

welfare the problems would disappear. American research, controlling for parental income and social class, has shown little or no relationship between income and child outcomes in sole parent families. Morgan quotes the Western Australian Child Health Survey (one of the best of its kind) that showed a significant increase in mental health problems among children in sole parent families, but family income was not significant in predicting child mental health status.

The major conclusions, then, are that family structure makes a difference to family process, that an enduring partnership is a fundamental structural requirement, and that a two-natural-parent structure works better, on average, than a sole parent family or a two-parent family with only one natural parent, other things remaining equal. This leads Morgan on to the issue which has recently been receiving a lot of attention—the monitoring, supervising and providing role of the (natural) father and the regrettable consequences of his absence and reduced participation after divorce or separation.

While New Zealand family structure, family dysfunction and family violence (especially among Maoris), and their consequences form the core of Morgan's study, there is a great deal beyond that. Declining fertility, for example, is discussed but not dealt with at length; wisely perhaps, since it raises a complex of puzzles deserving a book of its own. Nevertheless, Morgan has a useful discussion of family taxation which, in bearing upon the costs of raising children, is directly relevant to that subject.

She gives particular attention to marriage as the institution that has, traditionally, been the linchpin of family structure, and the rapid emergence of cohabitation as its easily-dispensed substitute. From there, she goes on to look at the communal and social repercussions—such as crime, juvenile delinquency, and the perverse poverty traps of welfare—that are linked to the breakdown of

marriage and the fluidity of family commitments.

All of this, she claims, is followed by the feedback loops and spiral of decline that flow from inadequately socialised and neglected children and men unattached to family responsibilities and work. At the end of this unhappy road is the deterioration in the nation's human capital and a society bereft of a tradition of enduring heterosexual coupling and the responsible rearing of children.

The book accordingly concludes by stressing the need for public policies focused on promoting family stability and centred on the crucial roles of marriage and appropriate family law.

**Reviewed by Barry Maley**

*The Case For an Australian Bill of Rights: Freedom in the War on Terror*

**by George Williams**

Sydney, UNSW Press, 2004

95pp, \$16.95

ISBN 0 86840 767 4

**I**n this book, George Williams makes a strong argument in favour of the adoption of an Australian Bill of Rights. Against the background of recent debates concerning the legitimacy of intrusions against human rights in the context of mandatory sentencing for property offences, the treatment of asylum seekers, legislative responses to the threat of terrorist attack and the continuing deprivations suffered by many of Australia's Indigenous populations, Williams reviews the experience thus far and proposes a Bill of Rights as a necessary and desirable development for Australia.

The author is a professor of law, but this book is not an exhaustive and rigorous academic assessment of

the issues involved. It is clearly aimed at a much broader market, and is an affordable, approachable summary of many of the relevant issues in the Bill of Rights debate. Whilst this may disappoint those looking for a more advanced and detailed scholarly analysis, it does have the great benefit of making this book more accessible to the general public. This attribute is surely necessary in a book aiming to improve the quality and extent of community debate surrounding this important issue.

The book is divided into a series of somewhat disparate chapters that nevertheless build to an effective conclusion. The opening offering, 'Questions Without Answers,' illustrates two concerns which are central to the argument as a whole. First, without a Bill of Rights there is insufficient protection of the human rights of Australians, which are thus left largely to the whims of political discourse. Second, the quality of political debate itself is lessened because of the absence of a suitable frame of reference within which to consider human rights issues.

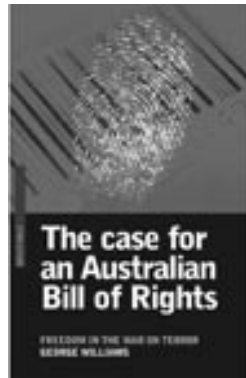
Later chapters of the book expand on these two issues. The theme of insufficient protection of human rights is explored in detail in chapters which analyse Australia's past record on human rights and the existing legal protections of human rights in Australia. Issues relating to the quality of political debate are borne out most clearly in the chapter dealing with the Australian response to the threat of terrorism, where Williams draws attention to the danger that, in the absence of a Bill of Rights, 'the contours of debate may match the majoritarian pressures of political life rather than the principles and values on which our democracy depends.'

