



Australian Children's Rights News

Newsletter of the Australian Section of Defence for Children International

Issue Number 31, December 2001

ISSN 1320-7091

Border Protection Australian Style: A modern form of torture

DCI-A member Barbara Rogalla is a Registered Nurse with first hand experience both of working in immigration detention centres and “blowing the whistle” on their conditions. This is a shortened form version of a paper co-written with DCI-A member and Child Care Worker Trish Highfield for the World Organisation Against Torture (OMCT) international conference ‘Children, torture and other forms of violence: Facing the facts, forging the future’ held in Finland between 27 November and 2 December 2001.

A six-year old child lies across his father's shoulder.¹ His eyes lack purposeful expression and his skin is pale. This picture is the aftermath of eighteen months of mandatory immigration detention.

Shayan's number is LEE 67. One day Shayan stopped talking. As time went by he also stopped eating and drinking. “At least seven times”² he went to hospital, recovered but became ill again when he returned to the Villawood detention centre. At the time, there were 662 other children locked up in immigration detention.³

The Ombudsman identified one nineteen-month old child who has been detained since birth, and another child who was detained for four years.⁴ Surely such terms of imprisonment are excessive for travelling without valid documents. There is no upper limit on the length of detention.

Canberra politicians say that such detention is necessary for Australia to safeguard her borders and exercise her national sovereignty.

Continued page 4

Features:

Boarder Protection Australian Style : A modern form of torture - p1

Human Rights and Equal Opportunity Commission Inquiry into Children in Immigration Detention - p6

Hidden Scandal Secret Shame - A Public Awareness Campaign - p12

The Hague Convention on Protection of Children 1996 - p14

Egyptian Child Imprisoned for Alleged Sexual Orientation - p18

Globalisation and Children's Rights - p22

Children in Victorian Unmarried Families - p26

Youth Participation - It's Worth the effort! - p33

COLUMNS

President's Column
Child Soldiers Update
Child Labour Update
Email Lists
Publications
Conferences
Websites

AND MORE

President's comments:

As incoming president, on behalf of DCI-A and the National Committee I would first like to commend warmly and thank Danny Sandor sincerely for his enthusiastic and fantastic leadership over recent years as President. He has been energetic, across the issues, and his wide network and solid understanding of children's rights and the organisational arenas involved have been invaluable. He has set us up with a new office in Melbourne where Michael Beresford-Smith as Vice-President will work in with Danny in his new role this year as DCI-A's Secretary.

From her wider organisational and world view in Geneva, Helen Bayes congratulated Danny for strongly consolidating DCI-Australia's position and for his key role in 'the section's achievements in the global movement's uptake of issues which few other sections have worked on yet'. He will be a hard act to follow and I appreciate his continuing support as well as the support and contribution of the National Committee members.

I would also like to thank Sophia Cason (ACT), Craig Mackie and Rob White, both from Tasmania, June Wangmann (NSW), and Russell Goldflam (NT) for their great contributions to DCI-A and wish them well with their work and other commitments. It's also a delight to welcome back Kerry Walker (QLD) to the National Committee along with Teresa O'Sullivan (NT) who was co-opted not long before our November Annual General Meeting.

Sophia, in particular, played an amazingly valuable role as Treasurer; funds are always tight in organisations such as this and she has managed this well. Fortunately, Joe Bowler (SA) moves into that position this year for which we are all very appreciative. Finally I would like to acknowledge the work of Helen Mattick and Penny Cohen in keeping us afloat through the period since Helen left for Geneva and the move to Melbourne.

Defence for Children International - Australia

Level 6
Number 1 Elizabeth Street
Melbourne, Victoria, AUSTRALIA 3000
Tel: + 61 (0)3 9612 8914
Fax: + 61 (0)3 9614 7088
Email: info@dc-au.org
Web: www.dci-au.org

Patron : **Phillip Adams AO**

National President : **Judy Cashmore (NSW)**
Vice President : **Michael Beresford-Smith (Vic)**
National Secretary : **Danny Sandor (Vic)**
Treasurer : **Joe Bowler (SA)**
Andrew O'Brien (NSW)
Teresa O'Sullivan (NT)
Cheryl Vernon (WA)
Kerry Walker (Qld)

Advisory Panel
Prof. Phillip Alston
Dr. Quentin Bryce AO
Ms Sally Castell-McGregor
Prof Hilary Charlesworth
Justice Richard Chisholm
Hon. John Fogarty AM
Prof Chris Goddard
Ms Moira Rayner
Mr Sid Spindler

Australian Children's Rights News is published quarterly by Defence for Children International Australia. The editors of this issue are Danny Sandor and Judy Cashmore. Electronic formatting of this issue is by Web Enter www.webenter.com.au. The views expressed in Australian Children's Rights News are not necessarily those of DCI. Articles, reports, information about meetings and conferences can be faxed to the Editor, (02) 6257 6722 or e-mailed to : info@dc-au.org

Lastly, I look forward to working with the new and continuing members of the National Committee on what promises to be some challenging issues in relation to: children in detention centres, the Federal Government's next report on Australia to the United Nations Committee on the Rights of the Child, and the optional protocols on child prostitution and child soldiers which Australia is yet to ratify.

Producing a non-government response or an alternative report to the UN Committee should be high on our list of priorities for the next year. Let's see what we can do!

Dr Judy Cashmore

New e-mail addresses for DCI Headquarters in Geneva are effective 1 November 2001



INTERNATIONAL SECRETARIAT

dci-is@tiscalinet.ch

SECTIONS SUPPORT

dci-information@tiscalinet.ch

JUVENILE JUSTICE

dci-injj@tiscalinet.ch

IS PROJECTS

dci-isprojects@tiscalinet.ch

CHILD LABOUR DESK

dci-childlabour@tiscalinet.ch

DOCUMENTATION CENTRE

dci-documentation@tiscalinet.ch

NGO GROUP

ngo-crc@tiscalinet.ch

HELEN BAYES

helenbayes@tiscalinet.ch

Call for Articles

Australian Children's Rights News depends on the input of members affiliates and subscribers to keep providing you with a wide-ranging and informative update on children's rights issues. Other with a viewpoint on children and young people's rights are also invited to submit.



We are now seeking articles to be considered for the first edition of 2002. Contributions of between 700 and 1500 words are preferred and should be e-mailed with full author details to judycash@nsw.bigpond.net.au

Suggested graphics or photos to accompany the article are most welcome. The closing date for receipt of material is 15 February 2002 however authors should advise the editors as soon as possible if they are planning to submit.

If you have an idea which you would like to discuss, please phone Judy Cashmore 02 9880 2286

Articles published in Australian Children's Rights News may also be placed on the DCI-Australia Website: www.dci-au.org/.

What the politicians do not tell the public is that child neglect is the logical consequence of the incarceration of children. The systematic way in which such damage is inflicted means that detained children are tortured inside the immigration lock-ups.

Several UN documents⁵ attest that the world abhors all forms of torture. It therefore is an indictment of Australia that its treatment of children fits the definition of Article 1 of the Convention against Torture (CAT):

“ ... “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”⁶

Detained children are subjected to “severe pain and suffering ...based on discrimination ... inflicted ... with the consent or acquiescence” of the Australian government. The Department of Immigration (DIMA) and the private company Australasian Correctional Management (ACM) jointly administer detention centres. But company employees, rather than “public officials”, generally interact with detainees. CAT was written in 1987. It would then have been difficult to predict the full extent of privatisation and that ACM employees inside immigration detention centres function as public officials.

A child does not care about terms of employment. But a child will remember waking startled by a person in prison guard uniform. Routine awakening by guards during random night

patrols, the use of flashlight beams and the repeating of detainee names can lead to children developing fears about sleeping. Waking detainees and shining a torch in their faces during half hourly watch rounds possibly contributes to security. But systematic sleep deprivation is also a form of torture.

Even an “innocent” decision such as room allocation can have a detrimental effect and activate previous trauma. Memories of previous terror were re-activated for a 15-year-old when he was housed with men from the ethnic group which had persecuted him and his family in his homeland.

Detention-style torture is a passive but relentless process. Torture occurs by the mechanism of child neglect, by omission of care rather than active commission. There is no grim faced torturer who systematically maltreats a screaming and frightened victim.

CAT stipulates intent and therefore excludes “*suffering incidental to lawful sanctions*” from its torture criteria. Yet the mandatory character of government policy, the relentless detention without thought for individual circumstance, and the unhealthy environment that re-traumatises children plot a very thin dividing line between suffering by intent and suffering by chance.

Torture presupposes the innocence of its victims. Such innocence becomes most obvious where the victims are children.

Shayan Badraie’s experience of detention illustrates how the seemingly passive role of the government causes a child to become ill. For three months, six-year old Shayan’s cycle of treatment and relapse continued as he oscillated between clinical indicators of health and illness. Then the media arrested the cycle. After screening of a documentary, the family was separated. Shayan was released. His parents remained in detention.

The clue to Shayan’s torture is the interplay of medical treatment and detention imperatives, where the detention of children ensures that Shayan would receive treatment without ever

getting well. The re-activation of his condition demonstrates the logical result of the policy of incarcerating children.

The relationship between detention and health illustrates how the institution of medicine is a tool of immigration politics. Health professionals in detention centres always face a potential clash between ethical considerations and the objective of detaining people, because the goals of promoting health and keeping people locked up are fundamentally different.⁷

A death in custody carries heavy financial penalties for ACM, but there are no financial incentives for promoting wellbeing. Neither does suboptimal wellbeing incur a penalty. Treatment that is financed and authorised by DIMA for the purpose of maintaining minimum standards occurs in an environment that causes ill health.

Children are aware that batons, riot shields, water canons or gas that causes nosebleed can always be directed at them, even if friendly medical personnel patch up injuries. Suicide attempts and other acts of self harm among detainees drive thoughts of death and self mutilation into the minds of children. Living in a wire cage where tension, riots and hunger strikes are routine means torture, because children constantly live in fear.

Less visible but just as orderly is the dismantling of family structure where traditional patterns of food preparation, eating and parental role modelling are replaced by the life of the institution. The locked enclosure, the relative inaccessibility to advocacy and legal services, and the practice of calling people by numbers make the camps an ideal environment for torture.

Mandatory detention breaches the Convention of the Rights of the Child (CROC). Australia gave a formal undertaking to “protect the child from all forms of physical or mental violence” while in care.⁸ Article 39 calls for immediate measures toward “physiological and social recovery” after neglect has occurred. But detention constantly re-exposes children to such violence. Therefore, detention compromises the CROC principles of Best Interest⁹ and Survival and Development.¹⁰

Detention denies access to the social justice policies of the welfare state.¹¹ But selective access to health care contravenes the CROC principle of non-discrimination.¹² Non-discrimination means that children in detention should not be treated differently from other children, regardless of their mode of transport to Australia.

Not only is CROC breached.

The UN Rules for the Protection of Juveniles Deprived of their Liberty stipulate that teenagers have leisure, education, vocational training, and use of the library.¹³ These socialisation needs are not met in immigration detention, even though they ought to be in all facilities without discrimination.¹⁴ Neither do “integrity, humanity, ability and professional capacity”¹⁵ feature highly among ACM personnel. A parliamentary inquiry revealed that staff needed “guidance to deal with issues of racism, sexism and religious intolerance.”¹⁶

Indeterminate mandatory immigration detention in Australia is not a legal necessity but a matter of government policy, with virtually no apparent scope for judicial intervention. To the extent that keeping children inside immigration detention amounts to torture, such torture is systematic because the legal process is unable to protect these children.

There is no domestic law that prohibits torture in Australia. Instead of making torture illegal, Foreign Minister Alexander Downer supported strip search legislation for children as young as ten¹⁷ and also denounced UN Human Rights Committees as not “sufficiently professional.”¹⁸ Concerns by Amnesty over legislation that prohibits the Human Rights Commissioner and the Ombudsman from initiating contact with detained asylum seekers are also documented.¹⁹

The safety of detained children is in jeopardy. The institutions of law and medicine have become hijacked for the purpose of political gains with the result that Australia has institutionalised inhumanity.

Mandatory immigration detention undermines the wellbeing of children. The detention centre becomes their sole experience, because they are locked inside. Neglect, as the logical consequence of mandatory detention, systematically compromises the mental, social, and developmental profiles of children, and thereby tortures them.

Children should be released from detention immediately, together with both parents, and the mandatory detention of unaccompanied minors is inexcusable.

It sadly seems that most Australians support the incarceration of asylum seekers. At the time of writing, a humane outcome for detained children is uncertain.

Footnotes

1. ABC television Documentary "4 corners": 13-8-01. The documentary was filmed with a hidden camera inside the Villawood detention centre in Sydney.
2. ABC television, "7.30 Report": 14-8-01, comment by Immigration Minister Phillip Ruddock.
3. The Age, newspaper. "Refugees or Pawns?" 12-10-01
4. Commonwealth Ombudsman. "Report of an Own Motion Investigation into The Department of Immigration and Multicultural Affairs' Immigration Detention Centres." Page 21: 2001
5. Universal Declaration of Human Rights, article 5: 1948; International Covenant on Civil and Political Rights, article 7: 1976; Convention of Rights of the Child, article 37: 1990. Links to these instruments can be found at <http://www.dci-au.org/html/links.html>
6. Convention Against Torture or other Forms of Cruel, Inhuman, or Degrading Treatment and Punishment, article 1: 1987
7. B. Rogalla, "Nursing behind razor wire: A question of ethics." Australian Nursing Journal, April 2001, Vol 8, No 9, p 21: 2001
8. Convention of the Rights of the Child, article 19: 1990
9. *ibid*, Article 3
10. *ibid*, Article 6
11. P. Mares. *Borderline. Australia's Treatment of Refugees and Asylum Seekers.* Pages 170-171. UNSW Press: 2001
12. Convention of the Rights of the Child, Article 2: 1990
13. United Nations Rules for the Protection of Juveniles deprived of their Liberty, articles 38-43: 1990
14. *ibid*, article 4
15. *ibid*, articles 81-87
16. P. Flood, AO. "Report of Inquiry into Immigration Detention Procedures." Parliament of Australia, page 42: February 2001
17. Sydney Morning Herald, Newspaper. "Strip Searches at Detention Centres get nod from Labor.": 10-8-01
18. ABC Radio, PM. "Australia to tackle International Human Rights": 5-4-01
19. Amnesty International. Annual Report 2000. Australia.

The International Conference on Children, Torture and Other Forms of Violence held in Tampere Finland issued a concluding Declaration. To see it, visit DCI-Australia's website News and Events page at: www.dci-au.org/html/news.html

Human Rights and Equal Opportunity Commission Inquiry into Children in Immigration Detention

The Human Rights Commissioner, Dr Sev Ozdowski, will conduct an Inquiry into children in immigration detention on behalf of the Commission assisted by a team that will be announced at a later date.

Terms of reference

The Commissioner will inquire into the adequacy and appropriateness of Australia's treatment of child asylum seekers and other children who are, or have been, held in immigration detention, including:

1. The provisions made by Australia to implement its international human rights obligations regarding child asylum seekers, including unaccompanied minors.
2. The mandatory detention of child asylum seekers and other children arriving in Australia without visas, and alternatives to their detention.
3. The adequacy and effectiveness of the policies, agreements, laws, rules and practices governing children in immigration detention or child asylum seekers and refugees residing in the community after a period of detention, with particular reference to:
 - the conditions under which children are detained;
 - health, including mental health, development and disability;
 - education;
 - culture;
 - guardianship issues; and
 - security practices in detention.
4. The impact of detention on the well-being and healthy development of children, including their long-term development.
5. The additional measures and safeguards which may be required in detention facilities to protect the human rights and best interests of all detained children.

6. The additional measures and safeguards which may be required to protect the human rights and best interests of child asylum seekers and refugees residing in the community after a period of detention.

“Child” includes any person under the age of 18.

Reasons for the Inquiry

The Human Rights and Equal Opportunity Commission is responsible for protecting and promoting human rights, including:

- promoting an understanding and acceptance of human rights in Australia;
- undertaking research to promote human rights;
- examining laws relating to human rights; and
- advising the federal Attorney-General on laws and actions that are required to comply with our international human rights obligations.

The Commission also inquires into complaints of breaches of human rights under the *Human Rights and Equal Opportunity Act 1986* (Cth). In the past reporting year, the Commission has received an increase in the number of complaints about human rights breaches involving children in immigration detention.

One area of Commission responsibility is the rights of children under the *Convention on the Rights of the Child* (1989). Australia agreed to be bound by the Convention in December 1990. The Australian government has also included the Convention in the human rights responsibilities of the Human Rights and Equal Opportunity Commission.

