisation or interest group wants to influence public policy they have to persuade the government, as the final decision maker, to follow one course of action over other alternatives. Therefore, policy development by 'authoritative choice' focuses on the process of decision-making by 'authorised leaders' (government) who are aided by the advice of 'senior officials' (Colebatch 2006,7). However, this perspective does not account for the complex array of interactions that take place in and affect the policy-making process.

Colebatch (2006) argued that a more realistic picture of policy making is that of an interactional process where numerous actors interact with each other to influence and shape the decisions of authorised leaders. This perspective reflects empirical research that consistently understands policy-making as 'a collective and interactive process' (Colebatch 2006, 13). A key distinction of his 'structured interaction' perspective is that

while authorised leaders are involved in the policy process, the decisions they reach should not be taken automatically as the expression of their intended outcomes (Colebatch 2006, 12). While government plays an important role in shaping policy, its involvement does not override the fact that policy development is a collective process and not an act of individual choice. The other consideration raised by Colebatch relates to how policy matters reflect how participants 'make sense of the world' (Colebatch 2006, 8). His 'social construction' perspective situates policy work as the construction of meaning within a policy community that influences which 'experts' are listened to in problematising practices of government and the way an issue is identified and ultimately, resolved (Colebatch 2006, 9). While I acknowledge the critique of authoritative choice as a conceptual map for policy processes, the views of government officials were nonetheless crucial to understanding the relationship between NGCSO policy participation and political influence because they are the 'gatekeepers' of what issues get onto the policy agenda. Therefore, this chapter details how government officials responded to the participation tactics and strategies of NGCSOs and why they thought some organisations were more effective at exercising political influence.

The interplay between government officials and NGCSOs in the policy process is important to understand because since the 1980s a symbiotic relationship has developed between the two. In this relationship government needs the expertise of NGCSOs to inform its decision-making as much as NGCSOs need government funding and support to provide services (Keen 2006). In the context of policy-making, NGCSOs help government to identify areas of social need, provide community services, act as a link to the community, implement policy decisions and provide information for policy

evaluation and reformulation (Keen 2006). The many roles fulfilled by NGSCOs and their connection with policy development, implementation and evaluation means that it is a rare government official who has not built extensive relationships with community organisations during their career. This 'hands on' experience with NGCSOs gave government officials a keen insight into what participation methods diminished or enhanced political influence. Therefore, those interviewed regarding NGCSO policy participation in the family law reform process were able to identify the significant features in their analysis.

Government officials were invited to reflect on (i) where they thought NGCSOs fitted into the policy process, (ii) the participation methods NGCSOs used to influence policy makers and (iii) what they considered to constitute political influence. Their responses highlighted that influential participation centred on the creation and maintenance of supportive political relationships with government officials. A favourable reputation and trust were two principle components identified as integral to the successful construction of influential political relationships. This was because organisations that were favoured and trusted by the government were more likely to be given a 'friendly' ear, find advocates within parliament and, as a result, have greater levels of access to politicians and senior public servants. This chapter discusses the importance of supportive political relationships to exercise influence through the development of 'political advocates'. It touches on the elements of reputation and trust to demonstrate how they underpin the ability to develop and sustain positive political relations. Finally, the capability of NGCSOs to profit from the political context (politics) surrounding the policy process is analysed with particular attention to the gender dynamics within the

Howard government and parliament at that time. This analysis provides a link between strategic participation and the ability to convert that to political capital (influence) and 'profit from politics'.

Political advocacy

The building of supportive political relationships through creating advocates in positions of political authority was identified as an important feature of influential NGCSO participation. Political advocates were able to be created by NGCSOs because of the willingness of an organisation to assist with enacting the government's policy agenda and the ability to recruit a sympathetic following. These two features were a distinguishing characteristic in the fathers' and men's NGCSOs being able to build supportive relationships with government officials. The mutually supportive policy objectives of the government and the fathers' and men's NGCSOs were critical in the latter benefitting from the gender politics within the policy process. If a government official perceived that an NGCSO would assist them in realising a personal or party policy agenda they were more likely to advocate for the position of that organisation. An NGCSO's level of willingness to work with government in formulating policy outcomes commensurate with both their broader political agendas was a major determinant in their standing with government officials. One official cited the cliché that 'politics is the art of the possible' and noted how it was important for proposals to show the government why or how its political and policy objectives were possible through offering favourable yet realistic solutions (GOV5). Another official spoke of how they valued policy proposals that were practical and pragmatic, 'so that their ideas could be taken seriously' (GOV1). With a healthy dose of political realism, one official

said ‘it is better for them (NGCSOs) to work with government than against it … in the end it is Cabinet that makes final policy decisions and no one else’ (GOV4). His view was that NGCSOs whose participation was guided by the understanding that Cabinet would make the final policy decision produced proposals more closely aligned with the views of Cabinet so that their aims would be likely to have the majority of Cabinet’s support (GOV4).

NGCSOs who demonstrated an awareness of the government’s policy agenda and political style also had an advantage in the policy process. They were able to form supportive political relations with government because they could show how they would work with the government on key family law issues. This political awareness or ‘savvy’ was considered important to NGCSO participation because it enabled the government to identify more easily which organisations could align themselves to its political objectives and ideology. Demonstrating common ground with the government’s reform agenda was considered influential because it enabled an NGCSO to capitalise on their goodwill to seek agreeable concessions and compromise on points of difference with Ministers and their senior advisors (GOV2). An awareness of the government’s agenda and style was important because, by demonstrating it could work with the government, an NGCSO was more likely to be trusted as a reputable community representative. One official noted that a significant portion of NGCSOs only became involved in the policy process to stop family law reform. His view was that, for these organisations, this took priority over working with government and its reasonable aim of bringing balance and fairness back into family law (GOV5). He also criticised the retrospective and reactive participation of the women’s interest groups’ opposition to greater equality in parenting

which was, in his view, in stark contrast to the more proactive role of men's organisations, who approached government with a sense of cooperation (GOV5). This difference in being willing to work with government was attributed, by him and other officials, to the greater political advocacy given to the fathers' and men's NGCSOs (GOV1, GOV 2, GOV4, GOV5).

The creation of individual political advocates across the parliament was considered another area of participation at which the fathers' and men's NGCSOs were particularly effective. One official noted that 'there was a big strong lobby group of dads who had obviously caught the ear of a lot of people in this place' (GOV3). They suggested that the benefit of having 'an advocate on the inside' was that members of parliament would talk to colleagues, ask questions of Ministers and at times, the Prime Minister, of the need to redress the issues faced by fathers following family separation (GOV3). The network of political relationships developed by the fathers' and men's NGCSOs enabled them to nurture parliamentary advocates who supported the fairer treatment of fathers and their having greater involvement in their children's lives. Another official recalled how 'in the party room almost every member had a story and debated the issue with a passion and vehemence rarely seen' (GOV4). He acknowledged that this was highly influential in convincing the government that the community wanted it to take action to enhance the rights of fathers.

The tactic of leveraging the pain of fathers' and their families' experiences under the family law system was also used to build sympathetic and supportive relations with government officials. The stories, tears and faces of fathers and their families as they

recounted the trauma of their family breakdown and denial of reasonable access to their children were particularly impactful on government officials. With a slight break in her voice, one official recalled:

> It is a long time since we did it (the inquiry) and it still pumps my heart. It was a hugely emotional journey. The stories would melt your heart … it was hearing of the impact on the children that would break your heart … it was just heart breaking (GOV3).

Another official related how the stories they heard were powerful because the constant exposure to the pain and suffering experienced during family breakdown took an emotional toll (GOV1). He went on to explain, 'you would have a bloke in your office crying about the lack of access to his kids. The dads' campaign wasn't faked. They put the real pain in front of MPs' (GOV1). He spoke of how the meetings that took place across MPs' offices had a significant impact on Coalition members, and the majority of parliament (GOV1).

The support that was built through developing political advocates within the Coalition laid the foundations for NGCSOs indirectly to influence the Prime Minister by having the Party room members demand he 'do something about this problem' (GOV4). The face-to-face participation strategy was effective at creating sympathetic political relations because it drew on a level of emotional appeal that could not be matched by the presentation of facts and research findings. Glover (2011, 3) argued that 'for good or ill, our minds respond to emotional stimulation. There's much more to our lives than the things we can count'. The personal stories, delivered by those who had lived them, were a powerful tool in winning political advocacy because they convinced government

officials to see the issue of fathers' rights from the perspective of fathers. Language in political communication is not a neutral instrument. It structures meanings so that political thought and action are directed in particular directions (Connolly 1974, 1). The use of unscripted and emotional language from fathers was an important tactic for political persuasion in getting those in authority to see family law from a male perspective so that policy solutions were found that addressed their concerns (Finlayson 2004).

Two features of persuasive verbal communication can be identified in the lobbying of the fathers' and men's NGCSOs. The successful appeal to the emotions (*pathos*) and the creation of trust in what they are told (*ethos)* (Charteris-Black 2005; Finlayson 2004; Glover 2011) were crucial elements in enabling the fathers' and men's NGCSOs to build political support. The fact that the stories shared with government officials were so impactful that years later they became emotional when recounting them was testament to the powerful application of pathos and ethos in nurturing political relations. The network of political advocates sympathetic to the interests of fathers enabled a considerable degree of influence to be gained through having members of parliament advocate for the need of reforms that would allow the greater involvement of fathers. One advantage in lobbying members of the Howard government, and the parliament more widely was that the plight of fathers struck an emotional chord with many because it appealed to popular gender stereotypes.

The fathers' and men's NGCSOs successfully used gender to appeal to the personal sympathies of men and women politicians. They were able to appeal to men politicians

in terms of the injustices experienced by fathers at the hands of the Family Courts, the Child Support Agency and ex-wives. For women politicians, the fathers' and men's NGCSOs were able to gain support through emphasising the trauma (real or imagined) experienced by children. This was a powerful advantage because it enabled them to structure their participation so that their policy aims aligned with the gender stereotypes of men looking after men's interests and women caring for children's. The gender-based strategy meant that they were able to gain a significant number of political advocates because their aims were amenable to the social, political and personal values of the majority of parliamentarians. One observation emerging from the interviews with government officials that reinforced the impact of the gender-based appeal was that there was little mention of NGCSOs representing the interests of women and children. Some male officials spoke of the women's and children's NGCSOs in negative terms and their female colleagues focused on the dominating presence of fathers' rights in their dealings with NGCSOs. This highlighted a parliamentary gender dynamic that worked in favour of fathers seeking reforms to give them greater access to their children and fairer treatment in family law.

EPTS and the period leading to the announcement of *A New Family Law System* took place within the 40th Parliament of Australia. An analysis of the gender divisions of the entire parliament (both houses) illustrated the numerical dominance of male members and senators. This trend was further exaggerated when applied to the Coalition government and Howard's Cabinet (only two women) during this time. The following table details the gender breakdown across both houses of parliament as at 31 August 2002.

Table 7.1 Gender division by political party in both houses

	Female	Male
Liberal Party	23	76
National Party	2	14
Australian Labor Party	32	59
The Greens	1	1
Democrats	2	5
Independent	1	6
Total	61	161

Source: *Parliamentary Handbook* (29th Edition) (DPL 2002).

Table 7.1 shows that the 40th Parliament had more than two and half times the number of men compared to women. Of the political parties within the parliament, the Coalition partners exhibited the greatest gender imbalance with almost four times as many men as women representatives. The National Party was the most male dominated, with only two female senators in its total of 16 parliamentarians. The numerical dominance of men in the parliament and the government meant that the level of gender-based political support for reclaiming men's lost rights and restoring more socially conservative family arrangements was high. The government's masculine make-up only added to the gender-bias and network of receptive advocates with political influence who would be naturally disposed to the interests of fathers. The reason for analysing the number of male parliamentarians compared to female in various parliamentary settings was to demonstrate how the make-up of politicians made it easier for the fathers' and men's NGCSOs to recruit political advocates and therefore, dominate the political debate.

Hence, it can be concluded that the 40th Parliament was an environment conducive to the advancement of fathers' rights and the gender politics of the Howard government because it was a setting comprised mostly of men who were socially conservative in their political orientation and a sufficient number of women who also held more traditional social views of family and society (Errington and Van Onselen 2007; Ryan 2005).

The fathers' and men's NGCSOs took advantage of this to recruit and cultivate political advocates across the parliament and, more importantly, within the government. Their gender-sympathetic appeal to the majority of men politicians regarding the inequity and injustice suffered by fathers was an effective participation strategy largely unavailable to NGCSOs supporting the interests of women and children. An official noted that the fathers' and men's NGCSOs were unhappy and had 'caught the ear of a lot of people' in the parliament (GOV3). Another observed how 'MPs were influenced by the sheer number of complaints they were receiving. They came to policy with a definite predisposition' (GOV5). The 'dissatisfaction being communicated to MPs about the problems they were facing' (GOV4) was described as the driving force behind Coalition members calling on the Prime Minister to address the issues in family law. Women politicians, particularly those with more conservative social values, also showed a sympathetic engagement because they related to the negative effect on children by the almost total withdrawal of contact with their father. 'What the children were saying had a startling impact', 'I took a selection of drawings (from children) and it still gives me goose bumps' and 'just heartbreaking' were comments made by one female Committee member in recollecting her engagement with children in EPTS (GOV3).

Parliamentary debate regarding the child support and family law issues illustrated the gender politics within the parliament. The Member for Macquarie, the Hon Kerry Bartlett MP, told the House of Representatives during an adjournment debate:

> There are fathers whose wives have left them and have taken their children, and the fathers are denied access to the children they love so much – their own flesh and blood. They are furious and frustrated. They despair that they cannot see their children (*PDHOR* 12 February 2004, 24685).

A member of the Committee, the Hon Jennie George MP, said in a report to the parliament that the 'cookie-cutter' outcome of the 80-20 split-up, where the mother primarily had the child or children resident with her, resulted in 'fathers being seen as supplementary' and becoming 'Hollywood dads that appear in the child's life maybe on alternate fortnights, for part of the holidays and for very few days in between' (*PDHOR* 11 February 2004, 24525). These statements show how the fathers' and men's NGCSOs had a powerful gender trope to play in gaining political support in a context in which feminism was largely a dirty word. This was an enormous political advantage for them in cultivating supportive political relations and advocates. So great was the extent of gender-based alliances that the political environment could be described as being a systemic discouragement of women's groups. A favourable reputation for pragmatic and professional policy input was another feature identified by officials in the achievement of supportive political relations.