Having made its case for a Bill of Rights, the final part of the book considers how this recommendation can be translated into reality. Following a chapter dealing with the history of failed attempts to introduce a Bill of Rights, Williams considers the first Australian Bill of Rights, the *Human*

*Rights Act* of the ACT, which entered into force on 1 July 2004. Describing the ACT Bill of Rights as, 'a promising start,' Williams' proposed Bill of Rights is clearly influenced by the juxtaposition of the grand failures of the past with the success of the more, 'modest and incremental', ACT approach.

The Bill of Rights proposed by Williams is a hybrid which incorporates elements of the Bills of Rights adopted in Canada, the United Kingdom and New Zealand. The key features of the proposed Bill of Rights are that it would be a legislative act of the Commonwealth Parliament, rather than a constitutional amendment made directly by the Australian people; it would provide for courts to strike down legislation inconsistent with the rights protected, but only in the last resort if inconsistency could not be avoided; and would militate against concerns of judicial dominance by providing for explicit legislative power to override its provisions if Parliament considered it necessary to do so.

Williams illustrates why these are natural choices for the Australian context, sensitive to our constitutional arrangements and experiences. The proposal for a legislative Bill of Rights is an openly pragmatic one, adopted in light of the history of unsuccessful attempts at a constitutional Bill of Rights. The proposed judicial power of declaring legislation invalid in the event of unavoidable inconsistency represents a role not greatly different to the role the High Court has performed in constitutional interpretation for over a century. The proposed legislative power of overriding the Bill of Rights when considered necessary to do so is a strong protection against judicial abuse of the power of invalidation and ensures that power ultimately remains in the hands of the elected representatives of the people.



The book discusses a series of headline injustices, including the imprisonment of a 21 year old for one year for the theft of cordial and biscuits valued at \$23 under the mandatory sentencing legislation in the Northern Territory. There is a risk that mainstream opinion will not be moved by the example of injustices which are committed primarily against minority groups. One answer to this was suggested by Thomas Paine, who declared that:

He that would make his own liberty secure must guard even his enemy from oppression; for if he violates this duty he establishes a precedent that will reach to himself.

In the concluding passages of his book, Williams makes a broader argument which links back to the earlier theme about the potential for a Bill of Rights to improve the quality of domestic

political debate, pointing out that, 'the most important contribution a Bill of Rights can make is not the benefit it brings to the small number of people who succeed in invoking rights in court.'

The true benefit lies in the capacity of a Bill of Rights to contribute to an effective framework within which society as a whole can resolve

human rights issues which impact on the underlying principles of our liberal democratic society.

In the end, a Bill of Rights must be the product of a determination by the Australian people to protect those human rights which are fundamental to our society. In this book, which has the capacity to make an important contribution toward broader community understanding of the issues involved, George Williams presents a strong case for an Australian Bill of Rights.

**Reviewed by Matthew Stubbs**

*Finishing the Job: Real-World Policy Solutions in Health, Housing, Education and Transport*

**by Joshua Gans and Stephen King**

Melbourne, Melbourne University Press, 2004  
142pp, \$29.95  
ISBN 0 522 85146 0

The Howard Government's re-election has raised expectations of a renewed focus on economic reform. It is therefore timely that Joshua Gans and Stephen King, two well-known Australian microeconomists, have written a book that develops policy proposals for housing, health, education and transport, which are all sectors that could benefit from reform.

The authors make a number of worthy points. Funding of health and education services can and should be separated from management and provision. The first homebuyers' grant is a waste of money. Parents should have greater freedom in school choice. Congestion charging for roads would promote more efficient urban transport decisions. While hardly novel, most market-minded reformers would readily agree with these propositions.

It is at the next level of detail, where problems and policies are explained, that the book begins to trouble even sympathetic readers.

For example, the chapter on housing proposes a 'housing lifeline' to provide modest loans in cases where *average* household income is sufficient to meet housing costs, but the household *sometimes* lacks funds to meet rent or mortgage commitments. Amounts borrowed could be repaid on an income-contingent HECS-style basis.

Yet the reader is left wondering how it would be possible to limit the lifeline to those who fit Gans and King's criteria. Almost all those who are long-term unemployed once had a job, so it is unclear how the Government could reliably distinguish