Key principles of the Convention are:

- The right to survival and development.
- The best interests of the child as a primary consideration in all actions concerning children.
- The right of all children to express their views freely on all matters affecting them.
- Respect for the responsibilities, rights and duties of parents and families to

provide direction to a child in the exercise of their rights.

- The right of all children to enjoy all the rights of the Convention without discrimination of any kind.

The Convention applies to every child in Australia regardless of nationality or immigration status and regardless of how the child arrived in Australia.

Under the Convention, children in detention have the right to:

- **family life**, and to be with their parents unless separation is in their best interests.
- the highest attainable standard of **health**.
- protection from all forms of physical or mental **violence**, sexual abuse and exploitation. They also have the right to recover and be rehabilitated from neglect, exploitation, abuse, torture or ill-treatment, or armed conflicts.
- to practise their **culture**, language and religion.
- to **rest and play**.
- to primary **education**, and different forms of secondary education should be available and accessible to every child.
- appropriate **protection** and humanitarian assistance as an asylum seeker or refugee.
- not be deprived of their **liberty** unlawfully or arbitrarily, with detention only in conformity with the law, as a measure of last resort and for the shortest appropriate period of time.
- be treated with humanity and **respect** for their inherent dignity and in a manner which takes into account their age.
- access to **legal assistance** and the right to challenge their detention.
- not be subjected to torture or other cruel, inhuman or degrading treatment or **punishment**.
- **privacy**.
- a **standard of living** adequate for physical, mental, spiritual, moral and social development.

The Commission will consider human rights instruments other than the Convention as they are relevant.

Making a submission

Individuals, community groups and government bodies are invited to make submissions on one or more of the terms of reference. Submissions from children and young people are particularly welcome. The Commission requests that submissions be based on the experience or expertise of individuals and organisations.

While submissions do not have to be in any particular format, they must fit within the terms of reference. The *Guide to Making a Submission to the Inquiry into Children in Immigration Detention* (below) suggests a structure for submissions to follow.

Electronic submission by email is encouraged. Submissions may be published on the Commission web site. If submissions are marked confidential (in whole or in part) the confidential material will not be included on the web site.

The closing date for submissions is 15 March 2002.

The Inquiry

The Commission will conduct its inquiry through research, submissions, public hearings and consultation. Further details of public hearing dates will be announced in 2002.

Written submissions should be sent to one of the following addresses:

By mail, Inquiry into children in immigration detention:

Human Rights and Equal Opportunity
Commission, GPO Box 5218, Sydney, NSW
1042

By email:

childrendetention@humanrights.gov.au

By fax :02 9284 9849

(Closing date for submissions is 15 March 2002).

Guide to Making a Submission

The following points provide direction on the kinds of issues the Commission may consider in its Inquiry and suggests a structure for submissions to follow.

Individuals or organisations making a submission to the Inquiry may want to respond to one or more of the following areas in their submission, based on their relevant experience or expertise in the area:

- Refugee rights and the rights of the child, for example:
 - How does Australia meet its commitments to child detainees under the Convention?
 - How are the “best interests of the child” considered throughout the refugee determination process?
- Health and nutrition, for example:
 - What initial health screening, testing and treatment is required for children in immigration detention?
 - What specific health services are required for children and pregnant women in immigration detention and in the community following their release?
- Prevention, treatment and accommodation of disabilities, for example:
 - What measures are required to prevent, treat and accommodate the disabilities of children in immigration detention and in the community after release?
- Psychological and social well-being, for example:
 - How can past trauma and developmental harm to children be detected and treated after arrival, in detention and on release into the community?
 - How children are protected from harm in immigration detention. For example, what happens if a child is assaulted in an immigration detention centre?

- What is the role of the child's family in the child detainee's social and psychological well-being? How can families be supported in immigration detention and how can children be protected if they are not with their families?
- Education, for example:
 - What barriers exist to effective education in immigration detention? How could they be addressed?
 - What is the best model for the provision of education in immigration detention, taking into account children's different languages and cultural backgrounds, developmental needs and detention times?
- Culture, for example:
 - How are children's traditional cultural and religious values best supported in the detention environment?
 - How can children be encouraged to maintain their first language?
- Legal issues, for example:
 - How should legal advice and advocacy be provided to children in immigration detention?
 - How are unaccompanied minors best legally represented?
- Detention and alternatives to detention, for example:
 - What is the impact of detention on the well-being of children?
 - What alternatives to detention should be developed or implemented?
- The legal and administrative framework for dealing with child asylum seekers, for example:
 - How do current laws, policies and practices, such as visa determinations or review of administrative decisions, support or hinder long-term outcomes for asylum seeking children?
 - What improvements could be made to the relationship between state and federal governments in the provision of services to child asylum seekers?

- What form of independent monitoring of the treatment of children in immigration detention, if any, is appropriate?

Submissions should consider wherever possible the particular situation of unaccompanied children and the different needs of boy and girl children.

Please note: The Commission will be producing a series of background papers relating to each of these areas for people who would like further information before making a submission. These will be available at: www.humanrights.gov.au/human_rights/index.html as they are published.

Political Pinballs - The Plight of Child Refugees in Australia

DCI-Advisory Panel Member Moira Rayner presented this Walter Murdoch Lecture on 31 October 2001. In it, Moira argues that "our treatment of the 600 and more children already arbitrarily detained within Australia and all the others for whom we propose to pay that they may be detained outside it, is inhumane; fails to take account of the Crown's responsibilities as *parens patriae*, the children's guardian of last resort; and puts us in breach of our international human rights obligations."

She proposes an alternative approach which can "protect the rights of children, our international reputation and civil society ... without conceding the sovereign power of the people and our national sovereignty, contributing to the profits of people-smugglers and organised crime, weakening our borders or undermining parental responsibility."

Go to:

www.dci-au.org/html/pinballs.html

Can You Imagine...?

DCI-A Advisory Panel member Dr Chris Goddard is head of social work and director of the Child Abuse and Family Violence Unit at Monash University. In this article, he urges us to find our empathy and look beyond the headlines about asylum seekers.

Imagine if you can ... just imagine ... War has ravaged Australia for many years. Sydney and Melbourne, Adelaide and Brisbane, are little more than rubble. Millions have fled, who knows where. Thousands upon thousands have died.

Royal Park is a military encampment, the Opera House a ruin. The MCG is an execution ground. Mass graves fill the Botanic Gardens. Teenagers run riot with Kalashnikovs. Ethnically motivated murder is rife. Food is scarce and ever more expensive. The water is undrinkable. Everything is broken, nothing works. Children everywhere are dying. In the night, terrorists take men and boys to fight. Women are raped.

Just imagine ... Your oldest child has disappeared. Your younger children know nothing but war and fear. Crippled with hunger, they cry themselves to sleep.

No one knows what will happen next. There is talk of food being dropped from planes but, if that were to happen, the murderers and rapists would be the beneficiaries. Soldiers are always the last to go hungry. There is talk of safety in other countries. You and your family decide to flee.

Just imagine ... You have sold everything to pay every thief and gangster to help you and your children escape from the squalid camp you seem doomed to die in. As you cross the last stretch of water, in a crowded boat, guns are fired and your boat is turned back.

Imagine, if you can, returning to the hunger and disease ... Imagine what you might do to prevent your children being sent back to that brutality...

Last week, a group of asylum seekers was reported to have “thrown their children overboard” in similar circumstances. According to Defence Minister Peter Reith, as the boat approached Christmas Island written warnings were thrown to them. Warning shots, using live ammunition, were fired. “Standard operational procedure”, according to Mr Reith.

Photographs have been released showing women and children in the water. The story was reported in newspapers around the world: “Refugees rejected: kids tossed off ship”; “Refugees throw kids off boat”; and, “Children hurled into the sea”. The most dramatic opening sentence came from Britain’s Daily Mail: “Screaming children were thrown overboard into shark-infested waters yesterday in a challenge to Australia’s illegal immigrant laws.”

The world’s media clearly took the tone of their articles from statements by the government. Immigration Minister Philip Ruddock was reported as saying that “I regard these as some of the most disturbing practices that I have come across ... clearly planned and premeditated”. He claimed: “People wouldn’t come wearing lifejackets unless they intended some action of this sort.”

Prime Minister John Howard said that “we are a humane nation” but would not be “intimidated” by such behavior. “Suggestions of children thrown overboard, that is a sorry reflection on their attitude and mind.” He described this as an attempt “to morally blackmail Australia”. He could not “comprehend that genuine refugees would throw their children overboard”.

“Quite frankly,” he said, “I don’t want in this country, people who are prepared ... to throw their children overboard.”

Let us assume, for the sake of the argument, that some of these asylum seekers did precisely what our government claims. They threw their children

into the sea. John Howard and his ministers have ascribed a very particular meaning to those actions. They have asked us to believe that this was an attempt to “morally blackmail” and “intimidate” Australia.

Yet, it is equally possible that those children were thrown into the sea in the forlorn hope that they would be granted a new life. Half-a-million children in Iraq have died in recent years. If you and I can imagine that, then perhaps we can imagine this: “Look after these children, even if you won’t look after me.” Imagine the desperation of a parent at such a moment.

It is extremely difficult to imagine, but it is important to try. In order to empathise, we need to put ourselves in the place of others. Attempting to understand the feelings and experiences of another requires openness and maturity.

As technology grows ever more complex, our imagination becomes more important. After all, we have bombs that can enter a building through a door or a window. Most of us, however, can only struggle to imagine what it would be like to vainly attempt to protect our children as those bombs arrive.

Arundhati Roy wrote in *The Guardian* (September 29 2001) that we have a problem because anger does not show up at an airport security check. How then can we be certain that what we see in the ocean off Christmas Island is “an attempt to blackmail”?

Throwing a child in a lifejacket into the sea is as nothing compared to watching him or her die, slowly, painfully, hungrily, limbs twisting, belly distending, eyes misting, face shrinking. As bombs fall on Afghanistan, as buildings still smoulder in New York, throwing a child in a lifejacket into the sea is almost as nothing, even if it is an attempt to manipulate Australia’s soft heart.

Now let us assume, for the sake of argument, that some of those asylum seekers not only did what the Prime Minister claims - threw their children overboard - but did so to “intimidate” us. For now we come to the final irony in John Howard’s position. If those callous and

manipulative people threw those children into the sea to blackmail us, they were psychologically and physically abusing those children.

John Howard is claiming, in fact, that those children were abused. He has said he does not want people who abuse their children to live in this country. Yet he has returned those children to the “care” of those same “abusive” adults. This in itself can be regarded as abuse.

The world has a long history of using and abusing children for political ends. It is “standard operational procedure”, with a longer history than using live ammunition to scare off unarmed refugees.

Imagine, if you can, this failure to empathise as a metaphor for all the horror in the world today. Imagine how it all might be different.

This article originally appeared in The Age on 17 October 2001. Reprinted with permission

Cold Comfort: Young Separated Refugees in England

This report authored by Kate Stanley offers a unique insight into the experiences of young refugees and asylum seekers in England, who arrive alone or without their usual carer. The study is based on interviews with 125 young separated refugees, as well as 125 professionals working with them. Focusing on the needs of young separated refugees in the area of social services, education, health, immigration, social integration and accommodation, this report highlights gaps in service provision and areas of good practice. It makes recommendations on meeting their needs at the local and national levels. Go to: <http://www.crin.org/resources/infoDetail.asp?ID=2275>

For more information contact: Save the Children UK, 17 Grove Lane, London, SE5 8RD, UK. Phone: + 44 20 7703 5400; Fax: + 44 20 7793 7626; Email: enquiries@scfuk.org.uk

Hidden Scandal, Secret Shame - A Public Awareness Campaign

On 26th August 2001, Amnesty International Australia launched a new campaign to defend children's human rights. Desley Roy, a primary school teacher, explains about the formation of the first national children's rights campaign team, based in Melbourne.

Introduction

The torture of children, child soldiers, child labour and the illegal detention of children are the most serious matters concerning the team. Our public awareness campaign includes:

- liaison with schools' networks leading to the education of both primary and secondary aged children;
- the development of curricular material on human rights;
- letter writing on behalf of children who are prisoners of conscience;
- media broadcasts and organised response to the media;
- the placement of articles in newspapers and magazines;
- the organisation of events that focus on children's rights; and
- the development of a strategy for children's rights campaigning within Amnesty.

The group aims to, where appropriate, work with other Amnesty International action groups, youth groups and child and family welfare advocates.

Discussing Children's Rights with Children

The impact of Amnesty International's activities can be illustrated by the recent visit in November of a speaker to a primary school in Victoria. The audience consisted of 11-12 year olds.

The speaker commenced the talk by displaying a symbol on the t-shirt that he was wearing. With some prompting, and with some volunteered answers from more knowledgeable students, the recognisable Amnesty International's symbol of a candle surrounded by barbed wire was explained: the meaning of the candle- a symbol of a human life; and the barbed wire - a symbol of imprisonment or injustices against the rights belonging to that life. This launching point led to a discussion on what children's rights were.

With great emphasis placed on everyone's responsibilities in creating a society that recognises these rights, the talk gradually led towards issues that the children had heard about through national television, from their parents, from newspapers and from prior classroom discussion.

An issue that received a lot of attention was the plight of the refugees arriving in Australia. The following are examples of the range of opinion and concern expressed by the children.

- "Detention centres are good because some of these people are murderers, and it would be dangerous to let them out."
- "If there were no detention centres, the refugees would have to sleep on the streets and that would be bad."
- "Why don't we look after the homeless people here instead of spending money on refugees?"
- "Refugees are people like us only they are in danger in their own countries."
- "Children in refugee centres don't get to go to school like us."

- “Why don’t they fix the countries that people are having to flee from, then we wouldn’t have any refugees?”

These comments illustrate some misconceptions that the some young audience members had, but also their strong sense of compassion and injustice.

Finally, the speaker emphasised the role Amnesty International played in releasing children across the world from the injustices done toward them. Amnesty International postcards that were addressed to the Pakistani government were handed out. The purpose of the creation of these postcards, the speaker explained, was to send a plea to the Pakistani government to stop allowing the forcible removal of Pakistani boys from their schools into servitude as a child soldier. The postcards were addressed to the government officials that needed to receive and read them, in order for possible change to take effect. As time was limited, the speaker left the job of following-up the posting of the cards to the class teacher.

Amnesty International Children’s Rights Campaign Team

The Amnesty International Children’s Campaign Rights Team has already drawn a wide variety of people into its team, but still would welcome more support and growth from other interested members of the public. The team invites experts in children’s rights to consult with the team; people with little campaigning experience but a strong interest and commitment to children’s rights and those with strong campaigning experience who, with an understanding of children’s rights issues could assist and lead areas of campaigning.

Two key campaigning issues the children’s rights team will consider are:

1. The treatment of refugee and asylum seeking children, particularly in relation to detention.

Children who are asylum seekers should not be detained. In detention they may be subject to

witnessing their parents and other adults being abused and ill-treated; detainees rioting and self mutilating; late night guard checks; tear gas attacks; sexual violence. They also have access to a limited educational system and lack of play and leisure space. Approximately one eighth of all detained immigrants in Australian detention centres during 2000/2001 were children. With no legal limit on the length of child detention, Australia’s system of mandatory undocumented detention of children is seen as a serious breach of the Convention on the Rights of the Child.

Amnesty International is urging the Australian Government to ensure that:

- children and families are separated from general detained population;
- children’s unique needs are met by well trained staff;
- adequate procedures and mechanisms exist to deal with complaints; and
- meaningful alternatives to detention exist for children who arrive undocumented.

2. Child soldiers, part of a greater issue - child labour

There are over 300,000 child soldiers under 18 taking part in armed conflict throughout the world. The use of child soldiers is one of the worst forms of child labour known. Children suffer severe psychological impact from this form of labour, even being driven to suicide when their mistreatment becomes unbearable.

Other forms of child labour include bonded labourers-these children often coming from rural families then sold to a landlord to work off a family debt. Others are born into bondage by being a child of a bonded labourer. But the greatest number of child labourers is domestic workers - close to 250 million of them. With long hours, little or no pay, ill-treatment, risk of sexual abuse, these children come from families where it is estimated incomes are less than US\$250 a year.

According to Amnesty International, at the time of writing, Australia has yet to ratify the ILO

Worst Forms of Child Labour Convention, or the child soldiers Protocol, but is proceeding with a consultation process with state and territory governments. Amnesty International is urging the Australian government to ratify these two international agreements as soon as possible.