A favourable reputation

An NGCSO's reputation was an important consideration that affected how they and their input were received by government officials. The reputation of an organisation and its representatives influenced the credibility and weight given to its policy contribution by government. How the government and its members thought of an NGCSO brought with it powerful preconceptions that, once set, made it easier or more difficult for an organisation to form favourable political relations. NGCSOs were broadly regarded as important to the policy process because of the community connection they provided to government. Government officials saw them as a means of filling knowledge gaps for public servants and politicians through the provision of research-based evidence and anecdotal community feedback. One official noted that as community representatives on policy issues, NGCSOs 'were vital and that we must use them in the process' (GOV2). Another official pointed to the 'crucial role' NGCSOs played in informing government of 'what was happening on the ground' (GOV3). The same official claimed that half of her meetings in the electorate office were with community groups (GOV3). However, during the interviews, there was a contradictory mixture of appreciation and cynicism regarding the actions of NGCSOs in providing policy input to government officials.

This contradiction was, in large part, affected by the manner in which an NGCSO participated in the family law reform process and it impacted on the degree to which their policy input was respected and valued. A comprehensive understanding of the issues involved in family law was one way an NGCSO could demonstrate authority and enhance its reputation with government officials. Several officials spoke of the importance of having 'done your homework' and 'thought through the implications' of

policy proposals when making policy arguments (GOV2; GOV4; GOV5). One official stated:

> I have always had an open door policy with NGCSOs but they must be prepared and knowledgeable … any strength they have with government depends how well they have done their homework, how thorough and professional they are, and how well they work their argument (GOV4).

A reputation of professionalism with government was integral to an NGCSO being viewed as 'possessing valuable on-the-ground experience and knowledge of the family law system' (GOV2). An organisational identity among officials that an NGCSO 'added value to the policy process' helped achieve positive political relations that were beneficial in their being more influential. This was because an NGCSO that was thought of as professional and which provided well-informed policy solutions could find itself as the 'go to person for government' (GOV2). One official put it this way:

> We can theorise all we like but unless you are dealing with it, it is hard to see how to get the mechanisms right. NGCSOs who are well-prepared and knowledgeable can tell you when there is a major problem in a particular area (GOV3).

Therefore, the NGCSOs who demonstrated they had 'done their homework' and put forward policy solutions with supporting evidence and reasoned thinking left a good impression with government. However, the idealist view that NGCSOs which were prepared and professional would hold sway with government officials, evaporated when tested against the politics of policy participation. The positive perspective just detailed was challenged by some officials who, while noting the importance of NGCSOs, were

also critical of a number of women's organisations that they believed presented their case in a way that degraded men and the role of fathers (GOV1, GOV4, GOV5). These officials perceived that a number of NGCSOs representing women's interests were contemptuous of fathers when presenting their arguments against equal parenting time and that this damaged the reputation of the whole group as a source of balanced and reliable policy input. What is interesting is that the officials who made this observation were men. In a parliament that was male-dominated, the likelihood was quite high that gender-based preconceptions would shape how government officials perceived the reputations of NGCSOs critical of equal parenting time. It emerged quite clearly from the interviews that some officials were predisposed to thinking of women's concerns in reforming family law as 'men-bashing'. Officials reported that they were quite willing to engage with, and be open to, input from NGCSOs, as long as it did not challenge or offend their personal views. One of the officials critical of the participation of the women's groups said, 'I was happy to work with all groups as long as they were "practical"' (GOV5). Decoded, this statement meant that he was happy to work with any group as long as they supported his position on equal time for fathers.

A negative reputation of NGCSOs representing the interests of women was a risk that these organisations had to take in a masculinist and potentially anti-feminist political context. A reputation of being reactive rather than cooperative was a price that had to be paid when having to deal with the government. The political context of trying to persuade members of the 40th Parliament highlighted the subjectivity in politics that often undermines an organisation's reputation with government officials. The gender-based views of the majority of parliamentarians brought an inherent political risk for the

women's NGCSOs as not wanting a reasonable system that gave men an equal and fair go. The women's NGCSOs, despite their opposition to equal parenting, were obliged to put forward policy proposals that represented their clients' needs as a significant portion of the community with real concerns for the safety of children and women. The political risk in trying to persuade officials was that, in advocating their position, they might alienate members of the government with whom they had ongoing working relations. In a parliamentary environment of systemic discouragement it is understandable that, on the whole, the NGCSOs opposed to equal parenting preferred the distance of a submission as their primary method of participation.

A final feature in how government officials viewed NGCSOs was if the NGCSO had a reputation for being obsessed with 'chasing' funds rather than providing constructive policy input. This criticism was not targeted at any specific group or organisation but it highlighted the contradictory nature of reputation as a way of sustaining supportive political relationships. Some officials commented that 'they (NGCSOs) engage in policy for the money first and the policy itself second' (GOV1) and that 'the usual suspects tended to be in the policy process, chasing funding' (GOV4). This perception impacted negatively on the reputations of NGCSOs as co-producers of public policy because their recommendations were viewed with suspicion by officials as overtly self-interested. This underlying cynicism towards NGCSOs betrayed a lack of trust held by some officials:

> A weakness with NGCSOs is that they are all for themselves. At the end of the day it is about them. They are looking for an outcome for themselves, they are looking for an arm to develop into another business entity. A new program to

> deliver and get the funding. They can be quite selfish in the policy process and there is competition between NGCSOs for funds. I would like to see them work together (GOV4).

This statement was in direct contradiction to the one made by the same official that he had an 'open door policy with NGCSOs'. He also argued that 'the further you get from the grassroots, the more diluted the information tends to be' and expressed concerns as to 'how accurately the large NGCSOs reflected true community feelings' (GOV4). He acknowledged that, although NGCSOs are 'significant' to the policy work of government, the stories from the 'coal face' told by the larger organisations or peak bodies have to be viewed with a healthy dose of skepticism (GOV4). In repeating the statements of this official, the intention is not to attack their credibility, but rather to highlight the contradictory perceptions NGCSOs have to be aware of when considering how to structure their participation. The interdependence that exists between NGCSOs and government brings with it a tension that has to be successfully negotiated if supportive political relations were to be had.

A positive reputation with government as a policy 'co-producer' was seen as essential for an NGCSO enjoying a position of authority and influence. If government is going to defend a particular policy decision based on the 'authoritative' input provided by community experts, they will invariably seek input from an organisation of sound reputation that is known to them (GOV2). The mixture of criticism and praise of NGCSO policy participation demonstrated the complex nature of relations with government. Nonetheless, if an NGCSO wants to be listened to by politicians it is in its interest to build a reputation for professionalism and pragmatism. They have to work

actively against the skepticism that can be exhibited by government officials and they have to make it clear that their motivations are designed to enhance policy outcomes, irrespective of the political context. The comments from officials reflected that the need for government to rely on community feedback in formulating policy decisions meant that it viewed poorly NGCSOs that could not, or would not, work constructively with it. This lack of cooperation affected the level of trust that government placed in NGCSOs.

Government trust

Government officials nominated trust as an essential component of influential participation and the basis of supportive political relations. Trust was a necessary component in government having confidence in some organisations over others. It was an indispensable relational attribute because the government had to be sure of the evidence and community endorsement provided by an NGCSO in support of its policy agenda: ‘you must be able to trust the organisations you are working with’ (GOV2). If an NGCSO wanted the opportunity to influence policy through high level consultations with government, it had to demonstrate that it understood how to make appropriate use of any information provided to it (GOV3; GOV4). The government had to know they could trust an NGCSO if it decided to provide privileged access to sensitive information it only wanted to share with select stakeholders. The benefit for trusted NGCSOs was that they could structure their arguments to better meet the government’s policy concerns (GOV2). This was a significant advantage because they possessed information that enabled them to ‘predict policy shifts and move with these shifts to contribute with meaningful input that would more likely be accepted’ (GOV2).

NGCSOs that were known and trusted by the government as a preferred source of policy information were sought out for policy advice (GOV4). This gave them privileged access to the government's thinking and concerns because they were trusted (GOV1, GOV5). This was because the government preferred to deal with organisations it knew it could trust because of the community pressure for it to reach policy decisions in a timely manner. Just as important was the need for government to be confident that an NGCSO would not undertake actions to embarrass it. The stability brought to the policy process by pragmatic and trusted NGCSOs means they are preferred by government as a source of policy information (Halpin 2002). This position of trust meant that some of the fathers' and men's groups had an 'inside running' because their views were well regarded by government. One official stated that the Howard government knew the policy outcomes it wanted and only sought consultation with organisations that would make it happen (GOV2). Dads in Distress was mentioned as an NGCSO of choice for the government by two officials (GOV1, GOV5). The government trusted the advice of this NGCSO because it knew Dads In Distress was trying to achieve similar outcomes for fathers based on its experience of men and their families who were 'distressed' at the perceived bias towards women in the family law system that denied men fair and equitable access to their children (GOV5).

The NGCSOs that created a trusted relationship with government were those that stayed on, what several officials referred to as, the 'political radar' which meant they could be called upon to provide special counsel on policy deliberations (GOV3). David Blunket, a former United Kingdom Home Secretary, argued that groups outside of government can best affect political thinking and policy ideas if they 'ensure that politicians and

civil servants are aware of their findings. This means learning how to communicate effectively with government and discovering the entry points into the policy making process' (Saunders and Walter 2005, 11-12). Blunket's point regarding organisational profile and influence was supported by one official with over 20 years' parliamentary experience:

> Savvy organisations are aware of the bigger broader agendas, see issues in context and are able to align with the government's policies in ways that are productive. They make sure they stay on government's radar to be invited onto policy consultation bodies. They stay in touch to be able to predict policy shifts and move with these shifts so they can contribute and have meaningful input (GOV4).

Regular contact ensured a constant flow of information and dialogue with officials and hence helped build stronger relationships thereby enabling NGCSOs to stay on the government's 'radar'. This required effort and perseverance on the part of NGCSOs but it rewarded them through creating a position of authority and trust with the government. The lobbying activities of the fathers' and men's NGCSOs was how they made themselves consistently informative; it enabled them to place their views 'front of mind with MPs and the Committee members' (GOV5). Some of the strategies they used to maintain contact and keep 'ahead of the pack' involved regular briefings, personal emails on topical research findings, placing government officials on mailing lists, and invitations to events regarding their position on family law reform (GOV1). The other feature of their regular contact was that they maintained a broad network of political relations through not being restrictive about which members of parliament they

approached and kept offering information (GOV5). One official commented that they built a relationship of influence by 'continually presenting their case to all people in the Parliament' (GOV4). The gender advantages presented to the fathers' and men's NGCSOs in the political context made it easier for them to approach and keep approaching politicians without putting people offside.

An important feature noted by officials was how NGCSOs in their area effectively built relationships (and hence trust) with them so that their views could be put to government through the advocacy of their local member. As one official stated emphatically, 'you *must* get to know your local member of parliament' (GOV1). Another estimated that 'in the electorate office half of my visits are made up of NGOs seeing me about particular issues' (GOV3). Smaller NGCSOs especially benefited from having built effective working relationships with their local member because it gave them a personal political connection to counter the advocacy of the larger, corporatised NGCSOs. The observation was made that when a local member trusted the advice and policy views from a local organisation, they would invariably rely upon it to inform their position and present counter arguments to larger NGCSOs who had the resources to employ lobbyists or send representatives to Canberra (GOV3).

A good relationship with the local member also increased the possibility that an NGCSO's concerns might be raised with senior members of government. This was used with powerful effect by the fathers' and men's NGCSOs with Coalition members. One official gave an account of how, 'In party room almost every member had a story. The issue was being debated with passion and vehemence from MPs who were distressed

about men coming to them with increasing angst with how decisions were being made by Family Law Court' (GOV4). Another official spoke of how having advocates on the inside was an effective strategy for change and that several NGCSOs made sure they stayed in touch with her by providing advice and support (GOV3). To be known, and above all, trusted by a local member was an invaluable strategy employed by NGCSOs who sought greater influence in the political sphere.

A final feature of modern politics that was important in establishing a relationship of trust with senior government figures was by developing it through their advisors, a point made effectively by Anderson (Anderson 2006) and Tiernan (Tiernan 2007). Ministerial advisors hold privileged and increasingly powerful positions and building effective relationships with them is critical for developing greater access and influence at senior levels of government. An official noted how Ministers rely heavily on and have to trust the counsel of their senior advisors in an increasingly complex, complicated and demanding political environment (GOV4). He also mentioned how, in his experience, the NGCSOs who took the time to build a relationship of trust with a Minister's advisor could count on their views holding greater weight with the Minister and the policy proposals they took to colleagues and Cabinet (GOV4). As Don Watson (2002, 42) noted in *Recollections of a Bleeding Heart*, 'A political advisor is a kind of funnel … the wide end is to take in information from every imaginable source, the narrow end to fit snugly in the (Prime) Minister's ear'.

The skill of keeping on the government's radar was used to good effect by the fathers' and men's NGCSOs who managed to have themselves seen as legitimate community

spokespersons for the problems plaguing the family law system (GOV1). Their participation was structured around frequently engaging in dialogue with government officials on the issue of equal parenting and fathers' rights. This regular communication enabled NGCSOs to establish stable relations of trust with government officials over the policy process (GOV2, GOV3). This provided them significantly more opportunities, more time and more practice at recruiting political advocates, or at least gaining empathetic understanding, from a large number of parliamentarians (GOV1). This was an effective way of negotiating power relations and establishing a reputation as a credible and trusted co-producer of policy solutions to help resolve the government's problem with family law.

This section has shown how the development of government trust required NGCSOs to position themselves favourably with those in positions of authority in the political sphere. This was essentially a political task that, in the context of the 40th Parliament, better suited the NGCSOs who supported the gender politics of a male-dominated and socially conservative government. The analysis of government perspectives on NGCSO participation has demonstrated how the 'politics' surrounding the policy process favoured the fathers' and men's NGCSOs to such an extent that, outside of EPTS, the lobbying of oppositional views to the government's agenda was practically non-existent.

Profiting from politics

The interviews with government officials highlighted key distinctions in their experience of NGCSOs in the family law reform process. As noted, they recognised that the NGCSOs who profited from the politics of family law reform were those who were

more able to build government trust, develop a favourable reputation and benefit from political advocacy than their counterparts in the policy process. In addition, and of particular importance, the government officials identified the capability of the fathers' and men's NGCSOs to profit from the politics as the standout feature of their participation. Central to this was the gender politics and social conservatism of the Howard government because this provided a policy setting that enabled the restoration of father's rights to overshadow the reform framework and concerns for women and children that were raised by a significant number of NGCSOs. However, this does not completely account for the political dominance of the fathers' and men's NGCSOs; there were several features of their participation that helped them to make the most of the situation and establish positive power relations.

The identity of fathers and their children as victims of a feminist family law system was used with particular effect in converting this into political advocacy and political pressure. Government officials noted how they were shocked at the level of community angst and emotional intensity surrounding family law reform. The level of discontent expressed by non-custodial parents and their extended families (mostly fathers) successfully identified them, in the minds of many politicians, as victims of an unfair system that denied them equal access to their children. Fathers, their families and supportive NGCSOs were so vocal that 'politicians had little choice but to listen' (GOV1). It was also said by one official that the 'driving force behind the need for action was the level of community dissatisfaction being communicated to MPs through appointments in their office about the problems they were facing' (GOV5). Another official agreed: 'the driver for change came from the community as social expectations

had changed. When we all had a large number of constituents (men) and NGCSOs complaining … the forces for change were lining up' (GOV3).

