

Can We Legislate for Compassion?

The family and the whole notion of caring for each other in times of need is fundamental to the well being of our society. As a community it is paramount that we recognize and accord appropriate value to the social capital that comes from our investment in other people - the parents who cared for us as children and the children who will care for all of us when we grow old.

The NSW government has hit the nail on the head in identifying the threat to our society of an increasingly fragmented and casualised workplace and the economic demands that have drawn people away from the caring roles we once took for granted.

In an attempt to protect working parents and other family carers, the Minister for Industrial Relations, Jeff Shaw, has announced amendments to the Anti-Discrimination Act to ensure that employers adequately take account of the needs of workers with family responsibilities. While the recognition of the importance of these roles is welcome, it begs the question whether the direction of the response is appropriate and is likely to be effective.

The law is a very blunt instrument. It deals with “musts” and “must nots” when the issue here is of a much more subtle variety. We cannot legislate for goodwill and compassion. We can at least try, but the effects may be counterproductive. Compulsion almost always builds resentment undermining the very outcomes that we are looking to promote.

In practical terms, the fact is that it is unfair on a person who is already in a position of relative disadvantage to be expected to stand up to “bully bosses” in order to win a victory which is almost certain to be pyrrhic. Outcomes of other legislation directed at workplace values, even when they have been successful, have come at great personal cost to those who have chosen to assert their rights. How many of the celebrated victors of discrimination cases are still in the same workplace? The last place Scarlett Finney now wants to be is The Hills Grammar School, despite (or because) of her victory!

On the other side, it could be argued that employers are yet again being asked to carry a disproportionate share of responsibility for caring for the most vulnerable members of our society.

Perhaps it is time that the debate moved away from simplistic responses to recognize that we are all stakeholders in a caring community with a common future. We must directly face the systemic questions that arise when we begin to acknowledge that this is of primary importance to us. These do include measures to support and assist families to care for each other but also a whole range of other things like access to flexible, quality, occasional or casual care for children and elders. To take just one example, the state of our hospitals is now such that families are not only required for comfort and support but must be present to ensure that children and the infirm are fed and bathed. You only need to enter many of our nursing homes to be hit by our society's denial of the hard facts of growing old and dependent and to get a taste of how soul destroying a person's final days can be.

A healthy economy is one measure of how we are traveling as a nation, but who is it that said that a society can be judged by the way in which it cares for its most vulnerable? What sort of society is ours?

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