Website and Meeting Details

For more information on Amnesty International's campaign on human rights and ways you can help, please see the Amnesty International Australia website www.amnesty.org.au. The children's rights campaign team meets once a month at the Amnesty International building, 14 Risley St. Richmond, Melbourne. Any interested parties should contact Genevieve Hall on (03) 9819 7786 or ahall@bigpond.net.au

The Hague Convention on Protection of Children 1996

New international private law is expected to bolster the protection of children. Jennifer Degeling, the Principal Legal Officer of the International Family Law Section of the Commonwealth Attorney-General's Department explains how.

Introduction

The *Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children 1996* (the Child Protection Convention) establishes conflicts of law rules to be applied in parental responsibility litigation and in child protection matters which have an international aspect.

Australia is not yet a party to this Convention. However, legislation was introduced in the Commonwealth Parliament in September 2001 to enable Australia to ratify the Convention when the legislative and administrative framework is in place, including uniform State and Territory legislation. When operative, it will typically involve cases where a child is in a country that is party to the Child Protection Convention but has his or her habitual residence in another Child Protection Country.

The rules established by the Convention govern:

- whether a court has jurisdiction to hear an international parental responsibility dispute,
- which country's law is to be applied in determining international parental responsibility disputes,
- what conditions must be satisfied to ensure international recognition and enforcement of parenting orders and what obligations courts in Australia and overseas have to co-operate in the protection of children.¹

Key Concepts

The term 'parental responsibility' is drawn from the Convention on the Rights of the Child and is complementary to Australian law. It is defined to include parental authority, or any analogous relationship of authority determining the rights, powers and responsibilities of parents, guardians or other legal representatives in relation to the person or the property of the child.

The term "protection" as used in the Convention encompasses the term "child protection" as used in Australia's State and Territory child welfare laws.

The concept of the child's habitual residence is central to the issue of jurisdiction and the Child Protection Convention is based on the premise that, in general, the country of habitual residence should continue to have responsibility for making decisions. For example, a child resides with the mother in Australia by court order. Australia is the place of the child's habitual residence. The child goes on a contact visit to the father who lives in a country which has ratified the Child Protection Convention, for example the Czech Republic. If the father refuses to return the child and applies to a court in the Czech Republic for custody of the child, the Czech Republic court is prevented by the Child Protection Convention from making any final orders.

The country of the child's habitual residence is also entitled to expect that a Child Protection Convention country will take measures of protection for the child. Thus, in our example, if the mother has evidence that the child is at risk of harm from the father's family, then upon request from Australia, the Czech Republic authorities must take protective measures for the child.

Also where a child protection order is in effect in the country of the child's country of habitual residence then that order will be able to registered in another Child Protection Convention country.

Brief history of the Convention

The Child Protection Convention was developed by the Hague Conference on Private International Law to address the problems and limitations of the 1961 *Convention on the Powers of Authorities and the Law Applicable in Respect of the Protection of Minors*. The 1961 Convention, although in force only in 11 countries (mostly in continental Western Europe), was applied very frequently despite certain difficulties of implementation or interpretation.

One of the principal difficulties encountered with the 1961 Convention was the fact that it shared competing jurisdiction over the protection of minors between the authorities in the child's habitual residence country and in the child's country of nationality, as well as the authorities

of the State where the child was present or the child's property was located. Furthermore, where the minor had dual nationalities, which is very frequent, the conflict between the authorities of the two States of which the child has the nationality effectively paralysed of the Convention.² The 1961 Convention was further hindered by the lack of co-operation between national authorities and the absence of provisions for enforcement in one Contracting State of measures of protection taken in another.

Aims of the Child Protection Convention

The Child Protection Convention aims to eliminate all competition between the authorities of different States in taking measures of protection for the person or the property of the child. It requires Contracting States to accept considerable limitations on the jurisdiction of their authorities in order to avoid conflicts in matters of jurisdiction, applicable law, recognition and enforcement of measures for the protection of children.

Its preamble confirms that the best interests of the child are to be a primary consideration and in keeping with the Convention on the Rights of the Child.

The objects of the Child Protection Convention, set out in Article 1 are:

- to determine which State has jurisdiction to take measures for the protection of the person or property of the child;
- to determine which law is to be applied in the State exercising jurisdiction;
- to determine the law applicable to parental responsibility;
- to provide for the recognition and enforcement of measures of protection in all Contracting States;
- to establish co-operation between the authorities of the Contracting States.

The Convention applies to children under the age of 18 years. The measures of protection which fall within the scope of the Convention include:

- the attribution, exercise, termination or restriction of parental responsibility, as well as its delegation;
- rights of custody, including rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence, as well as rights of access including the right to take a child for a limited period of time to a place other than the child's habitual residence;
- guardianship, curatorship and analogous institutions;
- the designation and functions of any person or body having charge of the child's person or property, representing or assisting the child;
- the placement of the child in a foster family or in institutional care, or the provision of care by *kafala* or an analogous institution;
- the supervision by a public authority of the care of a child by any person having charge of the child;
- the administration, conservation or disposal of the child's property.

The Convention does not apply to:

- the establishment or contesting of a parent-child relationship;
- decisions on adoption;
- the names of the child;
- emancipation;
- maintenance obligations;
- trusts or succession;
- social security;
- public measures of education or health;
- penal offences committed by children;
- decisions on the right of asylum and on immigration.

For refugee children and internationally displaced children, the measures of protection usually taken by the habitual residence country may be taken by the country of refuge or by the country where the children are located.

Outline of the Australia's implementing legislation

The Family Law Amendment (Child Protection Convention) Bill amends the Family Law Act to enable Australia to ratify the 1996 Convention. The purpose of Australia's legislation is to address conflicts in jurisdiction in children's matters between courts in different countries. This is a difficult area of law, with Australian and overseas courts sometimes making conflicting parenting orders in relation to the same children. The Child Protection Convention Bill implements the jurisdictional rules established by the Convention to determine the appropriate forum for certain children's matters.

The Bill also implements arrangements to guarantee the recognition and enforcement in Australia of parental responsibility orders from other Convention countries and vice versa. Regulations to be made pursuant to provisions inserted by the Bill will lay down rules relating to the conditions upon which parental responsibility orders will be entitled to recognition and enforcement. The Bill will also make provision to facilitate co-operation between courts in Australia and courts overseas in parental responsibility cases.

State and Territory legislation is required to implement the Convention provisions concerning protection of children from abuse and neglect in international cases. The Convention establishes internationally agreed rules to determine which child protection authorities have jurisdiction in relation to a child. In the past, the absence of agreed rules has meant that authorities in one country may fail to act because they assume authorities in another country have taken responsibility for protecting a child.

Commonwealth and State officials have been cooperating in the development of a legislative scheme to implement the Convention in Australia.³ A working group has developed a model law as a basis for amendments to the laws of each State and Territory. The model law provides for amendments to:

- child protection laws;
- common law and statute law regulating the *parens patriae* (broad welfare) jurisdiction of Supreme Courts;
- common law and statute law regulating the appointment and powers of guardians of children's property;
- other State and Territory laws.⁴

Amendments to State and Territory child protection laws to implement the Convention would deal with the following matters:

- Definition of measures of protection;
- Jurisdiction of courts and child protection authorities;
- The law to be applied by courts and child protection authorities in exercising their jurisdiction;
- The recognition and enforcement abroad of Australian measures and of foreign measures in Australia;
- Arrangements for co-operation between Australian and overseas child protection authorities.

Conclusion

The Hague Convention on Protection of Children continues the important work of the Hague Conference on Private International Law in developing multilateral instruments for the protection of children. The Child Protection Convention promotes cooperation between Central Authorities to achieve the objects of the Convention. These authorities have administrative responsibility in for taking actions under the Child Abduction Convention and the Intercountry Adoption Convention. The existing network of Central Authorities provides a sound basis for future cooperation.

Footnotes

1. See Explanatory Memorandum to the Family Law Amendment (Hague Convention on Protection of Children) Bill, introduced in the Commonwealth Parliament on 20 September 2001.
2. Explanatory Report on the Convention drawn up by Paul Lagarde, 1996.
3. Media Release by the Commonwealth Attorney-General, 20 September 2001.
4. Hague Convention on the Protection Of Children: Proposed Amendments to State and Territory Laws: Issues Paper, Attorney-General's Department, 1998.

Cyber Volunteers

The National Children's and Youth Law Centre has launched a major initiative aimed at involving the private legal profession in providing legal advice and assistance to disadvantaged young people via the internet.

The Cyber Volunteer Program will draw on the voluntary assistance of private lawyers to provide email advice and information to young people who seek assistance from the NCYLC via its popular website - www.lawstuff.org.au. The Program will be funded by the Federal Attorney-General's Department.

Over the last two years, over 2000 young people nationally have been directly assisted by the NCYLC with personal email legal information and advice, through the LawMail advice service, which is accessed via the popular Lawstuff website. With anticipated demand for the service expected to increase by over 50% in the next year, the Cyber Volunteer Program will play a vital role in the expansion of the LawMail service.

Lawyers from every State and Territory will be encouraged to participate in the program, which represents a unique and innovative model of community/corporate partnership. In particular, the program fits perfectly with the innovative pro bono initiatives being initiated by several large, national private law firms.

The program is the most recent development from the NCYLC's Lawstuff website, which earlier this year was named as a winner in the not for profit category of the annual Cable and Wireless Childnet International Awards for 2001.

In 1998 LawMail, an interactive email legal advice service and information service was added to the Lawstuff site. Currently LawMail averages over 40 requests per week from young people across Australia.

It is expected that the program will be up and running by early November. Lawyers interested in participating in the program are invited to contact the NCYLC on Ph. 02 9398 7488 or ncylc@unsw.edu.au

Egyptian Child Imprisoned for Alleged Sexual Orientation

In a press release issued on 30 October, Amnesty International, Defence for Children International, Human Rights Watch and International Federation for Human Rights have deplored the conviction and jailing of a 16-year-old Egyptian boy on charges of “obscene behaviour”. The four human rights organisations say that international safeguards for the protection of detainees, including children, are frequently violated in Egypt. They urge for the boy’s immediate and unconditional release.

On 31 October 2001, Cairo Juvenile Court will hear the appeal case of 16-year-old Mahmud. He was sentenced to three years’ imprisonment on 18 September following his arrest in May for alleged homosexual behaviour. During the initial two weeks of detention he was denied the fundamental right to meet his family or be seen by a lawyer. Confessions extracted from Mahmud during that period were used as evidence in a trial leading to his conviction. His lawyer claims that these confessions were extracted under pressure and they were later withdrawn.

”We are extremely concerned about the conviction and harsh sentencing of a child for his alleged sexual orientation”, Amnesty International, Defence for Children International, Human Rights Watch and International Federation for Human Rights said today. The organizations said that disregard for basic safeguards in detention is extremely dangerous and put Mahmud at serious risk of human rights violations.

”We are seriously concerned that this child was interrogated in violation of international standards. Such confessions should not have been allowed as evidence before the court.”

According to Article 37 (d) of the UN Convention

on the Rights of the Child to which Egypt is a State Party: *“Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance ...”*.

The case of Mahmud is related to the trial of 52 alleged gay men on charges of “obscene behaviour”. They are being tried before an exceptional court - based on emergency legislation - which in violation of international human rights law, does not allow for the right to an appeal. The men reported during sessions at the State Security Prosecution Office in May that they had been subjected to torture and ill-treatment during pre-trial detention, in particular during the first days after their arrest. No thorough and impartial investigation is known to having been conducted into these allegations.

Amnesty International, Defence for Children International, Human Rights Watch and International Federation for Human Rights have sent a trial observer to Egypt who will attend the appeal hearing.

Mahmud was reportedly arrested on 10 May at about 11pm on Ramsis Street in the center of Cairo. He was first held at al-Azbekiya police station, before being transferred to the State Security Intelligence Department in the Misr al-Gadida district of Cairo. There he was questioned in connection with investigations against a group of more than 50 other detainees suspected of consensual sexual activities with persons of the same sex. On 12 May Mahmud and the others were brought before the State Security Prosecution that ordered their detention pending investigations. For more than four months Mahmud was detained at Tora Prison together with adults. Following his conviction on 18 September he was transferred to a Juvenile Punitive Institution in al-Marg near Cairo.

The UN Convention on the Rights of the Child (CRC) provides clear guidelines for the protection of children in detention Article 37 (c)

“Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so.”

International standards give clear guidelines for proceedings in connection with juveniles in pre-trial detention. According to Article 37 (d) of the CRC:

“Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.”

According to Article 15 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”):

“(15.2.) The parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile...”.

Article 40.2 b (iv) of the CRC stipulates that no child shall “*be compelled to give testimony or to confess guilt*”.

Mahmud spent over four months in pre-trial detention, although Article 37 (b) of the CRC stresses that deprivation of the liberty of a child should “*be used only as a measure of last resort and for the shortest appropriate period of time*”. Similar provisions are included in the UN Standard Minimum Rules for the Administration of Juvenile Justice and the UN Rules for the Protection of

Juveniles Deprived of their Liberty.

On 18 July 2001 the Emergency State Security Court for Misdemeanours opened trial against 52 alleged gay men. This is an exceptional court based on emergency legislation which does not allow for the right to appeal in violation of international human rights law. All defendants are charged with “obscene behaviour” and two are facing additional charges of expressing “contempt for religion”. The verdict in this case has been scheduled for 14 November 2001. (For further background on this case please refer to previous statements: Amnesty International: *Egypt: Concerns over detention of alleged gays*, 8 June 2001, AI Index: MDE 12/015/2001; Human Rights Watch: *Egypt: Emergency Court Trials for Homosexuality Suspects*, 4 July 2001).

Postscript:

“Under normal Egyptian law, the state must release innocent prisoners 24 hours after judgement is pronounced. But because the trial was held in a state security court, it is subject to the emergency law in operation since 1981. Under that law, innocents can be kept “indefinitely,” while “administrative procedures” are carried out.” As at 22 November, none of those acquitted had been released. Source: AI – Ahram Weekly Online, Issue No. 561.

Postgraduate Diploma Programme in Children and Development 17 April - 28 June 2002

Location: The Hague, Netherlands

This course is designed for young and mid-career professionals in international, national and local development agencies who are confronted with issues involving children and youth, and those who intend to work in this field in the future. It is aimed to assist with the understanding of key issues, theoretical approaches and debates in children and development. It will also enhance professional skills in problem identification, policy analysis and project design. The course comprises the following modules: childhood, rights and development; children and development - policy and practice; children, work and education; children and violence; and children’s agency and participation in the development process. For more information, including details of how to apply and academic and professional requirements, contact: Institute of Social Studies P.O. box 29776, 2502 LT, The Hague, Netherlands Phone: 00 31 70 4260 460; Fax: 00 31 70 4260 799; Email: student.office@iss.nl

International Council on National Youth Policy (ICNYP)

The ICNYP has been created pursuant to the United Nations General Assembly resolutions 40/14 (1985), 50/81 (1995) and 54/120 (1999), by which Member States called for greater support to national youth policies on an integrated basis. While some action has been taken, a more concerted, focused, flexible, agile and sustained approach is very much needed.

The ICNYP was submitted for legal registration in Austria in November 2001 as an international intergovernmental (IGO)/non-governmental (NGO) platform dedicated to the promotion of integrated national youth policies of Governments in partnership with national youth NGO coordination platforms and based on the mandates of the United Nations General Assembly on national youth policy.

The objectives of the ICNYP are:

1) to encourage and enable all stakeholders, and most particularly youth, to participate in all aspects of formulating, implementing and evaluating national youth policy;

2) to :

- (a) identify the priority problems facing youth and society,
- (b) prepare proposals for solving those problems with the full participation of young people and their formal and informal structures,
- (c) adopt coherent sets of such proposals,
- (d) promote their implementation, and
- (e) undertake their assessment (short and medium-term monitoring and consequent adjustment of programmes en route) and periodic longer-term evaluation and modification.