The view of men as victims was accepted by members of the Howard government who were in a position to apply political pressure within the parliament and party room for father-friendly changes to family law. Political advocacy was gained through the successful portrayal of a family law system that left men brokenhearted in absolute despair and of children denied a father's care and love. One official explained why he and many of his parliamentary colleagues were so moved: 'It was the issue, the pain on the faces of the men and the push for change and the lobbying of disgruntled people that caused the policy shift for more equal parenting' (GOV1). He argued that 'by the conclusion of the inquiry, many in the party room believed something was wrong with how fathers were treated and that this became a focal point of what needed fixing in the family law system' (GOV1). Another official recounted how Ken Thyhurst (former Member for Dobell) gave an impassioned speech at a party room meeting regarding fathers with children that ignited passions and demands for their greater involvement. This official recounted how this speech stood out for its strength and the impact it made on Party colleagues, something he had rarely seen in over 20 or more years in the parliament. More importantly, according to the official, Howard was moved by the speech and it seemed to strengthen his resolve for fathers to have more equal time with their children through removing barriers to their receiving fair treatment (GOV4).

The political advocacy gained within the parliament was underwritten through the alignment of values with the gender-based rationality that framed the policy process. All

NGCSOs' policy positions were underpinned by the broad appeal to a sense of fairness that was in the best interests of children. However, it was the framing of these core reform values in terms of what it meant for men, in a government and parliament of mostly men, that provided the fathers' and men's NGCSOs the leverage needed to advance their cause. They had a significant comparative advantage in that their view of family and the place of fathers were in accordance with those of the majority of politicians. This was politically profitable because it enabled the fathers' and men's NGCSOs to build on shared gender and personal values and sympathies. This meant they were able to trade on their solidarity with the social values of many in the parliament as a way of developing positive political relations. It also helped them to protect their interests against counter arguments by creating a political environment that could be hostile to feminist perspectives. The view of male interviewees that the women's interest groups were only interested in stopping family law reform rather than working with the government (GOV1, GOV4, GOV5) gave an insight into the generally unenthusiastic response to NGCSOs opposed to more equal parenting time.

Government officials spoke of how the voices of fathers and men were taken as representing the views of mainstream society on family law. They noted how it was important for the fathers' and men's NGCSOs to be able to position themselves as the 'voice' of the community to take advantage of the political context (GOV2, GOV3). Their position as representatives of community concerns enabled them to trade-off community support for favourable political action. Howard's affinity for mainstreaming institutional structures (code for removing feminist gains) meant that his government promoted community views that were pro-men (Sawer 2002). It relied on the

problematisation and questioning of family law by fathers' and men's NGCSOs to justify its gender-biased policy position as one that addressed community concerns regarding the lack of equity and fairness for fathers (*Family and Community Affairs Committee Report* 18 February 2004). The fathers' and men's NGCSOs were able to profit from the government's willingness to enter into a relationship of mutual benefit regarding the need to enhance the rights of fathers. Howard's ideological aversion to the feminisation of Australian families meant that a political symbiosis existed whereby the men's groups and the government could use each other's 'imprimatur' to warrant more equal care and mediation-based family law. This politically motivated relationship was an important consideration in why the government placed greater weight with the views of the fathers' and men's NGCSOs compared to the mothers' groups.

The capability to translate its problems with the family law system into electoral pressure was another area in which the fathers' and men's NGCSOs profited from politics. They understood the unique opportunity the level of dissatisfaction with the family law system and groundswell support for fathers presented them in terms of being able to turn their concerns into an election issue. The level of community support for fathers to get a fair go was such that they knew, and let it be known, that if family law reform became an election issue the government would lose a number of marginal seats as a result of the negative campaign they threatened to run (Jackman 2010). The father's and men's NGCSOs made it clear to members of parliament that they were prepared to run a nationwide campaign against the government if it did not follow through on its intentions to introduce better shared parenting arrangements (GOV4). Their push for a fairer, more equitable system for fathers not only created political advocates for reasons

already discussed but it was also in the political interests of government MPs to side with them. Therefore, the political pressure applied to the Howard government was a significant political motivation for it to resolve family law issues in a way that would not be electorally damaging.

One official asserted that Howard was 'statesman-like' in not wanting the 2004 election to be fought on the misery of family separation (GOV1) but the electoral politics provide a much simpler explanation. One senior official believed that Howard rushed the Committee for a solution because he did not want the upcoming election to be about separated families with powerful and emotive imagery used as campaign material against him and his government (GOV4). Watson (2002, 606) observed from his time in Prime Minister Keating's office that 'everything the government did was calculated to improve its position for an election' because the reality of political power is that you can only exercise it when you are in government. He argued that everything any government does is always weighed against that interest (Watson 2002). The government's thinking around family law was therefore also informed by the political problems posed by a potentially hostile electoral constituency with significant community reach. This political problematising was unique to the fathers' and men's NGCSOs and was an influential part of their developing political advocacy and support.

Parliamentary life and political decisions are frequently influenced by personal relations that determine from who governments seek advice regarding policy development and implementation. The relational nature of politics and policy-making affects the type of reputation and level of trust an organisation has with officials and their staff since

policy-making is a social process (Pocock 2005, 233). This observation highlights how strong political relations can translate into higher levels of access to politicians and more importantly, senior members of government. The corollary of this is that poor political relations often equate to a lack of access and thereby, influence. Government officials confirmed this was the case in the policy process with the fathers' and men's NGSCOs making a concerted effort to repeatedly visit parliamentarians. The gender make-up of the parliament and the sharing of common family and social values made it easier for them to build positive relations that enhanced their ability to assume the position of speaking for non-custodial parents in the community. Consequently, the prioritisation of relationships with government and politicians was a crucial distinction of fathers' and men's NGCSOs identified by government officials, that enabled them to profit from the politics surrounding family law reform.

The political benefit of having a favourable reputation that was built on trust was that it reinforced an NGCSO's influence through being listened to by someone in authority. The lobbying and relationship building was essential in the parliament because these activities were a powerful means to being heard. To highlight the importance of being heard an official told the following story: 'I can remember a former Member of Parliament who got very little attention and one day shouted, "I am here and nobody is listening to me"'. (GOV4). The lesson of being listened to applied to NGCSOs because this depended on their having authority or content that listeners could not ignore. The authority of the fathers' and men's NGCSOs resonated with the gender and values bias in the political sphere. It was this that gave their stories impact, especially their ability to touch emotional chords with listeners that gave them more impact. The same (male

and socially conservative) official argued that the father's and men's NGCSOs spoke in a way that made parliamentarians listen because they portrayed a certain power and presence based on their 'experience, research and touching on the flaws in the family law system with authority' (GOV4). He put great emphasis on the advantage this provided because in a political setting 'authority is the only thing that influences people and governments' (GOV4). The political context therefore had a positive effect on the receptiveness of the fathers' and men's NGCSO participation and provides an explanation for why they were able to profit from playing the gender card.

Conclusion

The relationship an NGCSO had with the government and other politicians was a decisive factor in its ability to be politically persuasive. The government officials involved in the development of *A New Family Law System* identified four key areas that NGCSO participation must concentrate on if it is to positively affect their level of political support. The creation and maintenance of political advocacy through supportive parliamentary relationships was shown to be an important part of gaining policy influence. Political advocacy in the form of having political advocates within the parliamentary system, across Party lines, was an effective participation feature that helped secure father-friendly reforms from the government. A favourable reputation and the level of trust placed in an NGCSO were two other principles identified as integral to having positive political relations that support political advocacy. The benefit of being a trusted and valued source of policy input was that it enabled an NGCSO to participate with a level of authority when working with government officials. The features of political advocacy, reputation and trust formed the basis upon which strategic NGCSO

participation was able to profit from the political setting and convert these into political capital (influence).

The negotiation of political relations was more effective for those NGCSOs who were able to profit from the politics informing the policy process. The mostly male and socially conservative political environment of the 40th Parliament favoured the participation of the fathers' and men's NGCSOs to build influential political relations. The government officials demonstrated that the extent of the gender dynamic within the parliament was such that it could be said that the women's groups were systemically discouraged from fighting for the political access that is vital to shaping policy decisions. Outside of the inquiry, the fathers' and men's NGCSOs took advantage of the opportunity to position themselves as the legitimate representatives of non-custodial parents to enlist political support in seeking more equal parenting. They were able to profit from the politics of family law reform by leveraging sympathetic social values and gender dynamics to negotiate the political system for maximum effect and benefit from an extensive network of vocal proponents within the government and parliament.

This chapter has demonstrated the reality that policy-making is a process of political decision-making. Clearly, policy-making is also a political process because political considerations are ever present and paramount when making policy decisions. The experience of government officials has shown that political authority and influence are a consequence of comprehending the policy environment so as to use a government's political considerations to structure persuasive participation, albeit with contextual considerations. This awareness helps to construct a conceptual, and practical,

framework of how NGCSOs might improve their capacity to gain greater political influence through better understanding the operation of power in the policy process. The next chapter examines the findings regarding NGCSO participation to analyse the skills used to make accurate assessments about effective actions within a political environment. The capacity of NGCSOs to perceive, use, understand and exert political influence from the environmental input they receive pertains to the concept of 'political acumen'. This was an innovative way to reframe the analysis of political influence for interest groups.

CHAPTER 8

Political Influence: A Different Take

'Politics is ritualised addiction to influence' (Watson 2002, 214).

'Our political decisions are influenced by the processes through which they are made, but ultimately they are driven by much more powerful forces' (Tanner 2011, 39).

A New Family Law System was developed within a distinctive social and political context that informed the power relations NGCSOs had to negotiate in order to exert influence on the policy process. The gender and ideological politics of the Howard government found expression in the rationality that underpinned the policy process and structure of power relations governing participation. The anti-feminist, masculine and socially conservative political setting provided a policy environment that was advantageous to the fathers' and men's NGCSOs. This does not suggest that the fathers' and men's NGCSOs were automatically granted their policy aims by the government. On the contrary, the structure of their participation indicated that they were adept at converting the opportunity for influence into their becoming an authority on community views on family law issues that the government drew on to validate its reform agenda. The capability to 'get their foot in the political door' and influence government decision-making when the opportunity arose, reflected their accurate assessment of the dynamics and structure of power relations at that time.

This thesis tests the assumption that the political influence of NGCSOs was related to their understanding of power relations and their efficacy in using this to achieve policy aims. The Introduction proposed that the accurate assessment of power relations and how they were informed by the prevailing political context was critical for exercising influence in the policy process. If NGCSOs were to structure their participation so that they could take advantage of policy positions to which governments were well disposed, they would require skills that constituted what was referred to earlier as 'political acumen'. The study of NGCSO policy participation shed light on how organisations successfully navigated the political environment in order to exert an influence on policy decisions through the application of skills identified as underpinning political acumen. The capacity to understand better the operation of power in the policy process and use this knowledge to be more competitive in the contested space of public policy directly affects how well an NGCSO can make sound judgments on how to persuade the government. A conceptual framework of political acumen also provides NGCSOs, and interest groups, with a guide to how they can enhance their capacity to have greater political influence in the policy process.

This chapter draws on findings in the thesis to analyse the relationship between political influence and the ability of NGCSOs to negotiate power relations. It answers the questions posed in the Introduction regarding the participation of NGCSO and broader political influence to help understand this dynamic. In doing so, the chapter analyses the concept of 'political acumen' and presents it as an innovative way to reframe the study of interest group influence. The questions explored include:

1. What exactly did NGCSOs do that was effective in exercising political influence?
2. Did this involve any particular attribute such as what is sometimes called ‘political acumen’?
3. And if so, how might it be recognised?
4. How did it manifest?
5. How did political ‘acumen’ translate into political influence?

Through these questions a specific set of skills relating to the assessment of power relations were identified as demonstrating the role of political acumen in exercising political influence. The following section discusses what NGCSOs did that was effective in exercising political influence as a first step in analysing the role of political acumen.

Exercising political influence

NGCSOs in the policy process sought to exercise political influence through an array of strategies and tactics designed to negotiate power relations by using the political context to their advantage. The purpose of these strategies and tactics was to influence the government’s thinking by leveraging its ideological and political objectives in such a way that it suited the policy aims of an NGSCO. The political context that informed *A New Family Law System* was centred on the gender politics of the Howard government. The neo-liberal and socially conservative political ideology of the government affected the structure of power relations that, when coupled with a parliament that was populated mainly by men, favoured the aims of the fathers’ and men’s NGCSOs. However, this

did not mean that other NGCSOs were ineffective at exercising influence in the policy process.

An effective strategy used by both groups of NGCSOs to establish a gender-based identity with the government was the creation and advocacy of their clients as 'victims' of systemic disadvantage or discrimination. This was important in the negotiation of power relations because the strategy of 'selling' an identity of victimhood affected political perceptions and the government's policy decisions in addressing the concerns of mothers and fathers. The NGCCSOs opposed to equal parenting time aligned their policy input with the government's ideological disposition regarding parental responsibility to demonstrate how women and children would be victimised under 50:50 custodial arrangements. They portrayed numerous situations in which the reform proposals did not support responsible parenting and instead, would lead to situations of abuse, harm and poverty that ensured children's best interests could not be met. The effectiveness of constructing equal parenting arrangements as unworkable and potentially detrimental to a child's wellbeing, was that placing women and children as the victims of reform was using the government's own ideology against it. This was influential in bringing the government back from its policy position on a rebuttable presumption of equal parenting time to that of shared parenting responsibility that required parental consultation before making major decisions about the care and welfare of their children (*A New Family Law System* 2005). In light of the gender politics that actively set out to remove 'feminist' advantage, this was a significant policy concession.

The fathers' and men's NGCSOs structured their participation around questioning the ideological foundations and operation of the family law system. This was an effective strategy because it enabled the fathers' and men's NGCSOs to demonstrate politically, and publically, how far out of touch the family law system was with the views of Australian society. They successfully used the personal stories of fathers to 'problematise' a family law system that they argued had become captive to feminist interests which treated them unfairly simply because they were men. The strategic management of the gender politics by the fathers' and men's NGCSOs was influential because it tapped into the rationality and values that informed the policy process. The government's thinking – that the lack of access and contact fathers had with their children – was a major social issue and was reflected in the problematising of the family law system by the fathers' and men's NGCSOs. They readily leveraged Howard's socially conservative thinking that fathers should occupy a position of authority in the family unit. They ensured men's needs were seen as a political priority. The use of the rationality underpinning the political context was an effective tactic because it helped negotiate the gender-biased power relations in such a way as to provide the government succur, or social license, to rectify the perceived feminisation of the family law system and restore the natural rights of fathers.