3) to:

- (a) exchange global information and research on national youth policy,
- (b) promote the actual use of existing relevant material on national youth policy,
- (c) support new global studies of an inter-sectoral nature on this issue, and
- (d) set up an International Resource Service on National Youth Policy concerning global, regional and bilateral funding sources willing and able to finance national youth policy projects;

4) to formulate policy and programme initiatives to strengthen national youth policy and the capacity of Governments, youth NGOs and CBOs (community-based organizations) to adopt, implement and evaluate such policies;

5) to stress the linkage of national youth policy, on the one hand, and national youth service and different forms of youth volunteering, on the other, in this overall process;

6) to enhance coordination and networking of policy and programme experts in national youth policy (among Governments, IGOs, NGOs, and UN agencies);

7) to convene an International Conference on National Youth Policy every two years (in the form of an international expert meeting) to mobilize and strengthen this process and to set up an International Committee on National Youth Policy (composed of representatives of Governmental Ministries of Youth and of Youth NGOs) to plan and follow up such meetings;

8) to support communication on a global basis to promote world attention on the importance of national youth policy;

9) to provide a regular series of regional training seminars on national youth policy for representatives of governmental, IGOs and NGOs concerned with youth;

10) to set up an International Consortium on National Youth Policy (composed of senior consultants and young associates on national

youth policy) to provide technical cooperation services, on request from Governments and/or youth NGO coordination platforms, and to undertake advisory missions involving both senior consultants and young practitioners to ensure genuine communication with young people concerned and provide innovation for the proposals ultimately formulated.

The ICNYP is conceived to have both intergovernmental and non-governmental dimensions, and welcomes participation by the governments of individual countries in its activities.

While the ICNYP is not a United Nations body, it will:

- 1) follow and promote the mandates of the General Assembly on national youth policy,
- 2) cooperate with all Member States of the United Nations, and
- 3) seek and establish official relations with the UN system.

It plans to hold its meetings in cooperation with the United Nations based on those mandates of the General Assembly. The first session of the Council will be held in cooperation with the United Nations Information Service (UNIS) at the United Nations in Vienna, Austria on 17-18 January 2002 in pursuance of UN General Assembly resolution 54/120 (operative paras 4,6 and 14) regarding national youth policies. For further information contact the secretariat of the ICNYP on Email: icnyp@aol.com or see its website: <http://www.icnyp.org>

Un-Reasonable Chastisement

The UK Government's decision to do nothing following its consultation on physical punishment leaves children unprotected and betrayed, says the Children are unbeatable! Alliance, responding to the Department of Health announcement

(issued by the Department of Health and available at www.doh.gov.uk) The decision to leave the law unchanged in England and Wales contrasts starkly with the protection to be offered to Scottish children. The lack of action leaves the UK in breach of its human rights obligations and undermines child protection. Children are amongst the most vulnerable members of our society and yet they currently have less legal protection from assault than adults.

Children are unbeatable! is the largest alliance of children's organisations ever formed over a single issue (see <http://www.childrenareunbeatable.org.uk/>). Each of its 300-plus organisations has reached the logical conclusion that the Government has failed to reach - children should have the same protection as adults from being hit.

The 'non-proposals' do nothing for child protection and fall far short of what Scotland's children are being offered. Telling courts they have to consider a list of obvious factors when deciding whether punishment is 'reasonable' changes nothing. The British jury in the case which went to the European Court considered all these factors and still found the beating of the boy by his stepfather 'reasonable chastisement'. This is a matter on which the Government should be leading public opinion not lagging far behind it. How can the Government go on defending a situation in which slapping another adult is a criminal offence, but if the victim is a baby or toddler it's legal?

The Government suggests that the *Human Rights Act* now does all that is needed to protect children from violence. But since the Act has been in force, courts have continued to acquit parents who have hit and punched their children, causing bruising and other injuries. The Government's own opinion polls found an overwhelming majority of the public believe it should be illegal to smack under two year-olds; less than 10 per cent believe that parents should be allowed to use implements. The Alliance believes that the only just position the Government can take on physical punishment is to remove the defence of reasonable chastisement completely to give children full protection.

Globalisation and Children's Rights

In this edited version of his opening address to the 2001 World Congress on Family Law and The Rights of Children and Youth, the Chief Justice of the Family Court of Australia, the Honourable Alastair Nicholson, suggests legal and practical steps to increase the international commitment to children's rights.

In common law countries at least, the act of ratification does not carry a commitment with it to incorporate international conventions into domestic law, and unless domestic law is silent or ambiguous in relation to the subject matter of the Convention, then the Convention has no legal relevance. In effect, this enables common law countries to posture as supporters of human rights while effectively ignoring them so far as executive decisions and their internal legislation is concerned. This is not to say that such conventions do not have a persuasive effect in common law countries, but it means that where a particular government perceives the national interest (or its future electoral success) to be involved, then such conventions can be safely ignored, without the possibility of a challenge in the national courts, at least on treaty grounds.

I consider that one of the things that we should be aiming for at this Congress is to adopt a resolution calling upon such countries to abrogate the effect of these legal doctrines and truly commit themselves to the international conventions to which they are parties. In the absence of such an approach, the whole movement to protect human rights is endangered by the ease with which the countries that pay scant regard to human rights can excuse their more extreme actions by means of comparison with the actions of countries that normally do respect human rights, but may find it expedient not to do so in particular circumstances.

Until now I have been speaking of common law countries, which are normally first world countries where the rule of law is largely respected. In

addition, most European countries and Japan fall into this category and there are of course a number of other countries in the Americas, Asia and Africa who do so as well. When one looks beyond such countries, the plight of children and youth is often much worse and economic conditions in what are termed "third world" countries may render such conventions largely irrelevant. The blame for this however, does not lie entirely within such countries.

We are all familiar with the fact that globalisation and the doctrine of the supremacy of the market place has led to the most appalling abuse of the young in such countries. This has often been at the behest of multinational companies, many of which command funds substantially greater than the countries concerned. There is I believe, room for much greater control of such organisations, the head offices of which are usually to be found in the USA, Europe or Japan.

Such controls can be imposed by mutually agreed legislation taking effect across national boundaries and this is something that we as voters in democratic countries can influence. Another control can also be effectively imposed by consumers themselves in wealthier countries imposing boycotts upon the products of such rogue companies. The difficulty is often the identification of the products of such companies, given their multinational nature and their interlocking shareholdings through chains of nominee companies and other corporate facades.

The problem however is not just one of corporations. One of the great weaknesses of democracies has been their habit of tolerating and indeed encouraging the most odious regimes in other countries on the grounds of so called national interest. We have seen this happen time and time again in Central and South America, in Asia and in Africa.

One can only hope that the present crisis [arising from the events of September 11] will lead to a re-thinking of that approach and that we will cease to tolerate such regimes and the concomitant human rights abuses that go with them.

The full text of the address is at <http://www.familycourt.gov.au/papers/html/nicholsonbath.html>
The 17 Resolutions adopted by the Congress are available at www.lawrights.asn.au/html/resolutions.htm

YoungPRESS

The United Nations Special Session on Children may have been postponed, but many organisations have rallied in the wake of September 11 to utilise their resources in the best possible way. Australia's Youth Representative Kirsten Hagon reports from New York.

The postponement was an enormous disappointment for many people involved, especially for the children who had planned to travel to New York to be part of the Session and surrounding activities. A number of organisations that had galvanised their efforts around the Special Session, coordinating some amazing initiatives, were subsequently stuck wondering what to do with their time, funding and desire to make a difference.

One particular organisation I came across, instead of merely giving up or waiting until the special session to be reconvened, re-focused their efforts to respond with amazing alacrity and vision to the terrors of September 11.

Young PRESS defines themselves as “a collaboration of adult and youth organisations in education technology and media”. Their primary aim is to strengthen and youth voices, empowering young people to provide a greater critical analysis of the world through youth-led action and participation. They have been working to inspire a new breed of journalists - young people reporting on the matters which affect them and to communicate their ideas to other young people.

Their name stands for Young People Reporting Everything at the Special Session. It was scheduled to launch at the Special Session, aiming to channel young people's concerns to world leaders, the public and their peers through youth-created multi-media.

When the Special Session was postponed, Young PRESS cancelled its launch and focused its efforts around providing an emergency response born out of desire of the young people involved in the organisation to somehow respond to the events of September 11. Young PRESS realised that the collaborative effort it fostered around the UN Special Session on Children could be mobilised to respond to the crisis.

I came into contact with this group almost by accident. In my role as youth representative with the Australian Mission to the United Nations, I thought it important that I meet a number of UN related youth NGOs to look at how we could be assisting and supporting each other in promoting mutual goals, including greater youth participation within the UN. I was then invited to attend an interactive youth dialogue.

This teleconference was part of a series produced by YoungPRESS, and using the contacts they had already made, they quickly set up an interactive dialogue with young people (from school students in their early teens to young people in their twenties) from around the world, many of whom were youth journalists, to discuss the events of September 11 and how these had effected them. This served both as way of learning and

engendering understanding across cultures and also as a way of healing. It gave those involved a feeling empowerment - that they were doing something productive and provided a forum for young people to have a voice on the issues involved and to amplify that voice for the rest of the world.

The discussion I attended included young people in New York (including a girl who had not been able to return to her school near ground zero as it has been converted into a triage centre), as well as young people from Dallas, Manila and Melbourne. There were young people who had also experienced terrorism in their home cities and one participant was a refugee from Kosovo now living in America. There were other discussions I did not have the opportunity to attend, including with young people from Sri Lanka, India and Pakistan as well as Oklahoma and a variety of other locations.

Some general questions were asked of everyone, including how September 11 had affected the young participants, whether people thought war was inevitable and what a war would be like. There was also an opportunity for the participants to ask the young people in the other centres any questions they wanted, including how they had dealt with terrorism in the past and possible reasons why the events had occurred.

This was a most amazing event to be a part of, not because it was so unique to have simultaneous conversations with young people from all over the world, but because of the impact this appeared to have on the participants. It was very surprising yet comforting to the people in New York and other American cities to hear that the events of September 11 had such an impact on young people in Melbourne and Manila and elsewhere, and that the response of young people elsewhere in the world, while different to those in the US, was also one of fear and uncertainty.

There was obvious compassion and support for the young people in the US and some comments made by young people outside the US challenged the Americans to re-think their preconceptions.

According to YoungPRESS members, this is not going to finish here with this single exercise of inter-cultural dialogue. These conferences were taped and one has already made it to a documentary. It is hoped that others may be used as learning tools and examples of young people responding in solidarity.

This initiative has also led to a germination of new ideas. It is clear that young people around the world can respond with compassion for those whose lives have been made uncertain by tragedy and conflict. These young people can learn new perspectives as well as methods of coping from others who have had similar experiences.

This tool which has been developed here in New York can be used on a far greater scale. Children in New Zealand and Australia for example, could talk to children in Sierra Leone, and learn about what it is like to live in a conflict zone, or to be a refugee. In return for the chance to hear and understand what other young people endure, those who have not had the same experiences can provide moral support and compassion and perhaps even awaken the desire to help and support young people living in difficult circumstances all over the world.

The last couple of weeks of UN debate has been about tolerance, peace, security and dialogue amongst civilisations. This is the type of initiative which young people have been developing to further these goals. And I hope that this is just the beginning.

Best practice principles for the diversion of juvenile offenders

In Human Rights Brief No.5, the Human Rights and Equal Opportunity Commission addresses the development of diversionary options for young offenders drawing on international human rights treaties, rules and guidelines, as well as recommendations from relevant national inquiries. It particularly considers the application of diversionary options for Indigenous young people, who are significantly overrepresented in the criminal justice system. The electronic version is at: http://www.humanrights.gov.au/human_rights/briefs/brief_5.html

Mandatory Madness Ameliorated in The Northern Territory

The Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr William Jonas has welcomed the repeal of mandatory minimum terms of imprisonment for property crimes committed by juveniles and adults in the Northern Territory. But the fight continues.

”Mandatory sentencing laws in the Northern Territory have been a focal point across the country and internationally for the past few years due to their callous and unjust nature. These laws targeted Indigenous people and have been costly and ineffective in deterring crime. The Northern Territory government is to be congratulated for its efforts in repealing these laws.” Dr Jonas stated.

The Juvenile Justice Amendment Act (No2) 2001 repeals mandatory sentencing for juvenile offenders, while the Sentencing Amendment Act (No 3) 2001 repeals mandatory sentencing for property offences for adults. However, the Sentencing Amendment Act creates a presumption of imprisonment for a series of offences known as aggravated property offences: The Act provides that a Court must imprison an offender or require them to participate in a community work order, unless exceptional circumstances exist.

Dr Jonas stated “A sense of justice has been restored to the Territory’s legal system as courts will no longer be compelled to sentence Indigenous and other offenders who have committed petty property crimes to lengthy terms of imprisonment, without having regard to their circumstances.”

”However, I would prefer the restoration of full judicial discretion in the case of aggravated property offences. It remains to be seen whether the class of offences which attract a presumption of imprisonment including for first time offenders

will lead to any further unjust sentences for Indigenous people.”

”The repeal of mandatory sentencing will allow the focus to be more appropriately and fully on diversionary options, which have a much greater chance of addressing the needs of victims as well as appropriately dealing with juvenile offenders.”

The introduction of diversionary programs has been encouraging and stands in stark contrast to the impact of mandatory sentencing, Dr Jonas stated. “It is unfortunate, however, that diversionary programs for juveniles have so far had to operate in the shadow of mandatory sentencing laws. Also, the deal with the federal government unacceptably allowed mandatory sentencing for adults to continue.”

Dr Jonas called for the Commonwealth government to ensure that funding for diversionary programs under the deal with the Territory government be maintained. “It is essential that the federal government continues to fund these programs in their formative stages.”

Dr Jonas also urged the Territory government to ensure that its efforts do not end with the repeal of mandatory sentencing: “I hope that the repeal of these laws signals the beginning of a new relationship with Indigenous people in the Territory.”

The repeal of mandatory sentencing in the Northern Territory now means that Western Australia is the only state in Australia that imposes minimum mandatory terms of imprisonment for property offences. These laws are currently under review by a WA Ministry of Justice inquiry. “The Western Australian mandatory sentencing provisions are bad law. The WA government can expect more intensive scrutiny of these laws in coming months - they should act now and repeal these reprehensible laws.”

Children in Victorian

We have to remember that this legislation is not just about ending discrimination; it is also about recognising same-sex relationships. Same-sex relationships and heterosexual de facto relationships exist in our community and we as a government are not afraid to recognise that fact. The legislation does not just end discrimination; it recognises that relationships exist in our community. A number of people have said that the legislation undermines the sanctity of marriage. However, they have not been able to point out how that is the case. – Mr Rob Hulls MP (Attorney-General of Victoria), Legislative Assembly 1 May 2001 (Labor Party)

The rights of children in Victoria have been advanced by a law reform process that is extending the range of unmarried adult personal relationships recognised under the State’s law. DCI-Australia’s Immediate Past President, Danny Sandor, has been representing the organisation on the Advisory Committee to the Victorian Attorney-General on Gay, Lesbian and Transgender Issues chaired by the Attorney’s Parliamentary Secretary, Mr Richard Wynne MP.

‘A plural society requires the law not merely to tolerate but rather to recognise and support diversity in the family formation. In other words, to authenticate a range of family forms.’¹

2001 saw the Victorian Parliament pass Labour Party Government legislation² changing nearly all relevant State Acts to introduce the legal concept of “domestic relationship”. Ultimately, the Bills were passed with the support of the Liberal Party and Independent Member Susan Davies.³

The express objects of the legislation affecting 57 Acts are:

- to recognise the rights and obligations of partners in domestic relationships where there is mutual commitment to an intimate personal relationship and shared life as a couple, irrespective of the gender of each partner; and
- to prevent discrimination ... by ensuring that all couples irrespective of gender have the same rights and obligations while at the same time recognising the importance of a commitment to a long term relationship and the security of children.

The duty of the Children’s Court is to protect the rights of others are not an issue. I am a Court and Defence for Children International will help the courts deal with the welfare (Gippsland West), Legislative Assembly

These purposes accord with DCI’s advocacy of the obligation contained in Article 2 of the Convention on the Rights of the Child: that children are to be protected from “discrimination or punishment on the basis of the status, activities, expressed opinions or beliefs of the child’s parents, legal guardians or family members.”

I do not believe any citizen in the state believes a Victorian should be taxed or punished for their choice of partner. I believe the [Amendment] bill will help other, perhaps younger gays and lesbians, to feel more worthy and to understand and not feel the fears that they have in the past. – Ms Leonie Burke MP (Pahran), Legislative Assembly 1 May 2001 (Liberal Party)

Domestic not *De Facto* Relationships

The amendments create the following basic definition for Victorian law:

“ ‘**domestic relationship**’ means the relationship between two people who, although not married to each other, are living or have lived together as a couple on a genuine domestic basis (irrespective of gender)”⁴

Unmarried Families

Unlike the legal concept of a “*de facto* relationship”, the partners to a “domestic relationship” need not be a man and a woman. The definition now includes same-sex relationships and relationships involving one or two persons who are transgender, transsexual or intersex.⁵ It is therefore a substantial change in concept not just a change in terminology. Although other Australian jurisdictions have also reformed their laws,⁶ the sweep of the Victorian reforms is the broadest yet.

The [Further Amendment] bill is to all intents and purposes fairly innocuous. Its major impact will be in the operation of the Children and Young Persons Act Extending the coverage of that act to include all domestic partners simply means that the rights and interests of children and young people in our society will be more fully protected than they are today, and that is a very positive thing. - Hon. Peter Katsimbanis (Monash) Legislative Council 30 October 2001 (Liberal Party)

In some Acts, the definition is wider, a change that affects heterosexual couples as well, because a “domestic partner” is defined as follows:

“an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person –

focus entirely on the welfare of the child; advised by both members of the Children’s National that this change in the legislation in the care of children– Ms Susan Davies MP 17 October 2001 (Independent)

- (a) for fee or reward; or
- (b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation).⁷

In determining whether a domestic relationship exists or has existed, a court is required to look to all the circumstances of the relationship, including any one or more of the following matters as may (not must) be relevant in a particular case

- the duration of the relationship;
- the nature and extent of common residence;
- whether or not a sexual relationship exists;
- the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;
- the ownership, use and acquisition of property;
- the degree of mutual commitment to a shared life;
- the care and support of children;
- the reputation and public aspects of the relationship.⁸

I know how important the legislation is on a practical and an emotional level to those who are caring for people and who are parents. I know from my own experience of many same-sex couples in my electorate who live in caring, loving and mutually supportive relationships who welcome these amendments. We do not want to see parts of Victorian society living under circumstances where they are actively discriminated against in so many areas of their daily lives. - Hon. Kaye Darveniza (Melbourne West) Legislative Council 30 October 2001 (Labor Party)

Recognising Children's Legal Connections

Of particular importance to the rights of children, the amendments also recognise that there may be a legal relationship between the child of one of the partners to a domestic relationship and the other adult in the domestic relationship. Whether this is so depends on the facts of each case but the law entrenches the principle that:

“... children can be cared for in material and emotional ways by a parent who is gay or lesbian and the parent's partner. Many children spend time living with that parent and partner after the break-up of the heterosexual relationship in which they were conceived.”⁹

In some circumstances the benefits to children directly concern financial entitlements. For example, the *Accident Compensation Act 1985* (Vic.) has been amended to ensure that a child of an injured person's domestic partner, is entitled to compensation. Similar extensions of benefit have been introduced into State superannuation schemes by amendment of, for example, the *Emergency Services Superannuation Act 1986* (Vic.) and the *Transport Superannuation Act 1988* (Vic.).

Another category of financial benefit is indirectly advantageous to children. For example, domestic partners who separate after a domestic relationship of at least two years will be able to use the simpler and usually cheaper statutory scheme for property division contained in the *Property Law Act 1958* (Vic.) thereby preserving more of the family's economic resources for distribution after relationship breakdown. The two year requirement need not be met where there is a child of the domestic partners but the meaning of “child” is narrowly defined in the following way by section 275:

“**child**” in relation to domestic partners means—

- (a) a child born as a result of sexual relations between the partners; or
- (b) a child of one of the partners of

whom the other partner is presumed to be the father under Part 2 of the **Status of Children Act 1974**; or
(c) a child adopted by the partners.

The Court also has a discretion to make an order if failure to make the order would result in serious injustice to the domestic partner who applied for the order and that partner has made substantial contributions for which the partner would otherwise not be adequately compensated if the order were not made. It also has a discretion where the applicant for an order has the care and control of a child of the other domestic partner.¹⁰

Changes to the *Administration and Probate Act 1958* (Vic.) will for the first time entitle an unmarried partner to a share of the residuary estate (i.e the net funds after other costs and liabilities are paid out) where the deceased did not leave a will. Previously, such entitlement was limited only to the deceased's husband or wife and did not cover a *de facto*. To be eligible, the left behind partner must have lived continuously with the deceased for at least two years or must be the parent of the deceased's child. “Parent” is defined as “includ[ing] a person who has day to day care and control of the child and with whom the child is ordinarily resident”.¹¹

Where the deceased leaves both a spouse and an eligible domestic partner, section 51A of the Act sets out a scheme to apportion between them the residuary estate.

Other amendments benefit children through improved protection of the rights of their parent and her or his non-heterosexual partner. Discrimination on the grounds of “marital status” is prohibited under Victorian law. As a result of the recent changes, “marital status” now includes being a “domestic partner” for the purposes of the *Equal Opportunity Act 1995* (Vic.). The definition of “relative” also now extends to include a child or grandchild of the domestic partner and also the child of certain family members of the partner.¹²

This means for example, that a child with a parent in a same-sex domestic relationship can utilise the

Act to complain that he or she is receiving less favourable treatment because of his or her parent's relationship.

Two Acts were deliberately excluded from the recent law reform: the *Adoption Act* 1984 (Vic.) and the *Infertility Treatment Act* 1995 (Vic.).¹³ The Victorian Government has committed to referring the two Acts to the Victorian Law Reform Commission but no timeline is apparent. Adoption has not surfaced as a pressing equality concern but the question of access to reproductive technologies is generating political and media heat.

Assisted Reproduction

IVF, semen screening and donor insemination were originally restricted to legally married couples but the *Infertility Treatment Act* 1995 (Vic.) was amended in 1997 to permit access by *de facto* couples after the Human Rights and Equal Opportunity Commission ruled the original limitation to be discriminatory.¹⁴

Single women and lesbian couples remain excluded by the words of the legislation. Last year, the exclusion of such women who are "clinically infertile" was held by Justice Sundberg of Federal Court of Australia to be inconsistent with the Commonwealth *Sex Discrimination Act* 1984 (Cth) and therefore constitutionally invalid.¹⁵

The correctness of the *McBain* decision has been brought before the High Court and that appeal has not yet been determined. If it is successful, the exclusionary provisions of the *Infertility Treatment Act* 1995 (Vic.) would be legally restored.¹⁶

Victoria's Infertility Treatment Authority was recently poised to expand the definition of "clinical infertility" to include prospective recipients who are "psychologically infertile" because they are unable to have intercourse. The criterion has its origins from the perceived need to provide services to heterosexual women who are averse to penetration due to past experience but its reach is claimed to include all Victorian women who meet the criterion.

The application of the new category to lesbians attracted particular controversy. The Victorian Premier portrayed the Authority's plan as an unwelcome but unavoidable imposition because they were based on the *McBain* decision and the Leader of the State Liberal Party immediately floated the idea of Parliamentary steps to override any such Authority guidelines.¹⁷ The Authority's choice of label and the mooted expectation that women will have to satisfy a psychiatric assessment also came under fire for offensively pathologising same-sex attracted women.¹⁸

For our part, the Australian Section of Defence for Children International, urged an informed focus on the rights of the child rather than the marital status or sexual orientation of the applicant. The new President for 2001 – 2002, Dr Judy Cashmore cautioned:

"Contrary to those who speak about children's "right" to a father, the Convention is concerned with children's right to a family environment and their rights to nurturance and to identity and knowledge about their background. Nor does the research literature support a claim that the marital status or sexual orientation of would-be parents predicts the happy and healthy development of children conceived by assisted methods.

Everyone has a responsibility to not send derogatory and damaging messages to the children who are now or in the past have been nurtured in single parent or same sex families. Community discussion must be informed by proper understanding of the full gamut of children's rights contained in the Convention, not prejudiced assumptions."¹⁹

The Authority's proposal soon drowned and it is hoped that when the Victorian Law Reform Commission does come to consider the *Adoption Act* 1984 (Vic.) and the *Infertility Treatment Act* 1995 (Vic.), its terms of reference will expressly include consideration of Convention rights.

Conclusion

Children have the right to expect that their families are treated with equality without discrimination, and the new Victorian amendments represent a quantum leap in conferring common legal entitlements. But the recent brouhaha over access to assisted reproductive technologies reminds us that debate too readily drifts into prejudice cloaked by the spin of “children’s rights”.

Where federal law is concerned,²⁰ children whose parents do not have an opposite sex partner remain “poor cousins” of their counterparts in married or *de facto* relationships. Following the re-election of the Coalition, it is highly unlikely that we will see an equivalent proposal to remodel relationship recognition on the Commonwealth horizon. Contrary to the expectations of the Convention, children’s rights will continue to be dependent upon their family conforming to a narrow heterosexist form wherein children of a marriage are given a privileged status.

Footnotes

1. Professor Rebecca Bailey-Harris cited by Judge Kgomo in the South African case of *Du Toit and De Vos v The Minister of Welfare and Population Development & Others* at www.suntimes.co.za/business/legal/2001/09/30/carmel01.asp
2. *Statute Law Amendment (Relationships) Act 2001* (Vic.) and the *Statute Law Further Amendment (Relationships) Act 2001* (Vic.)
3. The bills were opposed by the National Party and Legislative Assembly Independents Russell Savage and Craig Ingram. Liberal MP Robert Clark crossed the floor to oppose the first bill and did not vote on the second bill.
4. See the newly amended Section 275 of the *Property Law Act 1958* (Vic.)
5. The legal position of transsexuals under Australian law has recently been reconsidered by Justice Richard Chisholm in the first instance decision of *Re Kevin* (validity of marriage of transsexual) [2001] FamCA 1074 available at http://www.familycourt.gov.au/judge/2001/html/rekevin_text.html. It is not yet known whether the Commonwealth Attorney-General will appeal the decision.
6. See the survey within R Graycar and J Millbank (2000) ‘The Bride Work Pink...To the *Property (Relationships) Legislation Amendment Act 1999*: Relationships Law Reform in New South Wales’ Vol 17 No 1 *Canadian Journal of Family Law* 227.
7. The broader definition draws upon pioneering legislation in the A.C.T., discussed in J Millbank (2000) ‘Domestic Rifts: Who is using the Domestic Relationships Act 1994 (ACT)?’ Vol 14 No 3 *Australian Journal of Family Law* 163. On the Victorian reforms, a feature of the the broader definition not found in the basic definition is that the parties must be “adult”, a limitation that could give rise to difficulties.
8. These factors have their origins in the judgment of Justice Powell in *D v McA* (1986) 11 Fam LR 214 (Supreme Court of NSW), a case about an opposite sex unmarried relationship. They also form the basis of Section (4)(2) of the *Property (Relationships) Act 1984* (NSW) which was introduced in 1999 when other than opposite sex relationships became recognised under the Act. In respect of the Victorian reforms, the factors were originally contained only in the second reading speech that accompanied

the Bill’s introduction in the Legislative Assembly. Second reading speeches can be relied upon for interpreting an Act. An amendment moved by Susan Davies MP incorporated the factors into the resulting Act by amending section 275(2) of the *Property Law Act 1984* (Vic.). All Acts referring to “domestic relationships” direct the reader to the factors set out in Section 275(2).

9. M Stewart (2001) ‘But wait – there’s more love made legal’ No. 15 Victorian Gay and Lesbian Rights Lobby (VGLRL) News’: www.vicnet.net.au/~vglrl

10. Section 281 *Property Law Act 1958* (Vic.)

11. Section 3(1) of the *Administration and Probate Act 1958* (Vic.)

12. Section 4 of the *Equal Opportunity Act 1995* (Vic.).

13. In contrast, adoption and fertility service access are not excluded from the Western Australian Government’s Acts Amendment (Lesbian and Gay Law Reform) Bill 2001 - second read in the Legislative Assembly on 14 November 2001: available at www.parliament.wa.gov.au/parliament/bills

14. *MW, DD, TA and AB v Royal Women’s Hospital* (1997) EOC 92-886. As a result of the *Infertility Treatment (Amendment) Act 1997* (Vic.), the definition of “wife” means “in relation to a man who is living with a woman in a *de facto* relationship, means the woman with whom he is living in that *de facto* relationship” (and vice versa for “husband”), wherein *de facto* is used in the traditional sense.

15. *McBain v State of Victoria* (2000) 99 FCR 116.

16. The transcript of argument before the High Court is at www.austlii.edu.au/au/other/hca/transcripts indexed as *Ausn Catholic Bishops Conference & Anor; Ex parte – Re Justice Sundberg* C22/2000. It is currently not known whether the Coalition federal government will persist with the *Sex Discrimination (Amendment) Act 2000* (Cth) discussed in D. Otto (2000) ‘Wrongly counter-posing women’s and children’s rights: the debate over limiting access to reproductive technologies’ No. 27 *Australian Children’s Rights News*, 25.

17. G. Kosta and M. Ketchell ‘Door opens to baby help for lesbians’ *The Age* (newspaper) 15 November 2001 sourced from www.theage.com.au/news/state/2001/11/15/FFXG2J5ZZTC.html

18. J. Tomlins ‘Psychologically infertile? No, I’m simply gay’ *The Age* (newspaper) 17 November 2001 sourced from www.theage.com.au/news/state/2001/11/17/FFXOYR1U2UC.html

19. Unpublished letter to the editor.

20. The *Family Law Act 1975* (Cth) is a notable exception: see D. Sandor (1997) ‘Same Sex Couples Can Adopt in Ontario: The Canadian Case of *Re K* and its Significance to Australian Family Law’ Vol 11 No. 1 *Australian Journal of Family Law* 23.

Postcard from South Africa - Professor Julia Sloth-Nielsen writes

Section 9 of the Constitution expressly prohibits discrimination on the grounds of sexual orientation and marital status, amongst other grounds. In September, the High Court in Pretoria ruled that provisions of the Child Care Act, No 74 of 1983 were in violation of section 9, because a lesbian couple were not permitted to jointly adopt a child. The provisions permitted only married couples or single persons to adopt, which meant that only one of the adoptive parents - herself a judge of the High Court - enjoyed a legal relationship with the children. Amongst the arguments was the security of the two boys should the adoptive parent die – see *Du Toit and De Vos v The Minister of Welfare and Population Development & Others* at www.suntimes.co.za/business/legal/2001/09/30/carmel01.asp

A Wider Meaning of “Parent” under the Victorian Children and Young Persons Act

Her Honour Judge Jennifer Coate is President of the Children’s Court of Victoria. In this article written especially for *Australian Children’s Rights News*, she reflects upon how recent relationships law reform will affect families in her court.

I am pleased to write this short piece explaining why I welcome the amended definition of “parent” in the *Children and Young Persons Act 1989* (Vic.) (the CYPA) that has been introduced by the *Statute Law Further Amendment (Relationships) Act 2001* (Vic.).

The CYPA regulates the intervention of state authority into the lives of children in their families. That intervention is triggered by either significant concerns about the safety and best interests of a child or charges that a child has broken the criminal law. In both sets of circumstances, the CYPA sets out a legal framework which must be applied by workers such as child protection and juvenile justice staff in their dealings with children and their families. It also guides the Children’s Court of Victoria when it determines protective and criminal allegations, and where the cases are made out, what order should be made in respect of the child.

Not surprisingly, the CYPA makes frequent reference to “parents” and previously defined the term as follows:

- “parent”, in relation to a child, includes—
- (a) the father and mother of the child; and
 - (b) the spouse of the father or mother of the child; and
 - (c) a person who is living with the father or mother of the child as if she were his wife or he were her husband (as the case requires) although not married to him or her; and
 - (d) a person who has custody of the child; and
 - (e) a person whose name is entered as the father of the child in the register of births in the Register maintained by the Registrar of

Births, Deaths and Marriages under Part 7 of the *Births, Deaths and Marriages Registration Act 1996*; and

(f) a person who acknowledges that he is the father of the child by an instrument of the kind described in section 8(2) of the *Status of Children Act 1974*; and

(g) a person in respect of whom a court has made a declaration of, or a finding or order regarding, the paternity of the child;”

As a result of the amending Act, paragraph (c) now reads “the domestic partner of the father or mother of the child”. The meaning of “domestic partner” is the basic definition discussed in Danny Sandor’s article in this newsletter, and whether or not a person is a “domestic partner” is to be determined by having regard to the matters contained in section 275(2) of the *Property Law Act 1958* (Vic.).

So how will the broadened definition advance children’s best interests?

The new definition is a sign of respect for the reality of some children’s lives - that there are children who are cared for within family units which comprise a father or mother in a non-heterosexual relationship. That is of more than abstract importance. I would hope that it helps us make better decisions about children by encouraging family members to be more candid about their relationships and their circumstances. For this to occur, appropriate sensitivity needs to be shown by all people in the system who are involved in such cases.