Another area in which the fathers' and men's NGCSOs effectively used the political context was their public valuing of the role of fathers. The importance of fathers was a personal value of Howard's that was expressed in his concerns regarding family law. He suggested in the parliament that because mothers have the majority of custody, young men lacked the male role models they needed for their proper development. Howard

labelled women as gatekeepers between fathers and their children which he attributed to the de-valuing of fathers that, in his mind, also coincided with the rise of feminism in Australia. The fathers' and men's NGCSOs seized on this and structured their participation to promote the value of fathers. They understood that a parliament, and government, that was male-dominated would likely be a highly sympathetic environment for the promotion of fathers as being vital to the best interests of Australian children. Therefore, the fathers' and men's NGCSOs based their advocacy and policy input on the emotional and spiritual support that a father brings to a child's development and that dads are more than just a source of finance (DaDs Australia 2003a; DID 2003; FAS 2003a; FF 2003; MAN 2003). Their valuing of the contribution and role of fathers was an instinctive and deliberate ploy used to gain political influence through reinforcing the community's support for the government's gendered position on family law reform.

The relationship with the government was a key area in which political influence was gained through the strategies and tactics employed by NGCSOs. A supportive political relationship with the government, and parliament more broadly, was a decisive factor in the ability to be politically persuasive. Chapter 7 detailed how the 40th Parliament was populated mainly by men. This gender imbalance, along with the higher number of conservative politicians, provided a political setting that was more sympathetic to the role of fathers in families. The fathers' and men's NGCSOs took advantage of this opportunity and created an extensive network of political advocates. These supportive parliamentary relationships were an important part in their being able to exert political influence and secure father-friendly reforms. The fathers' and men's NGCSOs, through

their political advocates, were able to exert a high degree of pressure on Howard within the Coalition Party room. Members of the government recounted in Party room meetings how father after father had visited them and in their role as advocates, directly asked Howard what he was going to do about the community's call for a fairer and better deal for fathers.

The other aspects of the effective relationship building demonstrated by the fathers' and men's NGCSOs related to their reputation and trust with government officials. A positive reputation and having a level of trust with officials were important foundations for the creation of political advocacy because they bolster political relations. The father's and men's NGCSOs benefitted from being a trusted and valued source of policy input in the parliament. The gender-based sympathies of the men in the parliament and the alignment with women members who held more conservative views of families and gender roles, enabled the fathers' and men's NGCSOs to work with government officials as the community voice representing the concerns of non-custodial parents. The position of authority that came with being more trusted by officials, in turn enhanced their reputation, and so these two features built on one another, to the political benefit of the fathers' and men's NGCSOs.

The features of political advocacy, reputation and trust combined to form the basis on which the strategic participation of the fathers' and men's NGCSOs enabled them to profit from the political environment and harness this for political influence. By contrast, the gender dynamic within the parliament was such that it effectively discouraged the women's groups from competing for similar levels of political access

and advocacy that was vital to influencing policy decisions. The reality of the policy-making process is that it is political decision-making in which political considerations are paramount. The fathers' and men's NGCSOs successfully negotiated power relations by using the advantageous political context to obtain a level of political authority and influence that impacted on the government's political considerations on family law reform. They demonstrated that a keen awareness of the political environment helps political influence through better understanding the operation of power in the policy process. This 'awareness' is detailed next as part of constructing a conceptual, and practical, framework for identifying political acumen.

Recognising political acumen

The influential participation of NGCSOs encompassed the ability to decipher accurately, understand, use and manage the political environment in order to achieve their policy aims. It is this attribute that constitutes 'political acumen'. It is the ability to evaluate correctly the political environment and then use this knowledge judiciously and strategically to devise and implement a participation strategy that affects government decision-making. Political acumen helped NGCSOs to assimilate information related to the political context and policy process into a suite of tactics and techniques that targeted areas of influence with government officials. NGCSOs could identify aspects of the policy process that afforded them greater opportunity to make their case persuasively to officials and shape political opinion. For example, the fathers' and men's NGCSOs were able to use their knowledge that the government held conservative views of gender roles in families to find political support in redressing the displacement of fathers as the nominal head of the family unit by women. A set of

discernible proficiencies was identified through the analysis of how NGCSOs negotiated the political context and structure of power relations in seeking favourable policy outcomes. These proficiencies specifically relate to the type of 'acumen' demonstrated by NGCSOs in negotiating the political environment so that their policy views would be considered favourably by the government.

The first identifiable proficiency of political acumen was the ability to understand how the political environment would affect the ability of NGCSOs to influence policy decisions. It involved the ability to detect and decipher the contextual features of the political environment in which NGCSO participation took place. This was valuable because it enabled an NGCSO to correctly perceive the ideological and political objectives that informed the political context. With this understanding, an NGCSO could then decipher the structuring of power relations in terms of the political objectives the government wanted to achieve. Entering the policy process with a clear idea of what informed the policy agenda the government wanted to achieve and how it was exercising its political power to bring this about enabled an NGCSO to identify the opportunities and limitations in advocating their policy position. This knowledge, along with the underlying contextual features, enabled NGCSOs to identify the most effective way to negotiate power relations in order to maximise their influence. The ability to strategise and structure participation methods so that they best suited the political context was advantageous because it allowed NGCSOs to decide what tactics would be more persuasive with the government.

The second proficiency concerned the harnessing of assessments made of the political environment to formulate participation strategies that enhanced the receptiveness of a policy message. It related to the capacity of an NGCSO to make not only an accurate assessment of the political environment but then, more importantly, convert that into persuasive engagement. This proficiency was about how an NGCSO could obtain political support for their policy position through delivering a policy message in such a way that it resonated with that of the government. After having first made an accurate assessment of what principles and values drove the government's reform agenda, the effective implementation of a participation strategy based on the political context was vital. If an NGCSO wanted to achieve a particular policy outcome it had to situate itself in a position of authority with the government. The best way to do this was to use political knowledge to develop a policy message that resonated with the strongly held views of government and benefit from the political support it created. As one government official noted, speaking in a way that makes parliamentarians listen is the first step in gaining the authority that influences people and governments (GOV4).

The third proficiency is the ability to understand how the political environment may have evolved and hence a sensitivity to variations in the framing of issues and their prospective solutions. This related to the ability to comprehend the political 'mood' and anticipate how it would respond to proposals that supported or opposed the policy agenda. In the context of the family law reforms, this skill was important in understanding why Howard's government had strong anti-feminist views that favoured the enhancement of fathers' rights to spend equal time with their children. The political shift, or return, to more conservative policy frameworks and redressing of perceived

feminism-based privileging through mainstreaming civic institutions, such as the family court, was central to the policy environment. An appreciation of how this informed the political agenda and the sensitivities surrounding the challenging of the government's position was helpful to NGCSOs in framing their arguments more persuasively. Those organisations that demonstrated an understanding of how public and political opinion had evolved toward particular views and of which sympathies to target, were at an advantage because they knew where they could gain policy concessions.

The final proficiency describes the ability to use political knowledge to manage the political environment favourably. It involved using knowledge of the political environment, such as the personal and political values of politicians, to identify those with sympathetic views who can use their position of authority to influence policy thinking as political advocates. NGCSOs who demonstrated an ability to manage the politics and political context of the policy process were effective at achieving their policy aims. This, to a large extent, relates to the capability of an NGCSO to 'profit' from the politics of the policy process. The 'environmental' management of the political sphere is critical in shaping favourable and persuasive political perceptions because it enables supportive relationships to be built that influence how an issue is seen, and its solution constructed, by politicians and the government. The emphasis on the management of the political environment in exercising political acumen highlights how politics and policy-making are inseparable; investing time in the former can influence the latter.

Political acumen is no accident. It is the result of conscious effort (sometimes over years) to build relationships and reputations and implement strategies for political engagement that have been targeted to meet specific political circumstances and needs. The four proficiencies identified as typifying political acumen were crucial elements in NGCSOs' exercising of political influence in the family law reform process. This thesis has revealed that political acumen equipped NGCSOs with proficiencies to strategically apply their knowledge and understanding of the political environment to maximise their political influence. To highlight how NGCSOs used political acumen to exercise influence, the next section discusses how it was applied in the policy process.

Table 8.1 Proficiencies identified with political acumen

Detect and decipher contextual features of the political environment This is the ability to detect and decipher the contextual features of the political environment and to understand how such features affect policy participation.
Harness the political environment to enhance the receptiveness of a policy message This is the ability to deliver a policy message in such a way that it resonates with the ideological and political agenda of the government.
Understand sensitivities to the framing of policy issues and their solutions This is the ability to comprehend the political sensitivities regarding policy issues and anticipate how the government will respond to policy proposals.
Use political knowledge to favourably manage the political environment This is the ability to use knowledge of the political environment to build support and create advocates with those in positions of political authority.

How did political acumen manifest?

Examples of how political acumen was used in the policy process were revealed through the participation of NGSCOs. The proficiencies associated with political acumen could be seen in the management of the political environment to create policy advocates through the use of emotive personal stories, delivered by fathers, to members of government who were mostly men. They could also be seen in the ideological alliance formed by the fathers' and men's NGSCOs with the government as a way of positioning themselves as the 'voice' of non-custodial parents. These examples, and others, of the application of political acumen are discussed to highlight how NGCSOs sought political influence through successfully deciphering, understanding, using and managing the political environment. In doing so a picture begins to emerge of the relationship between political acumen and political influence.

The ability to harness the political environment to enhance the receptiveness of a policy message was demonstrated by the fathers' and men's NGCSOs in how they presented their policy aims to the government. The social conservatism of Howard and his government were plain to see and identifying this, although a key proficiency in its own right, was not a particularly powerful participation tool. However, it was how the fathers' and men's NGCSOs used the government's conservatism to gain widespread support that provided them greater influence. They appealed to the conservative and traditional values held by members of the government, and the majority of the parliament, to enhance the receptiveness of their policy message. This was done by focusing on the closely held view of many government officials that the nuclear family was the most appropriate arrangement for the care of children because in this context

mothers and fathers could fulfill their traditional parenting roles. In a parliament dominated by men the political environment was more receptive to a policy message based on the importance of a father's love for his children and family.

The fathers' and men's NGCSOs framed their support for equal parenting time and a fairer deal for fathers on messages of loving, caring and devoted fathers that were being excluded from their children by the family law system (TMHWA 2003b). This resonated with male parliamentarians who could understand and identify with the strength of feeling and importance of a father's love and care at a personal level. The Tasmanian Men's Health and Wellbeing Association tapped into this aspect of the political environment when they argued that: 'Fathers bring a lot more to a relationship than just money. We are talking about the spiritual development and the emotional development of children. We are talking about playtime with fathers which, sadly, an entire generation of Australians does not have' (TMHWA 2003b). The negative effect of a lack of father involvement on children was raised by DaDs Australia (2003a) who let parliamentarians know that 'many children want to be with their fathers but were being denied the chance to do this without any sense of equity and fairness'.

The emotional appeal to politicians with a sympathetic view of the need for a meaningful relationship between fathers and their children resonated with the majority of parliamentarians. The comment that the men's groups 'had the ear of a lot of people in this place' (GOV3) indicated that most parliamentarians related to the predicament of fathers and supported the need to address the perceived gender bias within the family law system. The fathers' and men's NGCSOs were able to harness the gender politics of

the government to structure their participation around the lack of fairness to men in family law who were excluded from the lives of their children. Rather than bombard officials with facts or polemic, they made sure the fathers themselves were supported to share their stories of how each was being denied the chance to 'love his kids' by a system that privileged the rights of mothers. This was very influential because it appealed to the personal experiences of politicians who could empathise as parents, brothers, or sisters with the pain experienced by fathers. This was a crucial element in increasing the receptiveness of the men's policy message, and their capacity to create greater levels of political support (GOV5). The statements from politicians (male and female) lamenting the lack of a father in children's lives were a testament to how receptive the government was to the demand for better access by fathers.

The detection and deciphering of the contextual features of the political environment was a universal proficiency demonstrated by all NGCSOs. Howard had made clear the political agenda of his government in terms of its social conservatism and governing for the mainstream rather than special interests (women) in relation to Australian families (Hill 2006; Ryan 2005; Sawer 2002). From his time as Opposition leader and right through his Prime Ministership, he consistently stated his view that 'proper' family arrangements should, as much as possible, reflect the traditional nuclear family (*Future Directions* 1988; Howard 1995; *PDHOR* 24 June 2003). The government pointed to the unfair advantage and excessive custodial levels given to mothers in family law cases, at the expense of fathers having fair and reasonable treatment (*PDHOR* 24 June 2003; Sawer 2002). The fathers' and men's NGCSOs correctly deciphered the anti-feminist theme underlying family law reform and understood they had a powerful opportunity to

work with the government to provide supportive, community-based input to justify the policy agenda.

The strategy of aligning with the government's policy objectives was evident in the submissions and public hearing evidence of the fathers' and men's NGCSOs. In particular, they demonstrated an understanding of the government's policy objective of strengthening parental responsibility through equal parenting time. The policy message of the men's groups reflected the government's ideological position on personal responsibility. They provided statements of support for the right and need of children to have the loving and responsible care of both parents (code for fathers) (LFAA 2003c; MISA 2003a; MRA 2003). This was in direct alignment with the Prime Minister's view that both parents should have direct responsibility for their children's wellbeing and his concern that the lack of male role models showed that fathers were not able to meet their parental responsibilities (*Future Directions* 1988; *PDHOR* 24 June 2003). The proposed solution of a rebuttable presumption of equal parenting time flagged the government's sympathetic position for fathers to be restored to a status of equal involvement in their children's lives. The fathers' and men's NGCSOs accurately detected the gender politics in the policy process and used this to construct a policy message around the need for fathers to be involved with their children, because this enabled responsible parenting in the best interests of children (LFAA 2003b; MISA 2003b). This policy message was well received by the government because it provided it with a community imprimatur to justify the 'radical' reforms it was proposing (HRSCFCA 2003b).

Another proficiency attributed to political acumen was the ability to understand sensitivities to the framing of policy issues and their solutions. This particular ability to comprehend the political sensitivities regarding policy issues and anticipate how the government will respond to policy proposals was demonstrated with great effect by those NGCSOs opposed to equal parenting time. This group of NGCSOs was able to persuade the government that equal parenting time would be unworkable for the majority of families and pose unwarranted risks to women who had experienced violence and abuse from ex-partners. Their political influence was in gaining a considerable policy concession in having the Committee recommend and the government accept, equal shared parenting responsibility rather than equal parenting time as a key reform (*A New Family Law System* 2005). The government agreed with the Committee's recommendation to amend Part VII of the *Family Law Ac*t to 'define "shared parenting responsibility" as involving a requirement that parents consult with one another before making decisions about major issues relevant to the care, welfare and development of children' (*A New Family Law System* 2005, 6). This was a significant concession in light of the gender politics and anti-feminist ideology of the Howard government.