The practical legal effect of the new definition extends certain obligations to the parent’s domestic partner. For example, section 261 of the CYPA establishes an offence of intentionally causing harm or failing to protect a child from harm. It applies to persons with a duty of care towards a child and the law clearly recognises that a parent has such a duty.

The procedural rights of domestic partners under the Act are also enhanced by the more inclusive definition of “parent”. Some illustrations can be seen in:

- The Court's obligation to take steps to ensure (with interpreter assistance if necessary) that the proceedings are comprehensible to the child's parents and allowing parents to participate fully in the proceeding;
- The requirement that the Court is respectful of the cultural identity of the child's parents;
- The Court's obligation to explain the orders that it makes to parents;
- The duty upon probation officers to consult and co-operate with parents when directed by the court to visit and supervise a child and in making any inquiries, to cause as little prejudice as possible to the reputations of the child concerned and of his or her parents;
- The duty of child protection investigators to inform the child's parents that any information they give may be used for the purposes of a protection application;
- The presumed entitlement of a parent to know where a child has been placed by protective interveners;
- The right of a parent to receive a copy of reports and to call a report writer for cross-examination;
- The standing of a parent to apply to the Victorian Civil and Administrative Tribunal for a review of certain administrative decisions concerning the child
- The capacity of a parent to enter into an undertaking on behalf of the child under the Bail Act 1977 (Vic.).

In conclusion, there is no downside to the CYP A amendments and it is a credit to the Victorian Parliament that the bill appears to have progressed fairly smoothly to enactment. Now it falls to all the various organisations concerned with children, including the Children's Court, to incorporate these important changes into their programs, practices and training.

The South African Law Commission recently released an Issue Paper on domestic partnerships, a clear prelude to law reform in this area. The Issue Paper includes attention to relationships of the indigenous culture and can be accessed at:
wwwserver.law.wits.ac.za/salc/issue/issue.html

Youth Representative in Australia's Delegation to the United Nations General Assembly

EXPRESSION OF INTEREST

Closing Date: 20th December 2001

The United Nations Youth Association is pleased to announce the opening of Expressions of Interest for the position of Youth Representative in Australia's Delegation to the United Nations General Assembly 2002. Each year, a young Australian is chosen to be the Youth Representative in Australia's delegation to the United Nations General Assembly. The Youth Representative spends approximately 8 weeks as a fully accredited member of the Australian Delegation to the United Nations General Assembly in New York.

The Youth Representative is fully briefed by the Australian Department of Foreign Affairs with regard to Australia's policy concerns and stances and will be representing Australian concerns to the General Assembly. However the Youth Representative is not only an Australian representative but also acts as a consultant on youth opinion, providing a youth perspective within the Australian delegation and the General Assembly.

In addition to performing a consultative role, the Youth Representative must undertake a number of tasks while at the General Assembly, including preparing and delivering a statement on behalf of Australia on the biennial youth resolution. Other aspects of the role include increasing the priority placed on youth issues by United Nations member States, assisting the Australian Mission in a variety of ambassadorial and administrative tasks, building strong relations with the Youth Representatives from other nations and encouraging other countries to include Youth Representatives in their delegations.

The Expression of Interest form is available in an online format at <http://www.unya.asn.au/>

Youth Participation - It's Worth the Effort!

Alex Markham is Communications Officer for the Youth Affairs Council of Victoria. The State's peak youth body takes the involvement of young people in decision-making very seriously and her article explains why.

Get the Right on Board

Youth participation is in. Young people and youth workers have known about it for years and it seems that the rest of the world is finally starting to catch on to a right that is enshrined in Article 12 of the Convention on the Rights of the Child.

Although there's an abundance of literature available, what it lacks is a clear understanding of what youth participation really is.

Putting in a skate park for young people and running a couple of community consultations on the height of the ramp doesn't make the grade. Real participation ideally means that young people identify the need and preferred location of the skate park, initiate its construction, are involved in all aspects of its design, and are provided with adequate support to do so.

Too often youth participation is used to add a bit of warmth and fuzziness to an organisation or government's PR spin. This kind of youth participation has been dubbed by some as the "showcase model" of youth participation or "icing without the cake":

"Icing is great, but on its own it is sticky, difficult to manage and becomes sickly sweet after a few mouthfuls. It's the cake that makes it!"¹.

YACVic's Approach

Youth participation is not a solid, concrete "thing" but rather a process which the Youth Affairs Council of Victoria (YACVic) is committed to employing in all aspects of our work.

It's not enough to chuck a random group of young people together, talk about "youth issues" and then send them off home again. More often than not, sessions like these turn into a whingefest and don't actually achieve anything in terms of skills development or meaningful input into decision making processes.

It's good to ask the question "participation in what?" – in a forum, a conference, the structure and decision making processes of an organisation, in school, employment, the government or society in general? The spectrum of youth participation ranges from organisations or events run by young people for young people, to collaboration between young people and workers with young people, to the involvement of young people in structures set up by adults. Each model is suitable in different situations and all have varying degrees of success or failure.

As a peak body YACVic's main functions are to make representations to government and serve as an advocate for the interests of young people, workers with young people and organisations that provide direct services to young people.

Whilst each of these constituent groups have competing needs and interests, involving young people in YACVic is and clearly should be a priority for us. We firmly believe that young people have the right to express an opinion and should be provided with opportunities to participate in major policy decisions affecting their lives. When tackling the concept of youth participation it's easy to ask questions like "isn't it harder to involve young people in decision making processes?"; "doesn't it take more time, resources, money?" or "how do we really involve young people without being tokenistic?".

These are some of the questions that face organisations such as YACVic that advocate with and for young people but are not necessarily run

solely by young people. Providing a space for young people in the workings of a peak body, an organisation which might appear to be fairly removed from day to day lives of young people in general, may seem a formidable task.

YACVic's Structure and Principles

Our recent constitutional restructure acknowledged this and sought to formalise the participation of young people within the organisation. This formalised approach is enhanced by the ongoing development of our youth participation and consultation guidelines which aim to consolidate direct links between YACVic and young people and to encourage greater participation of young people in the development and implementation of policy and program initiatives.

Our approach to involving young people in YACVic draws upon the following principles:

- **Participation:** That young people are involved in every aspect of the organisation.
- **Resources:** That resources and support mechanisms be in place to enable meaningful participation and skills development.
- **Collaboration:** That as a membership based organisation, we work with and draw from young people engaged in member organisations and other Victorian youth based organisations or networks.
- **Diversity:** That young people are not a homogenous group. Young people have different experiences, ideas and needs and as such a variety of avenues for participation must be made available.

The new structure constitutes our Youth Reference Group (which has been in operation since 1997) as a formal advisory body of YACVic with the same stature, importance and responsibilities of our Policy Advisory Group. The Youth Reference Group is a practical demonstration of YACVic's commitment to the participation of young people in the structures, processes, debates and environments which shape their lives. It provides the YACVic Board with advice on policy issues and feedback on how to involve young people in

the organisation. In turn, YACVic provides Youth Reference Group members with training and skills development.

Importantly, an exemption under the Equal Opportunity Act 1995 (Vic.) granted by the Victorian Civil and Administrative Tribunal has allowed for membership of the Youth Reference Group to be restricted to people 12-25 (inclusive) years of age.

Young people are by no means relegated solely to this group within YACVic. One of the principles of participation that we employ is to ensure that young people's involvement in YACVic is not confined to a single forum or process and that there are multiple avenues available for young people to become involved in the organisation.

For example YACVic has a Young Media Spokesperson who is our main media contact and a member of the Board of Governance. Of the seven positions on the YACVic Board or Governance there are currently five people under the age of thirty including two high school students. Young people are always involved in YACVic forums and events and regularly contribute to our newsletter.

We recently called for nominations to the newly structured Youth Reference Group and were overwhelmed by the response. The call for nominations went out primarily to our members but was also advertised in youth based publications and email lists and via school and local government networks. The Group is still in its infancy but the enthusiasm of its members is quite impressive.

It's not necessarily easy to embrace meaningful youth participation. It's a matter of providing adequate resources and support to enable a space for young people to truly take control of their own lives. YACVic along with many other organisations across Australia has taken steps towards this achieving this but we have to remember that participation is a process not a one off event.

Here are some of the many resources that are available. Check out the YACVic website for more – go to www.yacvic.org.au. For more information about how YACVic goes about involving young people in a meaningful way, email me at amarkham@yacvic.org.au

Footnotes

1. Anne Deslandes 'Taking the cake – the showcase model of youth participation' *Rights Now* September 2001, p. 14 referring to comments by Sarah Macdonald, Executive Officer of the Youth Affairs Council of South Australia.

Resources

➤ Taking Participation Seriously - NSW Commission For Children And Young People (2001)

This is a practical guide in helping children and young people take part in decision-making. This guide is divided into three separate booklets that give ideas on effective participation. "Sharing the Stage", "Conferences and Events" and "Why and How Participation is Important".

➤ Promoting Children's Participation in Democratic Decision-Making - Gerison Lansdown for UNICEF (2001)

This publication offers information on how to involve children and young people in conferences. It also includes an overview of Article 12 of the UN Convention on the Rights of The Child. For more info see: www.unicef-icdc.org/publications/pdf/insight6.pdf

➤ Youth Partnership and Participation - Foundation for Young Australians (1998)

This kit looks at the different reasons to be involved in youth participation and provides a broad list of principles as a basis for youth participation. For more info see: www.youngaustralians.org.au

➤ Youth Participation Handbook: A Guide for organisations seeking to involve young people on boards and committees - Government of South Australia, Office of Employment and Youth (2000) The handbook deals with the issues of effective involvement of young people on governance structures, focusing on boards and committees,

youth advisory groups, looking at the different aspects that the boards and committees need to establish in ways that will maximise having young people on the board and/or committee. It also gives information and reasons as to why to involve young people in decision making, different ways to involve young people, ways to go through selection, recruitment and support and a basic summarisation of the key steps. For more info see: www.maze.sa.gov.au/maze

Getting Rights Down to a T

If you're between the ages of 13 and 24, Reach Out! and General Pants Co. want to know what inspires you! Paint it, draw it, photograph it, or design it, and the top 50 entries will be up for show (and up for sale!), at an exhibition to be held in Sydney in April 2002. Why not think up a children's rights image?!

Out of the top 50, a panel of judges will select 5 artworks to be printed onto T-shirts and sold throughout General Pants stores ... so your buddies, your next-door neighbour or anyone else can wear your inspiration. For every T-shirt sold with your artwork on it, you'll receive a portion of the proceeds, and the rest will go to Reach Out! - a service that uses the internet to help young people get through tough times. Entries close 1 February 2002...so get funky, get original, get inspired and get started!

For guidelines, more prize info and entry forms, check out the Reach Out Web site at <http://www.reachout.com.au/> Contact Name: Linda Iacopetta; Contact E-mail: linda@inspire.org.au; Contact Phone: 02 9818 3055

Child Soldiers



SEXUAL VIOLENCE AGAINST CHILD SOLDIERS: A DOUBLE EXPLOITATION

The Coalition to Stop the Use of Child Soldiers submitted this briefing for the regional preparatory process of the Second World Congress on Commercial Sexual Exploitation of Children held in December 2001 at Yokohama.

Children under the age of 18 who serve in armed forces and armed groups around the world are vulnerable to serious physical and psychological violence; for some child soldiers the dangers faced include sexual violence. Like some of the other forms of violence child soldiers face, sexual violence is foremost a product of their vulnerability in the context of unequal power relations that exist within military hierarchies, that indeed comprise the very structure of military life.

Children, and particularly new recruits, find themselves at the bottom rung of this hierarchy, while sometimes also within the chaos of conflict situations in which perpetrators systematise their abuse.

The consequences of sexual violence can include serious psychological trauma, social ostracisation and reintegration difficulties, unwanted pregnancy, forced abortions or serious birthing complications, and physical damage inflicted during sexual assault – including contracting sexually transmitted diseases such as HIV/AIDS.

Because child soldiers serve within militaries where their complete co-operation and obedience is demanded, and where sometimes their very lives depend on such obedience, sexual violence becomes sexual abuse or *exploitation*. In the third report on the implementation of the agenda for action adopted at the 1996 World Congress

I didn't shout out because he is a sergeant and a higher rank. You don't disrespect your boss. – a 17 year old British army recruit raped by her instructor in 1997.

In Sudan we were distributed to men and I was given a man who had just killed his woman... I was not given a gun, but I helped in the abductions and grabbing of food from villagers. Girls who refused to become LRA wives were killed in front of us as a warning to the rest of us. – Concy Abanya, a 14-year-old girl abducted in Kitgum by the LRA and taken to Sudan.

Against the Commercial Sexual Exploitation of Children, ECPAT International explained how in some extreme situations

“Girls and boys are forced to provide sexual services for the adults or older children in the military units as well as carry weapons, wash clothes and cook... **While money is not a part of this transaction, the children are expected to perform sexual and other services in return for protection and staying alive. This is commercial sexual abuse**” (ECPAT 1999:11, emphasis added).

Sexual exploitation in militaries is most commonly recognised and extensively reported as affecting young girls who have been abducted by armed forces or groups, often specifically for use as sexual servants, in countries facing conflict.

But evidence increasingly reveals that these are not the only targets for sexual exploitation in militaries; young recruits who are conscripted or who volunteer – sometimes under extreme duress or due to a perceived lack of alternatives – also may face sexual exploitation.

Additionally, evidence of sexual violence against young boys in armed forces and groups is also emerging, while boys are sometimes also forced to witness or help others commit sexual violence – at times against members of their own communities. And tragically, sexual violence against young recruits is known to occur not only in conflict areas but in post-conflict and peaceful regions as well, and among government and nongovernment forces alike.

Extensive studies of the use of child soldiers around the world reveal cases – and sometimes long-standing patterns – of child sexual exploitation in every region, and including government forces of western countries that have previously tended to be overlooked in this issue (Coalition to Stop the Use of Child Soldiers, Global Report, June 2001).

In some militaries sexual violence against children is systematic and long-term, affecting many recruits, often repeatedly; in others it seems to be rare and does not tend to be perpetrated against the same victim more than once.

In the more traditionally understood form of commercial sexual exploitation, reports have emerged of the presence of peacekeeping forces driving down the age of local prostitutes to as young as 12 or 13 years old in war-torn societies they were sent to protect.

These patterns have received surprisingly little attention thus far, and little concerted action to prevent and respond to the trauma these children face. Part of the difficulty lay in the taboo nature of the subject in many communities of those affected, which prevent victims from seeking help. But it also lay more generally in the lack of awareness regarding child soldiers' vulnerability to sexual exploitation, the extent and severity of the problem.

This is particularly problematic for disarmament, demobilisation and reintegration programmes, which need greater knowledge as to how to identify and best help those affected, and the infrastructure and resources to provide that aid.

The Coalition to Stop the Use of Child Soldiers implores the international community to address the plight of child soldiers affected by this double exploitation, by taking the following actions:

- Governments should ratify the Optional Protocol on the involvement of children in armed conflict as well as the Rome Statute of the International Criminal Court, which criminalise child recruitment and sexual crimes
- Promote and monitor standards of conduct within both government and nongovernment forces to prevent and respond to sexual violence
- Ensure that perpetrators are held responsible for sexual violence, not only that committed against perceived enemy groups, but also against their own 'members'
- Develop holistic disarmament, demobilisation and reintegration (DDR) programmes that integrally incorporate the needs of sexually exploited child soldiers; this includes:
 - Ensuring that the disarmament and demobilisation of children does not overlook females – whether abductees, volunteers, or conscripts – who have been 'given' to military personnel under the euphemism of 'wife' or 'girlfriend', or who are unable to exchange arms in return for inclusion in DDR programmes
 - Developing greater expertise and more effective infrastructure for identifying sexually exploited child soldiers – including boys – and responding to their psychological and medical needs in rehabilitation programmes
 - Helping to reintegrate victims of sexual exploitation back into their communities by educating their communities, dispelling taboos which could lead to victims being ostracised, and enabling communities to help victims

For further information, e-mail: info@child-soldiers.org or visit the Coalition's Website : www.child-soldiers.org

Watch List on Children and Armed Conflict

The goal of the Watch List on Children and Armed Conflict is to improve protection for the rights of children in specific situations of armed conflict. The Project's first published report concerns Afghanistan.