The terms of reference for EPTS clearly stated the government's preference for equal parenting time as the solution to reforming family law in line with its political agenda. Chapters 4 and 5 discussed how this impacted on the structure of power relations and the participation of NGCSOs who opposed equal parenting time. Their challenge was to work against power structures that favoured pro-father policy positions and a socially conservative Liberal/National government and persuade it that parenting outcomes in

which mothers had the majority custody of children did not need changing. The skill of NGCSOs opposed to equal parenting time was their ability to understand the government's ideological and political sensitivities around fathers and to frame their objections in terms of enhancing parental responsibility and workable provisions that would encourage greater, although not equal, parenting by fathers. Despite opposing equal parenting time as a workable solution for more involvement by parents (fathers) they correctly comprehended the government's ideological disposition for responsibility and family arrangements that were in the best interests of children. This knowledge was used successfully to demonstrate to the Committee, and government, that equal parenting time would, in practice be counter-productive to these reforms and political outcomes. The use of this acumen contributed to their being able to leverage their in-principle support and effective policy messaging to see that 'parents are given the opportunity for meaningful involvement in their children's lives *to the maximum extent consistent with the best interests of the child*' (*A New Family Law System* 2005, 6. Italics added).

The use of political knowledge to manage the political environment favourably is the final example of how political acumen was applied by NGCSOs. The use of this proficiency was a key difference in the participation of the fathers' and men's NGCSOs from that of their counterparts. They understood that the political environment provided them with the opportunity to take political advantage of the more sympathetic treatment of the plight and needs of fathers. The awareness that the politics of family law were in their favour meant that the structure of the fathers' and men's NGCSOs' participation was more akin to that of a political campaign. That is, they used their knowledge of how

political pressure might be applied to governments so that the political environment remained in their favour. Therefore, a suite of politically motivated activities were employed, outside of the inquiry, to ensure they successfully managed the gender politics of the policy process.

One feature of this acumen proficiency was the use of organisation to gain influence. The fathers' and men's NGCSOs leveraged on the accumulative effect of the supportive relationships they each built in the parliament through working together and sharing political knowledge among themselves. This participation strategy was based on the agreed cooperation of most organisations to use their collective rather than individual knowledge of what tactics would likely provide the best method of information delivery and generate the political influence they were seeking (NGCSO5; NGCSO11). The higher level of organisation between the men's NGCSOs enabled them to operate with a more responsive and coordinated policy message that was receptive to most in the parliament. One government official noted how the participation of the fathers' and men's NGCSOs was 'coordinated and well-targeted' and how that was a factor in their having 'caught the ear of a lot of people' (GOV3). Tattersall (2010) argued that successful coalitions exercise power and influence through organisational strength and better strategic choices. Her study highlighted two key points. The first was that coalitions were 'more successful when they achieve social change while operating in a way that builds organisational strength for the participating organisations' (Tattersall 2010, 3). The second was that 'a coalition's strategy to achieve success is shaped by the strategic choices of coalition participants, whose actions are affected by the political context' (Tattersall 2010, 3).

The fathers' and men's NGCSOs demonstrated these two aspects of an influential coalition in their management of the political environment. Some officials argued that the men's organisations made sure the government took action on equal shared parenting by coming together to reinforce their message and political leverage under a shared agenda, values, and policy outcome (GOV1, GOV2, GOV3): 'It was not just one organisation but many, all saying the same thing, building story after story and case after case', one official commented (GOV3). Combining their collective efforts meant that the NGCSOs within the 'men's coalition' were able to come together around a common set of values and policy outcomes that enhanced their 'organisational strength' by sharing strategies to target and engage local members, government ministers and the media. In this way they maximised their political 'muscle' (NGCSO4). At a practical level, the men's organisations had telephone conversations and held meetings (when possible) to share successful strategies and campaign features that had been used to gather community and political support (NGCSO9, NGCSO10). This resulted in them having more frequent contact with government officials to create and nurture supportive relations (GOV4). One official commented, 'I think this is what NGCSOs should do more of to influence the policy debate' (GOV2).

The strategic choices made by the fathers' and men's NGCSOs in the political context also enabled them to manage the policy politics effectively. Their willingness to engage in the politics of policy-making was a strategic choice that gave them additional influence with the government. Through their network of government relations they made it clear that the issue of family law had, potentially, severe negative electoral

consequences. Howard was not alone in his concern that this was an issue which could affect the government at the 2004 election (GOV4). The men's groups made it known to MPs, especially senior members of government, that they could muster one million votes against Howard if the reforms did not give fathers better access to their children (Overington 2005). The choice to include the threat of a negative, marginal seat election campaign based on fathers and children being denied each other's love and care in the lead up to the 2004 election was a skillful application of political pressure. The timing in relation to the electoral cycle was particularly canny as Prime Minister Howard did not want the issue of family law as a potential means for the Labor Opposition to wedge the government (GOV5).

The strategic use of the media was another area in which political influence was exercised. In politics the power of the media is so inescapable that it is the currency by which interest groups 'trade' with governments to negotiate policy reforms (Anderson 2006). The fathers' and men's NGCSOs put themselves in a position of political influence through their skill in reading the political environment to shift the policy debate and community opinion in favour of the Howard government's ideological position on families through the media (Albretchtsen 2003a; Albretchtsen 2003b; Horin 2004; Jones 2005; Jones 2003; Overington 2005, 2010). This provided them with a large amount of community support in favour of father friendly reforms that they then turned into electoral and political capital by framing their argument in the media in such a way that the a level of political intensity around the treatment of fathers was difficult for the government to ignore (GOV1, GOV5). This strategy was so successful a women's NGCSO cited it as 'the biggest level of influence' (NGSCO7). The political

pressure created as a result of the strategic lobbying and media campaigns was so influential that the fathers' and men's NGCSOs could demand that the government 'trade' with them on family law reform (GOV4).

The media played a powerful role in the systemic discouragement of women's interests through its reporting on family law almost exclusively from a male perspective. The uneven coverage of the issues in family law reform fed into and provided support for the gender politics of the Howard government. The efforts made by some fathers' and men's NGCSOs to build positive relations with the media assisted with the coverage bias that reinforced the 'fathers as victims' identity with the community, and politicians. Conservative journalists, such as Albretchtsen (The Australian newspaper) and radio host Alan Jones, provided the men's groups and the government support that entrenched the view that fathers were given a rough deal by a family law system overrun by a feminist agenda (Albretchtsen 2003a; Albretchtsen 2003b; Jones 2005). The media was also quick to seize on the opportunity to report on the pain, heartache and suffering of fathers, their children, and families that made for impactful reporting regarding the, at times, tragic consequence of men's experiences in the family court (NGCSO7). This kind of media coverage helped create a belief in the wider community that something had to be done about men's rights and their being treated unfairly in the family law system (Merkin 2010). The government was well aware of the media coverage and how it was shaping public debate and community opinion (Overington 2005). Jackman (2010) argued the benefit to the men's groups of having the media frame the policy debate around fairer access for fathers post separation should not be underestimated.

The knowledge of how the politics of policy-making worked and the ability to use this to exert pressure on the government was a significant factor in the participation structure of the father's and men's NGCSOs. One organisation opposed to equal time parenting acknowledged how, 'it was the sum total of all the information and lobbying the government received from the men's organisations that influenced the final decision' (NGCSO5). The power of their coalition and the coordinated policy message part of their participation strategy gave them their advantage in gaining greater community and political support (NGCSO2). Several women's and children's NGCSOs noted the success of the men's groups in the formulating of a coordinated and politically targeted message through the media, and that this was the hard-learnt lesson they would take from the family law reform experience (NGCSO6, NGCSO8, NGCSO12). The ability to create community and political pressure through a media and lobbying campaign that targeted the political motivations of the government was particularly influential for the fathers' and men's NGCSOs.

This was an opportunity denied to the women's and children's NGCSOs whose advocacy outside of EPTS was, for all intents and purposes, 'systemically discouraged'. The women's and children's NGCSOs and, more broadly, those organisations opposed to equal parenting time reported that they found the government's preconceptions regarding family law reform gave them a sense of exclusion from the policy process. The ideological and political agenda of the government seemed to have made its way into the public psyche, making it difficult to create the same level of community support as the men's groups (NGCSO8). One women's NGCSO said 'it was as if the government and community had already made its mind up' (NGCSO5). A children's

advocacy NGCSO, which opposed equal parenting time, argued: ‘We saw children as rights holders. The government saw children as incidental to the key social, political and economic unit, that is the traditional family’ (NGSCO7). In the view of the women’s and children’s NGCSOs, the government’s position was deliberately exclusionary because it had unequivocally stated its preference for men’s interests to take precedence over women’s (NGCSO5; NGCSO8). A political environment that was described as ‘regressive’ and ‘male-dominant’ (NGCSO5) was clearly not conducive to NGCSOs seeking to impede the social conservatism of the Howard government. The application of the skills identified within political acumen demonstrated that, at some level, most NGCSOs had an understanding of the political environment. Their use of those skills to decipher, understand, use and manage the political environment has shown that a relationship exists between political acumen and political influence.

Political acumen and political influence

Political acumen is a precondition of political influence because it indicates ability for an NGCSO, or interest group, to evaluate the political environment accurately. The knowledge gained from a perceptive political evaluation enables an organisation to devise and implement a participation strategy that exerts maximum pressure on areas of influence in the policy process. In the family law reform process, political influence was not given arbitrarily but was the result of being able to assess and then apply political knowledge and information to the nuances of a specific political environment. Political acumen equipped some NGCSOs to formulate their participation more effectively because they recognised and made use of the gender bias in the political environment to position their views more favourably with the government. The study of political

acumen adds another dimension to the analysis of interest group participation through the demonstration of its relationship with political influence in the policy process.

Marsh (2002) noted several features of influential policy participation in his analysis of Australian interest groups, including: generating intensity of concern to get an issue onto the political agenda; coherent organisation; use of forceful ideas, images and narratives; endurance in the pursuit of political goals; and access to the formal and informal machinery of government (Marsh 2002, 358). Political acumen is a precondition of influential participation because of the capacity to read, use, understand, and manage the political environment to greater effect. The proficiencies constituting political acumen informed how the fathers' and men's NGCSOs got their issue onto the political agenda, worked with a level of organisation, used forceful images and narratives and accessed the formal and informal machinery of government. Such was the influence of the fathers' and men's NGCSOs, through these means that a government official commented, 'the strength of the men's political campaign made it so that those opposed to equal shared parenting were silent outside of the inquiry' (GOV3).

The first feature of influential interest groups is that the intensity of their concern allows them to get an issue onto the political agenda (Marsh 2002). The lobbying and media campaign of the fathers' and men's NGCSOs was instrumental in their getting the issue of fathers' rights in family law reform dealt with in a timely manner by the Howard government. The intensity of the concern for the denial of adequate parenting time for fathers by a 'feminist' family law system meant that the fathers' and men's NGCSOs

were able to ‘seal the deal’ before the 2004 election. They correctly identified that the gender politics of the government and a parliament populated mainly by men would provide an audience receptive to their concerns. The tactic of ‘putting real pain’ in front of government officials was effective, in terms of leveraging the intensity of concern by the men’s groups, because government officials were repeatedly exposed to the male side of the family law debate in an emotionally charged way. It was observed by a women’s NGCSO that ‘the politics came first and policy second’ because of the ‘highly reactive response of government officers to the men’s lobbying’ (NGCSO8). The harnessing of the political environment, through the strategy of directly sharing the pain of fathers with government officials, enabled the fathers’ and men’s NGCSOs to create an often emotional and deeply supportive political relationship that helped ensure the issue of fathers’ contact with their children was firmly on the political radar.

The second feature was that coherent organisation is in itself a significant aspect of power, and is always present in influential interest groups (Marsh 2002). The benefits gained by the fathers’ and men’s NGCSOs by working co-operatively and with a degree of coordination were discussed earlier in this chapter. The organisation demonstrated by the fathers’ and men’s NGCSO enabled them to share and utilise their collective political knowledge to better manage the political environment in their favour. The willingness to share knowledge about the most effective ways to engage with government officials and to identify strategic points of influence was a key point of difference between the men’s and women’s groups in their capacity to build political advocacy and political pressure. The coherent organisation of the fathers’ and men’s NGCSOs also enhanced the formulation of a consistent, constant and resonant central

message through the sharing of ideas on how to refine the use of political knowledge for maximum effect.

The politically influential effect of this organisation was that the father's and men's NGCSOs strengthened their political position because their common message regarding the problems with the family law system was repeated again and again throughout a wide political network (GOV1). One official described it as being lobbied in 'stereo' (GOV3). Although not a formal alliance, in the sense of the Australian Council of Trade Unions with official constitutions, national headquarters and dedicated staff, the father's and men's NGCSOs used the power of coalition to make better strategic choices through their shared political information and collegiate support through regular communication between themselves (NGCSO4, NGCSO5). Their organisation demonstrated that, in the policy process, the cooperative use of knowledge was an effective strategy because it enabled the political environment to be an asset rather than a liability in exerting influence with those in positions of political authority (Tattersall 2010).

The third feature included the use of ideas, images, and narratives as persuasive tools in communicating a political message. The fathers' and men's NGCSOs based their policy narrative around the image of broken-hearted fathers and deprived and saddened children to persuade government officials of the harm being caused by a family law system that discriminated against men (DaDs Australia 2003a; LFAA 2003a; MA 2003a). The consistency with which the fathers' and men's NGCSOs framed their policy advocacy on this imagery and narrative created an accumulative effect with

government officials who were exposed to father after father sharing similar themes of pain, suffering and discrimination. One official noted how this created an emotional impact on many in the parliament and particularly, on the Committee (GOV3). In the context of the parliament and political environment the imagery and narrative of the negative experience of fathers drew on the sense of inequity and injustice expressed in the gender politics of the government. The capacity to understand how features of the political context affected participation and anticipate how the government would respond were used with positive effect in securing the government's support for fathers and their needs. The fathers' and men's NGCSOs were able to present and deliver their political message with impact because they understood the government's view of families and its determination to have fathers' more involved. This meant that a policy narrative based on the image of a dejected, distressed and weeping father would activate strong feelings of support within the parliament, and broader community (NGCSO10). So effective was this use of political acumen that one government official recalled that, 'in the party room almost every member had a story that they told with a passion and vehemence rarely seen' (GOV4).

A final feature of Marsh's view on influential participation was that all influential groups enjoy access to the formal and informal machinery of government. One NGCSO spoke of their forming informal relations and having regular contact with politicians by deliberately moving in similar circles to gain greater levels of access to government (NGCSO9). This helped them to form a relationship of trust with many government officials, across party lines that they described as being crucial to their ability to convince government members, particularly Ministers and their advisors, that you can

provide valuable input (NGCSO9). As discussed in Chapter 6, trust is a powerful way to build and exercise political influence within the political side of the policy-process. Such access through direct contact with politicians and party representatives was important in the context of demonstrating community support for the government's political agenda. The skill in building political relationships to maintain strong connections and access to government related to the ability to use knowledge of the political environment to build support and create advocates with those in positions of political authority. When Howard came to power in 1996 one prominent men's NGCSO knew that a more sympathetic ideological shift was about to occur and embarked on a concerted effort to 'let politicians and senior public servants know that we existed' (NGCSO10).

The greater levels of access sought by the fathers' and men's organisations were informed by their understanding of the influence to be gained by strategically networking inside the Howard government. This strategic decision enabled the fathers' and men's NGCSOs to take on a policy activist role that enabled them to 'bargain' with government in an attempt to influence decisions in their interests (Yeatman 1998). The 'bargaining' they conducted with officials was around the potential electoral costs and negative public campaign that could be launched against the government and were leveraged by the men's organisations to great effect. Through their community connections, the fathers' and men's NGCSOs understood how important it was to voters that the government followed through on its intended reforms (Jackman 2010). This use of political knowledge was especially effective because, after the Tampa election of 2001, Prime Minister Howard was aware of the danger of 'slow burning' issues and

keen to avoid any community backlash (Jackman 2010). Such was the influence of the men's political networking and access to officials that a women's support NGCSO said 'Too often the policy seemed to be influenced by the media and the need for politicians to be seen as doing the right thing' (NGCSO2). The ability to foresee changes to the political environment and comprehend that this would afford a policy context with beneficial electoral leverage was another example of the relationship between acumen and influence. The connection between the influence of the fathers' and men's NGCSOs and the skills they displayed to maximise the opportunity afforded them by the Howard government, demonstrated a relationship with political acumen that warrants further study.

A feature not discussed by Marsh but one that emerged quite strongly from this study was that of rhetorical power to enhance the receptivity of a policy message within the political environment. The narrative of the fathers' and men's NGCSOs for a fairer and more equal family law system was so compelling that it was accepted as an authentic need for change. In large part, this was due to the accurate political assessment of the government's ideological desire for the restoration of the fathers role and enhanced parental responsibility that informed the lobbying strategy of the fathers' and men's organisations. They understood that in the political context the verbal delivery and physical presentation of suffering fathers would be persuasive. A technical, but crucial, reason why the presentation of the men's policy message was received favourably was because it harnessed reason and emotion. As Aristotle demonstrated, more than logic is needed to substantiate a persuasive argument (Glover 2011). He highlighted that ethos and pathos were essential for an influential and persuasive argument. Ethos creates trust

in what the speaker says and is achieved by establishing the character of the speaker (men's groups) through identifying with the values and beliefs of the audience (government) (Glover 2011). Pathos is also powerful because it successfully appeals to an audience's emotions and assists those 'who understand the needs of their audience and employ the right combination of logic, character and emotion to convince, charm and sway it' (Glover 2011, 56). The skill of the father's and men's NGCSOs was that in the delivery of their political message they were able to benefit from the ethos and pathos effective lobbying can evoke. This assisted them in persuasively communicating a policy narrative that resonated with the ideological and political agenda of the 'audience'.

The fathers' and men's NGCSOs recognised early in the policy process the emergence of a potentially more sympathetic political environment. Their negotiation of power relations was informed by this recognition and an understanding of areas of influence derived from the application of political acumen. The relationship between an understanding of the political environment and the ability to exert political influence assisted the fathers' and men's NGCSOs in gaining crucial political support through developing a network of policy advocates. The understanding and strategic application of political knowledge enabled the creation of political pressure which influenced government decision-making. The benefit of this, in terms of achieving their policy aims, was that they were able to negotiate power relations in the policy process more effectively because they could perceive, use, understand, and manage the political environment to their advantage.

The analysis of NGCSO policy in this thesis does not presume an automatic and simplistic link between the application of political acumen and the policy decisions taken by the Howard government. Such as assumption fails to account for the complexity and countless considerations that affect a government's decision-making. However, what this study of policy participation does demonstrate is that a relationship exists between political acumen and political influence which is an important consideration in the study of interest groups and their power in the policy process. The fathers' and men's NGCSOs were the primary focus of the application of political acumen because they could take advantage of the gender bias in the political environment to generate political pressure in ways that provided leverage on the government to make decisions that closely aligned with their mutual policy aims. An ability to get an issue onto the political agenda, participating with a degree of inter-organisation coordination, the use of impactful images and consistent narrative, and having greater access to the machinery of government were key areas in which the fathers' and men's NGCSOs directly applied the proficiencies attributed to political acumen to achieve political influence. The analysis of NGCSO participation through the conceptual lens of political acumen has implications for understanding the exercise of power in the policy process because it offers practical insights for those with 'little standing in the world of authority' (Colebatch 2002b, 27) to challenge the existing order.

Implications and future research

Two key implications arise from this study that have consequences regarding the participation of NGCSOs in the policy process and point to areas of future research into

political acumen. The first of these is how an understanding of the exercise of power through political acumen relates to the critical importance and emphasis that should be placed on self and social awareness. The proficiencies that encompass political acumen were shown to enhance the ability to navigate and negotiate the complex social relationships that exist within the political environment. The interactional nature of political and policy processes means that the ability to be aware of and recognise the impact of one's actions on others is vital to influential policy participation. The importance of sympathetic political relationships and widespread community support was shown in the participation of the fathers' and men's NGCSOs who, through having an awareness of the impact of their actions, were able to convert these into political capital to be expended in achieving their policy outcomes. The capacity to sense, understand and react appropriately to government officials within policy networks was crucial in the creation of a critical mass of political support. The proficiencies applied through political acumen helped NGCSOs to understand what was and was not acceptable, what would or would not work and how to best frame their policy message to make use of the political context. The traits of self and social awareness were central to being able to gauge and sense political reactions to participation strategies and maximise any momentum in the favourable negotiation of power relations. This has implications for the policy practice of NGCSOs, and interest groups, because sometimes they are so wrapped up in their advocacy that they lose sight of the 'more powerful forces' shaping policy decisions.

Awareness as a feature of policy practice relates to how effectively an NGCSO navigates the socially interactive nature of policy-making. It was noted earlier in the

thesis how often, the interactions between government and organisations do not always take place in formal settings, such as EPTS. Therefore, a considerable amount of the policy interactions undertaken by NGCSOs occur in 'unseen' or informal networks. Political acumen, and its skills in understanding how the political environment can be utilised to enhance influence, offers an area of future research of how organisations exercise power through the 'unseen' informal interactions that can have the greatest impact on policy decisions and government officials. That is, how their assessment of the political environment helped them to profit from social interactions, such as a phone call, an email, a conversation over coffee or a chance meeting at a function, that can impact those in positions of authority and influence their decisions. These 'incidental' interactions are rarely recorded let alone analysed in the context of power and influence. Yet they are important channels through which power in politics flows and therefore, warrant further investigation. A better understanding of how 'behind the scenes' social actions affect the exercise of power would enhance knowledge of the practice of political acumen to create power and influence.

The second implication of understanding better political acumen relates to how it can inform the structure of policy participation to take on the more influential aspects of political campaigning. Political acumen is an important consideration in adopting campaign-like strategies in that it can enhance the broader appeal of a policy message. The power of political acumen in an effective campaign (electoral or policy) is that it guides the formulation and delivery of a policy platform to the community and government officials through the authoritative communication of a 'story' that people can identify with. Hammer (2010) argued that political campaigns are influential when

they attract broad community (voter) and political support for a particular course of action or policy position through a persuasive narrative. Moreover, it has also been suggested that ‘political campaigns are campaigns of communication’ and ‘without effective communication there is no campaign’ (Trent and Friedenberg 2004, 14-15). Therefore, in order to gain the greatest possible public and political support, NGCSOs must ensure their participation presents a story the ‘audience’ can identify with and situate themselves as a leader of the group for change through the introduction of their personal story (Hammer 2010). This is where political acumen is of value to NGCSOs and interest groups, because it provides them with a set of proficiencies to combine their understanding of the political environment with the delivery of an ‘authoritative’ policy story that is central to effective campaigning.

The further conceptualisation of political acumen as an area of future research can expand on the proficiencies it involves and their application in strategising political activity. One idea is that scholarly exploration could continue across multiple organisational and political settings with practitioners and politicians, using a variety of methods and methodologies to gain a more complete picture of political acumen. The expansion of the study of political acumen could incorporate a larger sample size or involve developing a body of knowledge through numerous investigations. The benefit of using a larger sample size or having multiple settings is that it addresses issues of generalisability found in smaller sample case studies, such as this thesis. While this study has shown a relationship between political acumen and political influence and indicated the core proficiencies it entails, broader and more in-depth investigations are needed to shed light on how it informs areas other than NGCSO policy participation.

Such expanded research would open a new genre within the political sciences for understanding and framing the structure and use of power from a political acumen perspective.

Acumen and influence: Understanding the nexus

The nexus between political acumen and political influence was central to this thesis. It studied the participation of NGCSOs during the Howard Government's family law reforms and identified four proficiencies associated with political acumen. I argued that greater levels of political influence can be attributed to the exercise of political acumen in the comprehension and negotiation of power relations. I therefore presented the relationship between political acumen and political influence as an alternative framework for the analysis of political power. Notwithstanding the value of a proficiency-based framework to help better understand the role of political acumen, other factors concerning its relationship to political influence require discussion. For example, does political acumen reside solely with the individual or can it also be considered an organisational trait? Can an organisation be influential through hopeful experimentation rather than the careful consideration of power relations? Do politicians use political acumen to 'game' the policy process towards a particular decision? These questions help provide a more nuanced view of political acumen and its role in accurately understanding and influencing power relations.

Political acumen can be thought of as both an individual and organisational characteristic. NGCSO participation was examined from an organisational viewpoint because I wanted to study how organisations engaged in the policy process. However,

NGCSOs participated through the actions and efforts of their representatives and staff. Therefore, in order to gather data on the rationale and strategisation of an NGCSO's participation, it was necessary to interview individual people who were staff members at the time of the family law reforms. This may create confusion as to whether the proficiencies identified were demonstrated by the individual or their organisation. The answer is that political acumen is located in both. Organisations are the collective sum of the experience, talent and skills of their people. An organisation can therefore demonstrate an ability to more successfully negotiate power relations because its agenda and position are supported by the political proficiencies (acumen) of an individual or individuals.

It is rare political action that is taken without some level of consultation or the involvement of others. For all its individualism, politics and policy making are collective endeavors. Therefore, the relationship between political influence and political acumen is one that equally applies to an individual or an organisation. There was no clear demarcation in this study between whether the acumen of a person or their organisation supported the successful reading and negotiation of power relations. The discernible proficiencies identified should be viewed from both an individual and organisational perspective. The challenge for those wanting to more effectively participate in the policy process is: (i) how to develop the proficiencies of political acumen or (ii) recruit staff/members that are able to bring them to their advocacy on behalf of the organisation. Either way, a correlative nexus between political influence and political acumen remains and is worthy of consideration in the analysis of political power relations and policy decision making.

Political influence is complex and can be the result of any one or a number of factors. This thesis argues that political acumen is one of those factors and, as such, deserves greater attention in political analysis. Although the accurate assessment and negotiation of power relations is important when seeking to exercise political influence, there are occasions where hopeful experimentation rather than strategic engagement informs interest group participation. In circumstances where this is the case it can seem, at face value, that political acumen is not a strong shaper of political influence. This thesis has shown this not to be so. To better understand the nexus between influence and acumen further study of the latter is required to shed light on the degree to which it informs the structuring of participation. That is, how much policy participation is hopeful experimentation compared to the strategic assessment of power relations. More data is needed for a more sophisticated understanding of the role of political acumen in exercising political influence. Greater levels of evidence, that build on the contribution of this thesis, will provide a more substantive base on which the negotiation of power relations can be analysed through the lens of political acumen.

The tactic of moderating a government's likely decision is a participation tactic used by interest groups to gain policy concessions that are palatable for their members. Moderation is a form of hopeful experimentation because it does not require a sophisticated understanding of power relations. Instead, it uses the strategy of concession in the hope that the policy decisions reached by government will meet some of the demands being made by an interest group. The tactic of moderation can be seen as 'bet hedging' undertaken by NGCSOs without the need to understand complex

power relations because it offers the possibility of at least some policy gains. However, the influence of NGCSOs opposed to equal parenting time demonstrated that in order to 'moderate' a decision a level of political understanding is required.

The Howard government clearly indicated in the terms of reference for EPTS that its preferred policy solution for a 'fairer' family law system was the introduction of equal parenting time. This position was in line with the government's socially conservative and anti-feminist political agenda. The moderation of equal parenting time as a central reform principle, by those NGCSOs opposed it, was not the result of 'hopeful' and uninformed actions. Their success in having equal parenting time moderated to the more acceptable principle of equal shared parenting responsibility was because they used the government's ideological and political sensitivities around fathers to frame their objections in terms of addressing the issue of parental responsibility. They demonstrated an ability to comprehend the government's ideological disposition for responsibility and offer a moderated solution that meant fathers would be able to share in key parenting decisions, regardless of how much time they spent with their child. Therefore, a level of political acumen contributed to their leveraging the government's own policy position to ensure mothers and children would not be subject to unworkable and potentially harmful 50:50 arrangements. If an interest group 'hopes' to persuade a government to take a more moderate policy stance, they still need an understanding of the political context to inform a strategic approach towards achieving their aim.

A final consideration of the nexus between influence and acumen is how politicians can use their knowledge and understanding of the political context and processes to shape

policy decisions. Politician, through their professional networks and experience, are in a privileged position to have intricate knowledge of the power dynamics within government. This highly nuanced and sophisticated understanding of who and what is driving the political agenda can enable them to influence the policy outcomes. Through their political acumen politicians can refine their points of argument to match the political and personal sympathies of colleagues. They are also in a position to engage in 'behind the scenes' strategic conversations and lobbying with other members of parliament, senior public figures and the media. Therefore, political acumen is also a feature of how politicians can 'game' the policy process towards achieving a particular decision.

The exercise of power, and the political process, takes place through relational and social interactions (Foucault 1988a; Colebatch 2002a; Edwards 2001; Pocock 2005). In a political setting these are contextual and successfully negotiating power relations requires an ability to comprehend the dynamics that are shaping policy decisions. Interest groups and NGCSOs are not the only participants that demonstrate a connection between proficiency in understanding power relations and political influence. Politicians also use political acumen to negotiate power relations in their efforts to push for policy decisions with similar proficiencies to those I identified in NGCSOs. This capacity can be used to support or undermine certain policy advocates (NGCSOs) by seeking to sway people of influence in the policy process. Political acumen is an important tool for politicians, as it is for NGCSOs, and deserves scholarly attention in providing a more nuanced view of power relations. There are multiple and competing explanations for why governments make the decisions they do and political acumen

cannot explain every policy outcomes; no framework or theory can. What political acumen does offer students of politics is an alternate analytical perspective from which to examine and conceptualise power relations and political influence.