The project responds to the need for better monitoring, reporting, and follow-up action before, during, and after armed conflict. This has been identified as a priority action in every major report on the subject since the 1996 Graca Machel study on the *Impact of Armed Conflict on Children*. All of them recognize the essential role of civil society organizations in an effective monitoring and reporting system. These include:

- Security Council Resolutions 1261 and 1314;
- Secretary General's Report to the Security Council on Implementation of Resolution 1261 on Children and Armed conflict, (July, 2000)
- Agenda for Action adopted by 138 governments at the First International Conference for War-affected Children;
- Experts Action Plan produced by all delegates at the same conference; and
- Machel Review 1996-2000.

Watch List reports will provide information compiled by networks of child advocacy groups. Some of these have been formed to focus on specific themes, such as small arms, landmines, education, and child soldiers. Specific data on children, combined with a strategic analysis of the context, will form the basis for practical recommendations for action by various parties, in the context of existing international laws. The Watch List hopes to link local community groups involved in child protection with international networks to provide consistent and persistent

follow-up on actions taken to protect the rights of children. Youth and youth organizations will also be included in the monitoring and advocacy activities.

The Watch List will operate within the framework of universal human rights principles, especially the Convention of the Rights of the Child, and other international agreements that should help to prevent the involvement of children in armed conflict.

Participants in the Watch List plan to form an international steering committee and a leadership group for each situation being monitored. While reports will be submitted to the relevant international agencies, the information will also be widely shared through the Child Rights Information Network. Participants hope that improved mechanisms for reporting will encourage local child protection networks and lead to long-term improvements in the implementation of the Convention on the Rights of the Child.

For further information contact:

Women's Commission for Refugee Women and Children
122 East 42nd Street - 12th Floor,
New York NY 10168 - 1289 USA
Tel: + 1 212 551 3111; Fax: + 1 212 551 3180;
Email: Allison@theIRC.org
Website: www.womenscommission.org

The Paraguay Coalition to Stop the Use of Child Soldiers has begun an Internet campaign to promote ratification of the Optional Protocol. You can help by visiting the following site and spreading the word: www.amnistia.org.py/ratificacion.htm

Child Soldiers Coalition Recommendations

The Coalition to Stop the Use of Child Soldiers has monitored patterns of child recruitment in Afghanistan and Pakistan and warns that there may be unprecedented levels of child recruitment and mobilisation. It is also concerned about under-18 year olds recruited into western military forces including United States and British militaries, both of which regularly deploy under-18s. These are the October 2001 recommendations made by the Coalition:

To the UN Security Council

- integrate specific measures for child protection into its political actions on Afghanistan, including by incorporating action to stop child recruitment;
- Task the UN Special Mission on Afghanistan with monitoring the recruitment of children and deploy child protection advisers with any future UN peacekeeping or humanitarian operations;

To all governments

- End all political, financial and material support, including by private networks and institutions, to armed forces and armed groups that recruit and use children for military purposes;
- Sign and ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;
- Ensure there is no deployment of under-18s with military forces involved in response to the current crisis;
- Take all feasible measures to

prevent the recruitment of children by armed groups within domestic jurisdiction, making such recruitment a criminal offence;

- Support donor action in Pakistan to regulate the madrasa system and bolster education and employment opportunities, particularly for vulnerable children in refugee diaspora and tribal areas;
- Convene the foreshadowed OIC Ministerial Conference on Child and Social Affairs to develop a comprehensive plan of action for child protection in the current crisis;
- Grant refugee status to children under 18 fleeing persecution in Afghanistan including possible military recruitment;

To the Government of Pakistan

- publicly denounce the use of children as soldiers or operatives by all armed forces and armed groups;
- sign and ratify the Optional Protocol without reservations and take effective steps to criminalise underage recruitment by non-state actors and prosecute those responsible;
- deploy police to monitor *madrasas* during the current situation, particularly any signs of closure and movement of students;
- introduce comprehensive legal standards for *madrasa* schools including public registration by age of all students and strict prohibition on all military training and recruitment;
- grant refugee status and protection to children under 18 fleeing persecution in Afghanistan, including military recruitment;

- restrict the movement of children under 18 out of Pakistan unless accompanied by their guardians and for an verifiable civilian purpose.

To see the full report, go to:
www.child-soldiers.org

Ban on Child Soldiers to Enter into Force

The Australian Coalition to Stop the Use of Child Soldiers welcomes the news that a treaty banning the use of children in armed conflict will come into effect early in 2002.



Currently there are at least 300,000 children actively engaged in armed conflict in more than 40 countries around the world,

including Afghanistan and Uganda.

The treaty, the Optional Protocol to the UN Convention on the Rights of the Child on the involvement of children in armed conflict, prohibits both the participation of children under the age of 18 in hostilities, and their forced recruitment. It also calls on states to raise the minimum age for voluntary recruitment above 15 years.

New Zealand became the tenth nation to ratify the Optional Protocol on 12 November. In accordance with the provisions of the treaty, it will become binding under international law on 12 February 2002. Other governments that have ratified the Protocol to date are Andorra, Bangladesh, Canada, the Democratic Republic of Congo, Holy See, Iceland, Panama, Romania and Sri Lanka.

Australian Coalition to Stop the Use of Child Soldiers spokesperson, Alison Wells, said another 77 countries have now signed the Protocol, but not yet ratified it. However, Australia has not yet signed the treaty and joined the growing international consensus on this important issue.

“We’re urging the Australian Government to sign the Optional Protocol at the earliest date and play its part in ensuring this treaty achieves universal support and is implemented as quickly as possible,” Ms Wells said.

The Coalition urges the Government to set 18 as the minimum age for voluntary recruitment to and deployment with the Australian Defence Force when it signs the Protocol. This will enhance Australia’s role in promoting age 18 as the consistent age in all international law provisions relating to children.

“This treaty is an important step forward for the international community in ensuring an end to the use of children as soldiers, and deserves Australia’s full support,” Ms. Wells said.

Source: Australian Coalition To Stop The Use Of Child Soldiers Press Release 19 November 2001.

DCI-A is a partner in the Coalition along with: Amnesty International, Medical Association for the Prevention of War, Mercy Refugee Services, National Council of Churches Australia, PLAN International, Quaker Service Australia, Save the Children Australia, UNICEF Australia, United Nations Youth Association Australia, Uniting Church in Australia (Vic), Women’s International League for Peace and Freedom, World Vision Australia. Red Cross Australia has observer status.

Dozens of primary school students were abducted from Burundian schools in November to serve as soldiers for the Forces for the Defense of Democracy in their war against the Government. Human Rights Watch called on the former President of South Africa and a mediator in the Burundian civil war to make a plea for their release.

Pleas for the Children in Afghanistan and Iraq

In a letter to the Prime Minister, John Howard, the President of the Medical Association for Prevention of War (Australia), Dr Susan Wareham, has urged for a halt to the bombing in Afghanistan to allow aid convoys to reach starving people. The call coincides with a World Health Organisation Health Status Update on Afghanistan, issued on October 26 2001, which reports of a probable outbreak of falciparum malaria, one of the most dangerous forms of the mosquito-born disease.

Possible outbreaks of malaria in Nangrahar Province near Jalalabad are now being investigated by the NGO Healthnet International. During September 2001, 269 children were hospitalised in the paediatric ward of Jalalabad Public Health Hospital - more than half with severe conditions, including cerebral malaria. No deaths have been officially reported to date.

Rural medical centres are becoming overburdened, due to population movements away from urban areas. There has been a 60% increase in cases treated in rural areas near Jalalabad over the past two weeks. Health supplies are urgently required for maternal and child care centres in Kabul.

For more information, e-mail: padeyg@who.ch and for information about UNICEF's aid for Afghanistan, call Alanna Sherry or Pam Garcia on Tel + 61 (0) 2 9261 2811, ext 204 or ext 217.

In a separate letter to the Minister for Health, Michael Wooldridge, Dr Wareham raised the issue of the health effects of the economic sanctions against Iraq which have been in place since 1990 saying:

“Evidence from UN and other sources demonstrates that the sanctions have had a devastating effect on death rates amongst children.

... The Australian government, of which you are a senior member, has expressed its absolute support for comprehensive economic sanctions against Iraq. No dissenting voices from within the government are heard publicly on this issue. International reports, available to your department, provide information of the direct effects of the sanctions, including the deaths of several thousand young children in Iraq every month since 1990.

In 1999, the Executive Director of UNICEF, Ms Carol Bellamy, referred to UNICEF field surveys in Iraq which showed that children under five were dying at more than twice the rate of ten years previously. She noted that if the substantial reduction in child mortality throughout Iraq during the 1980s had continued through the 1990s there would have been half a million fewer deaths of children under five during the period 1991-98, and said that the UNICEF findings reveal an ongoing humanitarian emergency. Ms Bellamy also stated that the UNICEF findings could not be easily dismissed as an effort by Iraq to mobilise opposition to UN sanctions. ...

Your department has an international branch concerned with Australia's membership of WHO and with the range of health and associated policy issues considered by other UN agencies such as UNICEF. As a doctor, and a minister, you have had the opportunity to generally consider the health consequences of Western policies, including the virtual destruction of what was once a very good health care system in Iraq.

The overall context includes the apparent trend towards a new international cycle of revenge, hatred and war. As we grieve for the innocent people killed in the USA on 11 September, we should be sensitive also to the suffering of all innocent people, regardless of skin colour or the region where they live.

The key purpose of this open letter to you is to ask that, in the closing phase of your political career, you publicly and explicitly dissociate yourself from the policy of comprehensive economic sanctions against the people of Iraq - noting particularly the deaths of at least half a million children as a result of the sanctions - in favour of policies which target the real criminals of this world.”

For more information, e-mail Dr Wareham: warehams@ozemail.com.au

Earlier, the World Conference on “Lifting the Sanctions Imposed Upon Iraq”, held by Christian and Muslim religious groups and NGOs in Beirut on October 7-9 2001, made the following recommendations:

- Lift the oppressive sanctions against Iraq immediately and without preconditions such as “smart sanctions” or the “oil for food and medicines deal”
- The United Nations to revise the constitution of the International Court of Justice to enable the court to investigate the persecution of states through decisions by the Security Council. In particular, this relates to those decisions issued under article seven of the UN’s charter.
- Anglo-American aggression and aerial bombardment within the no-fly zone in northern Iraq and in the south of the country end forthwith.
- Arab and international airlines to resume regularly scheduled flights to and from Baghdad without seeking the prior agreement of Committee 661.
- The conference calls for a world day of solidarity with the Iraqi people on February 13, every year in memory of the massacre in the ‘Amariyyah shelter in Iraq.
- The conference expressed its thanks to the Middle East Council of Churches for the efforts and services it has expended since 1991, including its relief and development program in Iraq. ... The conference also encourages western delegations to visit Iraq. Finally, the conference urged the General Secretariat

of the Middle East Council of Churches to create a committee to follow up on the above recommendations.

For more information, Cathy Picone: Tel + 61 (0) 8 8296 4357

e-mail: cathpete@camtech.net.au
or Jonis Davis Iggydog@aol.com

Donations to save children’s lives in Afghanistan can be made at www.unicef.org.au by clicking on the ‘donate now’ icon or by calling UNICEF Australia’s 24-hour credit card hotline 1 800 025 192.

For further information and comment contact: ACFOA: Jim Redden, Acting Executive Director or Jenny Wells, Program Coordinator Tel + 61 (0) 2 6285 1816

e-mail: acfoa@acfoa.asn.au

website: www.acfoa.asn.au

or AusAID: Fionna Douglas Tel + 61 (0) 2 6206 4960.

Source: UNITY No. 277, 2 November 2001.

According to the UNICEF, one of the most troubling and complex aspects of the spread of HIV/AIDS is its link to the widespread sexual exploitation of children. Children who are forced into the sex trade - estimated to be 1 million every year - are the most vulnerable to contracting and then spreading HIV/AIDS. UNICEF head Carol Bellamy called for more direct action aimed at challenging accepted sexual behaviours, and to protect children from the sex trade to begin with, in their lead up to the 2nd World Congress against Commercial Sexual Exploitation of Children, 17 - 20 December 2001 in Yokohama, Japan.

Child Labour

Anti-Slavery Award

The winner of the 2001 Anti-Slavery Award of Anti-Slavery International is Association for Community Development (ACD) for its outstanding work against trafficking in Bangladesh. Founder and director, Ms. Salima Sarwar, will receive the Award on behalf of the organisation. Each year thousands of women and children are trafficked from Bangladesh to India, Pakistan and the Middle East. They are forced to work in factories, as domestic workers or as prostitutes. ACD works to reintegrate former trafficked persons through counselling, education and training. The organisation also conducts local education and advocacy campaigns to raise awareness about trafficking.

Voice of Labor

Issue 12 (September 2001) of Voice of Labor is available. This email newsletter focuses on labour issues within the following contexts: the formal and informal sectors, domestic workers, internal/international migrants, fatal accidents/suicide cases, child labour/bonded labour, fish workers, trade unions and NGOs. The Child Labour issues dealt with in this issue are child soldiers in Pakistan, a study on child labour in the context of dams, child trafficking and a campaign on free education for girls. To request a copy by email, contact bedi@md3.vsnl.net.in. For further information, contact: Peace Trust (Child Rights Coordination Committee), Nr Police Housing Colony, Trichy Road, Dindigul 624 005, Tamil Nadu, India. Tel:+ 91 451 410021; Fax: + 91 451 410372; Email: bedi@md3.vsnl.net.in; Website: www.peacetrust.org.in

US Protocol aims to end Child Slavery in Cocoa Fields

On 1 October, the international cocoa and chocolate industry signed a Protocol in the United States to eliminate child slavery in the chocolate

industry. The Harkin-Engel Protocol set a four year timetable for all stages of the cocoa industry to comply with standards set by the International Labour Organization's Convention against the worst forms of child labour, No 182. It has been signed by leading members and companies of the cocoa and chocolate industry, the IPEC programme of the ILO, International Union of Food and Allied Workers, Child Labor Coalition, National Consumers League and Free the Slaves (Anti-Slavery's associate in the USA). Under the agreement advisory groups have been set up to take responsibility for the investigation of child labour practices in West Africa and to advise on appropriate remedies. The remedies set out will be monitored by a consultative group that includes trade unions and NGOs. The chocolate industry will establish a foundation to sustain the efforts to eliminate abusive child labour in the West African cocoa industry, including the development of best practices in the fight against the worst forms of child labour and development of alternatives for children removed from such situations. Anti-Slavery welcomes the introduction of the Protocol as a positive move by the chocolate industry to take responsibility for labour practices throughout its supply chain but is concerned that it might fail to address the situation of young adults (18 years and older) who may find themselves working under conditions of forced labour. Source: Anti-Slavery website news, <http://www.antislavery.org/>

At least 17.5 million children between the ages of 5 and 14 work in Latin America, many of them in high-risk areas, the International Labor Organization (ILO) said at a two-day meeting of human rights attorneys in San Jose, Costa Rica. An "alarming" number of children are still used in armed conflicts, sexual exploitation and subjected to slave-like conditions despite that more than 100 countries have signed the ILO Convention on the elimination of the worst forms

of child labor, ILO official Ribogerto Astorga said. Poverty, family violence and lack of educational alternatives are factors which contribute to child labor in the region, he said. According to ILO data, three of every four Latin American working children quit school early. ILO data also show that the total number of working children worldwide has reached 250 million, including 17.5 million in Latin America, 152.5 million in Asia and Oceania and 80 million in Africa Source: Xinhua News Agency, 16 November 2001 To view report go to: http://news.xinhuanet.com/english/2001-11/16/content_119869.htm

Convention Updates

Over 100 countries have now ratified the ILO Convention 182 on the Worst Forms of Child Labour. On the 24 September 2001, Estonia became the 100th country to ratify the Convention. On 18 October 2001, Romania ratified the Optional Protocol of the Convention on the Rights of the Child on Sale of Children, Child Prostitution and Child Pornography. The Optional Protocol is now ratified by 10 countries (Andorra, Bangladesh, Cuba, Iceland, Kazakhstan, Morocco, Norway, Panama, Romania, Sierra Leone) and in accordance with its article 14 it will enter into force on 18 January 2002. In accordance with article 12 of the Protocol, States parties shall submit within 2 years an initial report to the Committee on the Rights of the Child. Subsequent reports (2nd, 3rd, 4th periodic, etc) will be merged with regular CRC periodic reports. 78 States have signed this protocol.

The Optional Protocol of the CRC on the involvement of children in armed conflict also needs 10 ratifications to enter into force but as at 24 October, there are 85 signatories but only 6 States parties.