Conclusion

This thesis is the result of a question I asked myself close to seven years ago: 'Is there some way in which NGCSOs can better negotiate power relations with government and more effectively shape public policy decisions?' This study of NGCSO participation has led to an understanding of the importance of political acumen in negotiating political power relations to influence policy decisions. Political acumen, if harnessed successfully, can be effective at winning friends and influencing people in positions of authority. The analysis of NGCSO participation in the making of *A New Family Law System* has demonstrated that political acumen (along with the skills it entails) provides a different take on conceptualising political influence. This thesis has identified a set of discernible proficiencies based on: (i) understanding how the political environment affects the ability to influence policy decisions, (ii) harnessing the political environment to enhance the receptiveness of a policy message, (iii) understanding how the political environment evolved and is sensitive to the framing of issues and solutions, and (iv) using political knowledge to favourably manage the political environment. These provide the basis for a framework of political acumen that helps to illuminate why some groups are able to engage in the policy process with greater effect and hence exercise political influence, despite employing apparently similar participation strategies.

The other key lesson for NGCSOs from this analysis is that they must engage in the political interplay of parties, groups and government in the policy process. Politics is about power: who has it, who wants it, how one can get it and then hold onto it (Dowding 1996). When engaging in the political machinations that shape decision-making, NGCSOs must recognise there is no such thing as neutrality or rationality where vested interests are involved (Dalton et al. 1996; Everett 2003). Policy-making is a political activity, and staying out of its political dimensions is, in the long run, not an option if an NGCSO wants to influence policy decisions. As Gough Whitlam famously stated 'only the impotent are pure'. Political acumen is of value because it helps NGCSOs, and interest groups, to assess the political environment accurately and devise effective strategies of who to target, when, where and how. It helps NGCSOs not just play 'the game' but more importantly play it 'smart'. I recently discussed this thesis with a long-time senior policy advisor at an Australian Labor Party function who, on hearing my summation, commented, 'after 25 years in this game I know that you don't win the policy without winning the politics and that requires timing and smarts'. This thesis helps NGCSOs, and interest groups, understand how to win the 'politics' by offering a framework that supports the development and application of political acumen in their policy participation.

References

A NEW APPROACH 2004. A new approach to the family law system: Implementation of reforms - Discussion Paper. Attorney-Generals Department , Canberra.

A NEW FAMILY LAW SYSTEM 2005. A new family law system. Government response to Every Picture Tells a Story. Australian Government, Canberra: AGPS.

AACA [Australians Against Child Abuse] 2003. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 703* [Online].Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0703.pdf [Accessed 18/10/07].

AAIMH [Australian Association of Infant Mental Health] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 1150* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1150.pdf [Accessed 18/10/07].

AAIMH [Australian Association of Infant Mental Health] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

AFSSA [Australian Family Support Services Association] 2003. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 191* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0191.pdf [Accessed 18/10/07].

ALBRETCHTSEN, J. 2003a. Fathers are not optional. *The Australian*, 7/5/2003.

ALBRETCHTSEN, J. 2003b. Fathers given raw custody deal. *The Australian*, 24/12/2003.

ALINSKY, S. D. 1971. *Rules for Radicals. A Practical Primer for Realistic Radicals,* New York: Random House.

ALSTON, M. 2009. Drought policy in Australia: gender mainstreaming or gender blindness? *Gender, Place & Culture: A Journal of Feminist Geography,* 16**,** 139-154.

ALSWA [Aboriginal Legal Services of Western Australia] 2003. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

ANDERSON, G. 2006. Ministerial staff: New players in the policy game. *In:* COLEBATCH, H. K. (ed.) *Beyond the Policy Cycle. The Policy Process in Australia.* Sydney: Allen & Unwinn.

ATTORNEY-GENERAL'S DEPARTMENT 2003. *Government Response to the Family Law Pathways Advisory Group Report*. Attorney-Generals Department, Canberra.

BABBIE, E. 2001. *The Practice of Social Research,* Belmont, CA, Wadsworth/Thomson Learning.

BAUER, M. W. & GASKELL, G. 2000. *Qualitative Researching with Text, Image and Sound. A Practical Handbook,* London, SAGE Publications.

BRASS, P. 2000. Foucault Steals Political Science. *Annual Review of Political Science,* 3**,** 305-330.

BRENNAN, D. 1998. Government and Civil Society. Restructuring Community Services. *In:* SMYTH, P. & CASS, B. (eds.) *Contesting the Australian Way. States, Markets and Civil Society.* Cambridge: Cambridge University Press.

BRIDGMAN, P. & DAVIS, G. 2004. *The Australian Policy Handbook,* Sydney, Allen & Unwin.

BROWN, W. 2006. Power after Foucault. *In:* DRYZEK, J., HONIG, B. & PHILLIPS, A. (eds.) *Oxford Handbook of Political Theory.* Oxford, UK: Oxford University Press.

BURCHELL, G., GORDON, C. & MILLER, P. 1991. Governmentality. *The Foucault Effect. Studies in Governmentality.* London: Harvester Wheatsheaf.

BURNHAM, P., GILLAND, K., GRANT, W. & LAYTON-HENRY, Z. 2004. *Research Methods in Politics,* Houndsmill, Palgrave MacMillan.

CCDVC [Central Coast Domestic Violence Committee] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 824* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0824.pdf [Accessed 18/10/07].

CCDVC [Central Coast Domestic Violence Committee] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs Canberra: Commonwealth of Australia.

CHARTERIS-BLACK, J. 2005. *Politicians and Rhetoric: The Persausive Power of Metaphor.,* Basingstoke, Palgrave.

CLIENT SOLUTIONS 2006. Committee Bulletin's 2006 Survey of Politician's Lobbying Preferences. Canberra.

COLEBATCH, H. K. 2002a. Government and governmentality: Using multiple approaches to the analysis of government. *Australian Journal of Political Science,* 37**,** 417-435.

COLEBATCH, H. K. 2002b. *Policy,* Berkshire, UK, Open University Press.

COLEBATCH, H. K. 2006. Mapping the work of policy. *In:* COLEBATCH, H. K. (ed.) *Beyond the Policy Cycle: The Policy Process in Australia.* Sydney: Allen & Unwin.

CONNELL, R. W. 2002. Making the difference, then and now. *Discourse: studies in the cultural politics of education,* 23**,** 319-327.

CONNOLLY, W. E. 1974. *The terms of political discourse,* Lexington, KY, Heath.

CONSIDINE, M. 2005. *Making Public Policy. Institutions, Actors, Strategies.,* Cambridge, UK, Polity Press.

COWAN, P. 2004. Globalising Interest Groups and the Media. *In:* VAN ACKER, E. & CURRAN, G. (eds.) *Governing Business and Globalisation.* Frenchs Forest: Pearson Education Australia.

DADS AUSTRALIA 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 494* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0494.pdf [Accessed 18/10/07].

DADS AUSTRALIA 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

DALTON, T., DRAPER, M., WEEKS, W. & WISEMAN, J. 1996. *Making Social Policy in Australia. An introduction.,* Sydney, Allen & Unwin.

DAVIES, K. 2012. *Service-user perspectives on evidence: Shaping participatory mental health and homelessness services.* PhD thesis, The University of Newcastle.

DAVIS, G. 1998. Policy from the Margins: Reshaping the Australian Broadcasting Corporation. *In:* YEATMAN, A. (ed.) *Activism and the Policy Process.* Sydney: Allen & Unwin.

DAVIS, G., WANNA, J., WARHURST, J. & WELLER, P. 1993. *Public Policy in Australia*, Sydney, Allen & Unwin.

DAWN HOUSE. 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Supplementary Submission 1694* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1694.pdf [Accessed 18/10/07].

DAWN HOUSE 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonweath of Australia.

DE VAUS, D. A. 2001. *Research Design in Social Research,* London, SAGE Publications.

DEAN, M. 1996. Putting the technological into government. *History of the Human Sciences,* 9**,** 47-68.

DEAN, M. 1999. *Governmentality. Power and Rule in Modern Society,* London, SAGE publications.

DEAN, M. 2006. Governmentality and powers of life and death. *In:* MARSTON, G. & MCDONALD, C. (eds.) *Analysing Social Policy. A Governmental Approach.* Cheltenham, UK: Edward Elgar Publishing.

DEAN, M. 2012. The signature of power. *Journal of Political Power,* 5**,** 101-117.

DEAN, M. & HINDESS, B. 1998. Introduction: Government, Liberalism, Society. *In:* DEAN, M. & HINDESS, B. (eds.) *Governing Australia. Studies in Contemporary Rationalities of Government.* Cambridge: Cambridge University Press.

DENZIN, N. K. & LINCOLN, Y. S. 2000. *Handbook of Qualitative Research,* Thousand Oaks, CA, Sage Publications.

DEVINE, F. 1995. Qualitative Methods. *In:* MARSH, D. & STOKER, G. (eds.) *Theory and Methods in Political Science.* Houndsmill: MacMillan.

DID [Dads in Distress] 2003. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 974* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0974.pdf [Accessed 18/10/07].

DOWDING, K. 1996. *Power,* Minneapolis, University of Minnesota Press.

DPL [Department of Parliamentary Library] 2002. *Parliamentary Handbook of the Commonwealth of Australia. 29th Edition,* Canberra, ACT, Department of the Parliamentary Library.

DVIRC [Domestic Violence and Incest Resource Centre] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 260* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0260.pdf [Accessed 18/10/07].

DVIRC [Domestic Violence and Incest Resource Centre] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

DYE, T. 1972. *Understanding public policy,* Englewoods Cliffs, NJ, Prentice Hall.

EARLES, W. & MOON, J. 2000. Pathways to the Enabling State: Changing Modes of Social Provision in Western Australian Community Services. *Australian Journal of Public Administration,* 59**,** 11.

EASTON 1953. *The Political System,* New York, Knopf.

ECONOMOU, N. 1998. Interest groups and government: the case of environmental policy-making. *In:* LOVELL, D. W. (ed.) *The Australian Political System.* South Melbourne: Addison Wesley Longman.

EDWARDS, M. 2001. *Social Policy, Public Policy: From Problem to Practice.,* Sydney, Allen & Uwin.

ERRINGTON, W. & VAN ONSELEN, P. 2007. *John Winston Howard.,* Carlton, Melbourne University Press.

EVERETT, S. 2003. The Policy Cycle: Democratic Process or Rational 'Paradigm Revisted'. *Australian Journal of Public Administration,* 62**,** 65-70.

FAMILY AND COMMUNITY AFFAIRS COMMITTEE REPORT 18 FEBRUARY 2004.

FAMILY LAW AMENDMENT (SHARED PARENTAL RESPONSIBILITY) ACT 2006 Australian Government Attorney-Generals Department. Canberra: Office of Legislative Drafting and Publishing.

FAMILY LAW AMENDMENT (SHARED PARENTAL RESPONSIBILITY) BILL 2005 2006. Department of Parliamentary Services. Canberra: Laws and Bills Digest Section.

FAS [Fathers After Separation] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 1078* [Online]. Available:

http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1078.pdf [Accessed 18/10/07].

FAS [Fathers After Separation] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

FCLC [Federation of Community Legal Centres] 2003. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

FENNA, A. 2004. *Australian Public Policy,* Frenchs Forest, Pearson Education Australia.

FF [Fatherhood Foundation] 2003. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 715* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0715.pdf [Accessed 18/10/07].

FINLAYSON, A. 2004. Political science, political ideas and rhetoric. *Economy and Society,* 33**,** 528-549.

FLEMING, J. 1998. *New Government in Queesland: Industrial Relations, 1957-1961, 1989-1990.* PhD Thesis, Griffith University QLD.

FLF [Family Law Foundation] 2003. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

FLYVBJERG, B. 1998. Habermas and Foucault: Thinkers for Civil Society? *The British Journal of Sociology,* 49**,** 210-233.

FOUCAULT, M. 1976. *The History of Sexuality Volume 1: The Will to Knowledge,* London, Penguin.

FOUCAULT, M. 1980a. Power and Strategies. *In:* GORDON, C. (ed.) *Power/Knowledge. Selected Interviews and Other Writings 1972-1977.* New York: Harvester Wheatsheaf.

FOUCAULT, M. 1980b. Truth and Power. *In:* GORDON, C. (ed.) *Power/Knowledge. Selected Interviews and Other Writings 1972-1977.* New York: Harvester Wheatsheaf.

FOUCAULT, M. 1980c. Two Lectures. *In:* GORDON, C. (ed.) *Power/Knowledge. Selected Interviews and Other Writings 1972-1977.* New York Harvester Wheatsheaf.

FOUCAULT, M. 1982. The subject and power. *In:* DREFUS, H. L. & RABINOW, P. (eds.) *Michel Foucault: Beyond structuralism and hermeneutics.* Brighton: Harvester.

FOUCAULT, M. 1988a. The ethic of care for the self as pratice of freedom. *In:* BERNAUER, J. & RASMUSSEN, D. (eds.) *The Final Foucault.* Boston: MIT Press.

FOUCAULT, M. 1988b. On Power. *In:* KRITZMAN, L. D. (ed.) *Michel Foucault Politics Philosophy Culture. Interviews and other writings 1977-1984.* New York: Routledge.

FOUCAULT, M. 2007. *Security, Territory, Population. Lectures at the College de France 1977-78.*, Houndsmill, Palgrave Macmillan.

FUTURE DIRECTIONS 1988. It's time for plain thinking. Rhodes, NSW: Liberal Party of Australia.

GILBERT, T. 2006. Mixed methods and mixed methodolgies. The practical, the technical and the political. *Journal of Research in Nursing,* 11**,** 205-217.

GLOVER, D. 2011. *The art of great speeches and why they are remember them.,* New York, Cambridge University Press.

GORDON, C. 1991. Governmental Rationality: An Introduction. *In:* BURCHELL, G., GORDON, C. & MILLER, P. (eds.) *The Foucault Effect. Studies in Governmentality.* London: Harvester Wheatsheaf.

GRANT, W. 2004. Pressure Politics: The Changing World of Politics. *Parliamentary Affairs,* 57**,** 408-419.

GRAY, M., COLLET VAM ROOYUN, C., RENNIE, G. & GAHA, J. 2002. The political participation of social workers: a comparative study. *International Journal of Social Welfare,* 11**,** 99-110.

HALPIN, D. 2002. Interest groups and (re-)establishing stability in policy-making: The case of the NSW Farmers Association and the Native Vegetation Conservation Act. *Australian Journal of Political Science,* 37**,** 489-507.

HAMMER, S. 2010. The role of narrative in political campaigning: An analysis of speeches by Brack Obama. *National Identities,* 12**,** 269-290.

HANCOCK, L. 2006. Bringing in the community sector: Partnerships and advocacy. *In:* COLEBATCH, H. K. (ed.) *Beyond the Policy Cycle. The Policy Process in Australia.* Sydney: Allen & Unwin.

HILL, E. 2006. Howard's 'Choice': The ideology and politics of work and family policy 1996-2006. *Australian Review of Public Affairs.*

HINDESS, B. 1996. *Discourses of Power: From Hobbes to Foucault,* Oxford, Blackwell Publishers.

HOLLAND, I. 2006. Parliamentary committees as an arena for policy work. *In:* COLEBATCH, H. K. (ed.) *Beyond the Policy Cycle. The Policy Process in Australia.* Sydney: Allen & Unwin.

HORIN, A. 2004. Child abuse has eluded family law reform. *Sydney Morning Herald*, 31/7/2004.

HOWARD, C. 2005. The Policy Cycle: A Model of Post-Machiavellian Policy Making? *Australian Journal of Public Administration,* 64**,** 3-13.

HOWARD, J. 1995. The Role of Government. A Modern Liberal Approach. *The Menzies Research Centre 1995 National Lecture Series.* Parliament House, Canberra.

HOWARD, J. 1996. The Liberal Tradition: The Beliefs and Values Which Guide the Federal Government. *Sir Roberts Menzies Lecture.* Monash University, Melbourne.

HRSCFCA [House of Representatives Standing Committee on Families and Community Affairs] 2003a. *Inquiry into child custody arrangements in the event of family separation: call for submissions*, media release. Parliament House, Canberra, 3 July.

HRSCFCA [House of Representatives Standing Committee on Families and Community Affairs] 2003b. *Radical reshaping of family law system and processes recommended*. Canberra: HRSCFCA.

HRSCFCA [House of Representatives Standing Committee on Families and Community Affairs] 2003c. *Report on the inquiry into child custody arrangements in the event of family separation*. Canberra: AGPS.

INDUSTRY COMMISSION 1995. Charitable Organisations in Australia. Industry Commission.

INGLIS, J. & ROGAN, L. 1993. *Beyond Swings and Roundabouts. Shaping the future of community services in Australia,* Leichardt, Pluto Press.

IWS [International Women's Speakout] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 792* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0792.pdf [Accessed 18/10/07].

IWS [International Women's Speakout] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

JACKMAN, C. 2010. Divided Lives. *The Weekend Australian Magazine* 27-28 November 2010, p 16-21.

JONES, A. 2005. The Today Show. *Alan Jones Breakfast Show 2GB.*

JONES, C. 2003. Custody changes set to head family law reform. *Courier Mail*, 26/6/2003.

JPA [Joint Parenting Association] 2003. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

KEAST, R. & BROWN, K. 2006. Adjusting to New Ways of Working: Experiments with Service Delivery in the Public Sector. *Australian Journal of Public Administration,* 65**,** 41-53.

KEEN, S. 2006. Non-government organisations in policy. *In:* COLEBATCH, H. K. (ed.) *Beyond the Policy Cycle. The Policy Process in Australia.* Sydney: Allen & Unwin.

KELLY, P. 1992. *The End of Certainty: The Story of the 1980s,* St Leonards, Allen & Unwin.

KERR, L. & SAVELSBERG, H. 2001. The Commuinity Services Sector in the Era of the Market Model: Facilitators of social change or servants of the state. *Just Policy,* 23**,** 22-32.

LASWELL, H. D. 1951. The Policy Orientation. *In:* LERNER, D. & LASWELL, H. D. (eds.) *The Policy Sciences.* Standford, CA: Standford University Press.

LFAA [Lone Fathers Association of Australia] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 318* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0318.pdf [Accessed 18/10/07].

LFAA [Lone Fathers Association of Australia] 2003b. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Supplementary Submission 1715* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1715.pdf [Accessed 18/10/07].

LFAA [Lone Fathers Association of Australia] 2003c. Official Committee Hansard: House of Representatives Standing Commitee on Family and Community Affairs Canberra: Commonwealth of Australia.

LINDBLOM 1959. The science of muddling through. *Public Administration Review,* 19**,** 78-88.

LOVELL, D. W., MCALLISTER, I., MALEY, W. & KUKATHAS, C. 1998. *The Australian Political System,* South Melbourne, Addison Wesley Longman.

LUKES, S. 1974. *Power: A Radical View,* London, The Macmillan Press.

LUKES, S. 2005. *Power: A Radical View,* Basingstoke, Palgrave MacMillan.

LYONS, M. 1998. Defining the nonprofit sector: Australia. *In:* SALAMON, L. & ANHEIRER, H. (eds.). Baltimore: John Hopkins Comparative Nonprofit Sector Project.

MA [Men Again] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 716* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0716.pdf [Accessed 18/10/07].

MA [Men Again] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

MADDISON, S. & DENNIS, R. 2009. *An introduction to Australian Public Policy,* Cambridge, Cambridge University Press.

MADDISON, S., DENNIS, R. & HAMILTON, C. 2004. Silencing Dissent: NGO and Australian Democracy. *Australia Institute* [Online], Discussion Paper No 65. Available: http://www.tai.org.au/documents/dp_fulltext/DP65.pdf [Accessed 30/11/07].

MADDISON, S. & DENNISS, R. 2005. Democratic constraint and embrace: Implications for progressive non-government advocacy organisations in Australia. *Australian Journal of Political Science,* 40**,** 373 - 389.

MAN [Men's Advisory Network] 2003. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 1170* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1170.pdf [Accessed 18/10/07].

MARSH, I. 1995. *Beyond the Two Party System. Political Representation, Economic Competitiveness and Australian Politics,* Cambridge, UK, Cambridge University Press.

MARSH, I. 2002. Interest Groups. *In:* SUMMERS, J., WOODWARD, D. & PARKIN, A. (eds.) *Government, Politics, Power and Policy in Australia.* 7th ed. Frenchs Forest: Longman.

MARSTON, G. & MCDONALD, C. 2006. Introduction: reframing social policy analysis. *In:* MARSTON, G. & MCDONALD, C. (eds.) *Analysing Social Policy. A Governmental Approach.* Cheltenham, UK: Edward Elgar Publishing.

MASON, J. 2006. Mixing methods in a qualitatively driven way. *Qualitative Research,* 6**,** 9-25.

MATTHEWS, T. 1997. Interest Groups. *In:* SMITH, R. (ed.) *Politics in Australia.* Sydney: Allen & Unwin.

MCEACHERN, D. 1991. *Business mates: the power and politics of the Hawke era,* New York, Prentice Hall.

MERKIN, P. 2010. Family Law Act: too little, too late. *On LINE opinion* [Online]. Available: http://www.onlineopinion.com.au/print.asp?article=11331 [Accessed 10/12/2010].

MISA [Men's Information and Support Association] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 1112* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1112.pdf [Accessed 18/10/07].

MISA [Men's Information and Support Association] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

MRA [Men's Rights Agency] 2003. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 909* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0909.pdf [Accessed 18/10/07].

MWCR [Muswellbrook Women's and Children's Refuge] 2003. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 201* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0201.pdf [Accessed 18/10/07].

NACLC [National Association of Community Legal Centres] 2003. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs Canberra: Commonwealth of Australia.

NCSMC [National Council of Single Mothers and their Children] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 1311* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1311.pdf [Accessed 18/10/07].

NCSMC [National Council of Single Mothers and their Children] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

NEXT STEPS 1998. Delivery of Primary Dispute Resolution Services in Family Law: Next Steps. Attorney-Generals Department, Canberra.

NWRN [National Welfare Rights Network] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 207* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0207.pdf [Accessed 18/10/07].

NWRN [National Welfare Rights Network] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs Canberra: Commonwealth of Australia

O'MALLEY, P., WEIR, L. & SHEARING, P. 1997. Governmentality, Criticism, Politics. *Economy and Society,* 26**,** 501-17.

OLSEN, M. 1982. *The Rise and Decline of Nations: Economic growth, stagflation and social rigidities,* Hew Haven, Yale University Press.

OUT OF THE MAZE 2001. Out of the Maze. Pathways to the future for families experiencing separation. Family Law Pathways Advisory Group, Attorney-Generals Department, Canberra.

OVERINGTON, C. 2005. Eyes on the child. *The Australian,* 22/9/2005.

OVERINGTON, C. 2010. Joint parenting must stay, men vow. *The Australian,* 29/1/2010.

PDHOR [Parliamentary Debates House of Representatives] 11 FEBRUARY 2004.

PDHOR [Parliamentary Debates House of Representatives] 12 FEBRUARY 2004.

PDHOR [Parliamentary Debates House of Representatives] 24 JUNE 2003.

PEARSE, G. 2009. Quarry Vision. Coal, climate change and the end of the resources boom. *Quarterly Essay,* Issue 33.

POCOCK, B. 2005. Work, family and the shy social scientist. *In:* SAUNDERS, P. & WALTER, J. (eds.) *Ideas and Influence. Social science and public policy in Australia.* Sydney: University of New South Wales Press.

PRASSER, S. 1994. Royal Commissions and Public Inquiries: Scope and Uses. *In:* WELLER, P. (ed.) *Royal Commissions and the Making of Public Policy.* South Melbourne: MacMillan Education Australia.

PRASSER, S. 2006. *Royal Commissions and Public Inquiries in Australia*, Chatswood, Australia, LexisNexis Butterworths.

PRNC [Pine Rivers Neighbourhood Centre] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 1070* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1070.pdf [Accessed 18/10/07].

PRNC [Pine Rivers Neighbourhood Centre] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

PUSEY, M. 1991. *Economic rationalism in Canberra: a nation-building state changes its mind*, Cambridge, NY, Cambridge University Press.

RA [Relationships Australia] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 1054* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1054.pdf [Accessed 18/10/07].

RA [Relationships Australia] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

RADIN, B. 2000. *Beyond Machiavelli: Policy Analysis Comes of Age.,* Washington, Georgetown University Press.

ROBSON, C. 2002. *Real World Research. A resource for social scientists and practitioner-researchers.,* Oxford, Blackwell Publishers.

ROSE, N. 1999. *Powers of Freedom. Reframing Political Thought,* Cambridge, Cambridge University Press.

ROSE, N. & MILLER, P. 1992. Political power beyond the state: Problematics of government. *British Journal of Sociology,* 43**,** 173-205.

RUSSELL, B. 2004. *History of Western Philosophy,* Ehrhardt, The Folio Society.

RYAN, N. 2005. A decade of social policy under John Howard: social policy in Australia. *Policy and Politics,* 33**,** 451-460.

SADOVNIK, A. R. 2007. Qualitative research and public policy. *In:* FISCHER, F., MILLER, G. J. & SIDNEY, M. S. (eds.) *Handbook of Public Policy Analysis.* Boca Raton, FL: Taylor and Francis Group.

SAUNDERS, P. & WALTER, J. 2005. *Ideas and Influence: Social Science and Public Policy in Australia.,* Sydney, University of New South Wales Press.

SAWER, M. 2002. Governing for the mainstream: Implications for community representation. *Australian Journal of Public Administration,* 61**,** 39-49.

SILVERMAN, D. 2006. *Interpreting Qualitative Data. Methods for Analyzing Talk, Text and Interaction.,* London, SAGE Publications.

SINGLETON, G., AITKIN, D., JINKS, B. & WARHURST, J. 2006. *Australian Political Institutions,* Frenchs Forest, Pearson Education Australia.

SMITH, R. 1997. Power. *Politics in Australia.* Sydney: Allen & Unwin.

SPCA [Shared Parenting Council of Australia] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 1050* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub1050.pdf [Accessed 18/10/07].

SPCA [Shared Parenting Council of Australia] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

SPU [Single Parents Union] 2003. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs Canberra: Commonwealth of Australia.

STAKE, R. E. 2000. Case studies. *In:* K, D. N. & LINCOLN, V. S. (eds.) *Handbook of Qualitative Research.* Thousand Oaks CA: SAGE Publications.

STEWART, J. & MALEY, M. 2007. The Howard Government and Political Management: The Challenge of Policy Activism. *Australian Journal of Political Science,* 42**,** 277 - 293.

STILWELL, F. 1993. Economic Rationalism: Sound Foundations for Policy? *In:* REES, S., RODLEY, G. & STILWELL, F. (eds.) *Beyond the Market. Alternatives to economic rationalism.* Leichhardt: Pluto Press.

TANNER, L. 2011. Window Dressing. The mirage of political reform. *The Monthly.* Melbourne, Australia.

TATTERSALL, A. 2010. *Power in Coalition. Strategies for stronger unions and social change,* Crows Nest, NSW, Allen & Unwin.

TIERNAN, A. 2007. *Power without responsibility,* Sydney, University of New South Wales Press.

TMHWA [Tasmanian Men's Health and Wellbeing Association] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 860* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0860.pdf [Accessed 18/10/07].

TMHWA [Tasmanian Men's Health and Wellbeing Association] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

TRENT, J. S. & FRIEDENBERG, R. V. 2004. *Political Campaign Communication. Principles and Practice,* Lanham. MD, Rowman and Littlefield Publishers.

UCB [Uniting Care Burnside] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 521* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0521.pdf [Accessed 18/10/07].

UCB [Uniting Care Burnside] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

VROMEN, A. & GELBER, K. 2005. *Powerscape. Contemporary Australian Political Practice,* Sydney, Allen & Unwin.

WARHURST, J. 1993. Changing Relationships: Interest Groups and Policy-Making in the 1990s. *In:* HEDE, A. & PRASSER, S. (eds.) *Policy-Making in Volatile Times.* Sydney: Hale & Iremonger.

WARHURST, J. 1998. In defense of single-issue interest groups. *Australian Quarterly,* 58**,** 102-120.

WATSON, D. 2002. *Recollections of a Bleeding Heart: A Portrait of Paul Keating PM.,* Sydney, Random House.

WEBSTER, A. 2007. The re-conceptualisation of domestic violence under the Howard government since 1996. *Lilith,* 16**,** 57-68.

WHEELRIGHT, T. 1993. Economic Controls for Social Ends. *In:* REES, S., RODLEY, G. & STILWELL, F. (eds.) *Beyond the Market. Alternatives to economic rationalism.* Leichhardt: Pluto Press.

YACV [Youth Affairs Council of Victoria] 2003a. *Inquiry into Child Custody Arrangements in the Event of Family Separation - Submission 861* [Online]. Available: http://www.aph.gov.au/house/committee/fca/childcustody/subs/sub0861.pdf [Accessed 18/10/07].

YACV [Youth Affairs Council of Victoria] 2003b. Official Committee Hansard: House of Representatives Standing Committee on Family and Community Affairs. Canberra: Commonwealth of Australia.

YEATMAN, A. 1998. *Activism and the policy process,* Sydney, Allen and Unwin.