Child Labour Resource Centre

Recognising that dialogue, discourse and learning are the indispensable tool to reach out to people and create awareness, the Global March Against Child Labour has launched the Child Labour Resource Centre at its International Secretariat based in New Delhi, India. It is a specialised documentation and reference centre on child

labour and children's rights with the main aim of collecting and disseminating information on child labour and other child rights issues worldwide such as child development and welfare, child rights, children of war, street children, sexual abuse of children, child trafficking, child prostitution, child labour legislation, human rights, labour, legislation, slavery and organisations working on child welfare.

The collection includes articles, studies and reports, journals, organisational newsletters, newspaper clippings, official documents, books and documentaries. One of the unique features of the Resource Centre is its 'Virtual Library' through which you can access hundreds of documents on the subject online. The catalogue of resources will also be made available on their website for your reference soon. For further information please contact: Elizabeth Abraham, Resource Centre Co-ordinator, Child Labour Resource Centre, c/o Global March Against Child Labour, L-6 Kalkaji, New Delhi 110 019, India, Tel : +91 11 622 4899, 647 5481; Fax : +91 11 623 6818; Email : yatra@del2.vsnl.net.in ; Website: <http://www.globalmarch.org>

Requests for assistance

Paulina Sánchez of DCI-Argentina and the University of La Salle Guadalajara is embarking on a project seeking to provide education to street children and would appreciate information about program strategies and content that have been used elsewhere. Contact Paulina at paulecas@yahoo.com

Linzi Band is a university-qualified youth worker currently working in the Telford and Wrekin Council in England and is planning a three-month trip to Australia some time in 2002 next year. She would be very interested in meeting some youth workers to share information and discuss different approaches to youth work. If you can be of help to her, contact Linzie at brookside@youthproject.fsnet.co.uk

Brian O'Neill, a youth worker in Belfast, would be grateful for contacts in Australia to run both a cross-cultural online teenage mums project and a penpal and young youth (7-11-year-olds) online project. Brian is Development Officer with the Bytes Project, Northern Ireland, and part-time youth worker at St. Peter's Immaculata Youth Centre, Divis, Belfast. Please reply directly to Brian's email address: upperspringfield@bytes.org

Conferences

Children in the Criminal Justice System

Date: 21 January -1 February 2002

Location: London, UK

Host: RIPA International

RIPA International is an independent organization that was founded in 1922, originating from the Royal Institute of Public Administration. For more information contact:

E-mail: ripa.training@capita.co.uk,

Website: www.capita.co.uk/training

Juvenile Detention Alternatives Leadership

Date: 24 - 26 January 2002 (postponed from 18 September) Location: Doubletree Hotel & Lloyds Center, Portland Oregon

Host: American Society of Criminology
For more information contact: Jim Stegmiller

Tel: +1 404 521 0000;

Email: jim.e.stegmiller@co.multnomah.or.us or www.aecf.org. There is no cost for registration or meals at conference. Registration can be done on line with The Casey Foundation.

Eradicating Child Poverty: Fact or Fiction?

Date: 24 January 2002 Location: Brussels, Belgium

Host: European Forum for Child Welfare (EFCW)

This conference is an important part of an eighteen month project co-ordinated by the EFCW which brings together partners from five EU Member States to examine different policy, programme and project approaches to reducing and eradicating child poverty.

The conference will be based around a series of workshops on the following themes:

- * Coalition building: the practicalities of partnership
- * Involving children in policy making: models of participation at local and national level
- * Building on the Laeken Summit: valuable indicators for children in poverty
- * Evaluating anti-poverty strategies and measuring their impact: the role of NGOs.

There will also be keynote speeches from the European Commission, the Child Poverty Action

Group, UNICEF Innocenti Research Centre, UNICEF EU office and the Spanish Presidency and in the afternoon a series of mini-presentations by local projects & young people's groups from around Europe. For further information on the conference programme and how to register, please contact: Caroline Crolla, European Forum for Child Welfare, Rue de la Concorde 53, 1050 Brussels, Belgium. Tel: + 32 2 511 70 83; Fax: + 32 2 522 72 98; Email: caroline@efcw.org.

Reversing the Drift

Date: 9 – 10 May

Location: Shepparton Civic Centre, Shepparton Victoria, Australia. Host: Youth Affairs Council of Victoria

Everyone agrees that services and opportunities for young people in country Victoria are limited, but what are the solutions? This summit is about presenting your solutions to other people from across the state. It's an opportunity to explore and showcase the most appropriate ways in which to service rural areas in the long term. It's a chance for young people, workers with young people and local community builders to get together and share solutions for reversing the drift. Expressions of Interest are invited for solution-based presentations and workshops. Recommendations from these sessions will be presented at a conference plenary and will contribute to ongoing policy action of the Youth Affairs Council of Victoria (YACVic). For more information visit the YACVic website <http://www.yacvic.org.au> or Tel: + 61 3 9612 8999; Fax: + 61 3 9620 4802. If you don't want to submit an expression of interest but would like to stay tuned to developments about this summit we will be posting regular updates on the yacvic announcement list. If you are not already subscribed send an email to: yacvic-subscribe@yahoo.com.

3rd International Conference on Drugs and Young People

Date: 13 – 15 May 2002

Location: Sydney Australia

Hosts: The Australian Drug Foundation and the Centre for Youth Drug Studies, in conjunction with the Ted Noffs Foundation. This conference will focus on youth drug policy and practice in: Prevention, Education, Treatment, Law Enforcement, and Legal and justice issues. For further information contact the Conference Secretariat, Australian Drug Foundation, PO Box 818 North Melbourne VIC 3051 Australia.

Email: events@adf.org.au
Website: <http://www.adf.org.au> Fax: +61 (0) 3 9328 3008

International Children's Conference - United Nations Environment Program (UNEP)

Date: 21 – 25 May 2002. Location: Victoria, Canada
Host: UNEP

The International Children's Conference has been inspired by the recognition that children need to be active participants in decisions that affect the future of the planet. The conference is a direct response to the 1992 United Nations Conference on Environment and Development in Rio de Janeiro, Brazil. For more information, contact: Kathryn Molloy, Project Manager, International Children's Conference on the Environment, Canada 2002, 576 Niagara St., Victoria, BC, Canada V8V 1H7. Tel: + 1 250 995 0225 Fax: + 1 250 995 0206;

Email: kathryn@iccCanada2002.org
or kathryn@molloy.ca.

Website: <http://www.iccCanada2002.org>

Forging the Links

Date: 26 - 31 October 2002

Location: Melbourne Convention Centre, Melbourne Australia

Host: XVIth Congress of the International Association of Youth and Family Judges and Magistrates

Every four years, the IAYFJM holds an international congress to assemble people from all disciplines over the world who are active in the protection of youth and the family to consider issues which fall within the realm of family courts and youth courts. The central theme of the 2002 congress is "Forging the Links."

The structure of the legal system into which children, youth and families may be thrust has long been the subject of international debate. To some, the system appears fragmented and impossibly complex. In many jurisdictions, debates rage over the lack of a co-ordinated, accessible and timely delivery of child protection, juvenile and family law. We have much to learn and think about from each other and this congress seeks to provide the opportunity to forge the links:

- Between courts of many nations making judicial decisions on the same issues.
- Between courts and the communities in which they serve.
- Between agencies working in and around the courts.

For more information contact The Meeting Planners, 91 – 97 Islington Street Collingwood Victoria Australia 3066. Tel: + 61 (0)3 9417 0888 Fax: + 61 (0)3 9417 0899

Email: youthandfamily@meetingplanners.com.au
Website: www.youthandfamily2002.com

15th International Congress

Date: 29 October - 2 November 2002

Location: New Delhi, India

Host: The International Association for Child and Adolescent Psychiatry and Allied Professions

This congress is being held for the first time in South East Asia, home to one sixth of humanity and host to myriads of problems affecting children and adolescent. In that sense the congress is in the right place at the right time! At the start of the third millennium focus must shift enough to provide a young and vibrant population, a hope to grow to adulthood unhindered and unencumbered.

The Congress provides a forum for presenting original unpublished research results, practical experiences, and innovative ideas related to the mental health of children and adolescents. Free papers and symposium proposals are solicited and should be sent to the Secretariat.

For further information contact

Email: secretariat@childindia.org

Website: www.childindia.org

E-mail Lists

Australian Children's Rights News sifts through a wide range of Australian and International bulletins to keep you up to date. Here are some of the e-resources we draw on. You can too!

CRINMAIL

The Child Rights Information Network provides regular updates from around the world and special series covering topics such as the UN General Assembly Special Session on Children. To join send an email to crinmail_english-subscribe@domeus.co.uk

Juvenile Justice Discussion List

This list is maintained by the International Network on Juvenile Justice, a program of the International Secretariat of Defence for Children International. Regular newsletters are emailed to members. To join send a BLANK email to: juvenile-justice-subscribe@igc.topica.com

ICYO Youth Information

The main areas of interest of the Indian Committee of Youth Information (ICYO) are youth health (including HIV/AIDS), population, environment, commercial sexual abuse/ exploitation of child and youth, habitat and peace. To subscribe to their electronic newsletter, email icyo@icyo-india.org

Youth.Comm

This list run by the Commonwealth Government's Department of Education, Training and Youth Affairs provides information about youth issues including material posted by list members. To join email Youth.Comm-on@mail-list.com

YACVic Email Bits

The peak youth affairs body in Victoria provides a regular mail out of news.

To join send an email to:

yacvic-subscribe@yahoogroups.com

HREOC Lists

The Human Rights and Equal Opportunity Commission has e-mail based mailing lists on a range of topics. For more information visit:

www.hreoc.gov.au/listserv/index.html

Family Court of Australia

The Court offers an e-mail notification service of postings on its website. For more information visit <http://www.familycourt.gov.au/html/notify1.html>

Refugee Action Collective

The RAC News list issues a daily selection of news items, particularly on asylum seekers. To subscribe, send a blank email to: racvicnews-subscribe@topica.com. Also, subscribe to the RAC Announcements list (to hear about meetings, rallies, other events) by sending a blank email to racvic-subscribe@topica.com

UNITY

This regular e-newsletter of the United National Association of Australia is compiled from Federal parliamentary and other sources relevant to Australia's obligations to the United Nations. For more information contact Ian Mathews, email: imathews@ozemail.com.au. Earlier editions of UNITY are on the UNAA website: www.unaa.org.au/fset.html

AICAFMHA

The Australian Infant, Child, Adolescent and Family Mental Health Association is a strongly consumer oriented group that publishes a regular e-newsletter. Its philosophical framework and guiding principles

includes: "Partnerships in advocacy in the public arena for effective promotion, prevention, early intervention, treatment and follow-up programs in child and adolescent mental health and that these are pursued in a context of human rights principles (International Covenant on the Rights of the Child)." To subscribe go to website: http://www.aicafmha.net.au/basic/list_info_news.html

Publications

Juvenile Justice: The Unwanted Child of State Responsibilities

This research published by the DCI International Network on Juvenile Justice analyses the Concluding Observations issued by the Committee on the Rights of the Child to more than 140 State Parties with respect to juvenile justice.

One purpose is to improve the discussion of juvenile justice issues. Questions arise as to whether the Observations address the needs of children in conflict with the law and whether they help to overcome the neglect of and unwillingness to fulfil juvenile justice obligations. By opening the dialogue and examining recommendations in the Concluding Observations, the research aims to strengthen the reporting process. Another purpose is to be a resource. It compile those parts of the Concluding Observations that directly pertain to juvenile justice, in particular to CRC articles 37 (inhumane treatment), 39 (rehabilitation of victims) and 40 (administration of justice). Other related articles are article 2 (non-discrimination), article 3 (best interests), article 6 (healthy development) and article 12 (right to be listened to). The excerpts cover the period from the first review session in 1993 through to January 2000. For more information, contact: International Network on Juvenile Justice, PO Box 88, 1211 Geneva, Switzerland. Tel: + 41 22 734 0558; Fax: + 41 22 740 1145;

Email: dci-injj@tiscalinet.ch;

Website: www.defence-for-children.org

Young People in Changing Societies: A Discussion Guide

UNICEF's Regional Office for CEE/CIS, and the World Organisation of the Scout Movement have produced a guide which highlights the findings of the UNICEF Innocenti Research Center's 7th Regional Monitoring Report. This youth-friendly publication

contains the latest data on young people in the transition countries and uses exercises and role-plays to facilitate discussion of issues ranging from school drop-out and unemployment to prevention of HIV/AIDS, conflict with the law and voting. For more information, go to: <http://www.crin.org/resources/infoDetail.asp?ID=2179>.

E-mail contacts: Ms. Ekaterina Zimianina ezimianina@unicef.org or Hans Olsen holsen@unicef.org

Monitoring Canada's Implementation of the UN Convention on the Rights of the Child

This report on the status of the Canadian implementation focuses on interventions made to secure the best interests of the child, general measures of implementation, issues relating to inter-country adoption, refugee, immigrant and aboriginal children and youth participation. For further information, contact: the Canadian Coalition for the Rights of Children, 384 Bank Street, Suite 200, Ottawa, Ontario K2P 1Y4, Canada. Tel: + 1 613 230 8838; Fax: + 1 613 230 6654; Email: d.walker@cich.ca

Child Deaths by Injury in Rich Nations

In every one of the world's wealthier nations, injury is now the leading killer of children aged over one. This paper, the second in the Innocenti Report Card series (February 2001), presents a standardised league table ranking 26 of the world's industrialised nations according to their injury death rates for children aged 1 to 14. The Innocenti Report Cards series investigates child well-being in rich nations. The countries that form the focus for the series are the 29 members of the Organisation for Economic Co-operation and Development (OECD). This document is available electronically: See: <http://www.unicef-icdc.org/publications/pdf/repcard2e.pdf>

Pitik-Pitik

This quarterly newsletter produced by the Children's NGO Network (CNN) in the Phillipines reports on advocacy and monitoring of the enforcement of child rights. Recent issues have covered the following topics: Children and the environment, Children in Armed Conflict, Child Support and issues relating to the activities of CNN. For further information, please contact: CNN - Children's NGO Network, RM 101 Teresita Apt, cnr. Jasmin and Orchid Sts, Capitole Site, Cebu City 6000, Phillipines. Tel: + 632 254 5091; Fax: + 632 254 5093; Email: clbphils@gsilink.com

The Art of Delivering Justice

The Federal Court of Australia has launched a major education project designed to increase the understanding of the Australian Federal Judicial System in secondary schools. The book and the video entitled "The Art of Delivering Justice" has been designed to assist young Australians in understanding why judicial independence is so important in a democratic society. They also provide students with class exercises and school project materials to assist them to understand two of the Court's jurisdictions: Human Rights and Native Title. The 90 page book and 20 minute video have been distributed free of charge to all Australian secondary schools and may be ordered from the Court. For further information contact the Court's Director, Community Relations Tel: + 61 3 8600 3552 or go to: www.fedcourt.gov.au/community_info/studentinfo/studentinfo.html

They Treat Us Like Animals

The title of this report released by the International Secretariat of Amnesty International reflects an all too familiar complaint about prisons and police stations in Brazil. Published at a time when the Brazilian government is launching a campaign to combat torture, the report documents its widespread and systematic use against criminal suspects and detainees at all levels of the Brazilian criminal justice system, from the point of arrest, through detention in police stations, to incarceration in prisons and juvenile detention centres. It also highlights the plight of the thousands of men, women and children detained in the country's terminally overcrowded penitentiary system, which was exposed to the world's attention in the past 12 months as a result of a series of prison riots nationwide. The report puts forward a series of detailed recommendations on concrete steps to be taken to eradicate torture. Go to: <http://www.web.amnesty.org/ai.nsf/recent/AMR190222001?OpenDocument>

A Safe World for Children - Ending Abuse, Violence and Exploitation

This World Vision International report documents the appalling scale of violence against, and abuse and exploitation of, children. It brings together over 18 months of research with World Vision's partner communities around the world and the results indicate how much more must be achieved before children have a safe and secure environment in which to live. This

report recommends certain key action points for policy makers to consider, in order to meet the right of the child to be protected from all forms of violence and abuse. For further information, contact: World Vision - International, International Liaison Office, 6 Chemin de la Tourelle, 1209 Geneva, Switzerland. Tel: + 41 22 798 4183; Fax: + 41 22 798 65 47; Email: geneva@wvi.org or wvi.gva@iprolink.ch; Website: www.wvi.org/home.shtml

Hello, is Anyone There? - Young Messages from Another Reality

The Norwegian Coalition for the Convention on the Rights of the Child, of which Save the Children Norway is a member, has produced this book which presents children's views on what it is really like to grow up in Norway. The United Nations has recognised Norway as one of the world's best countries to live in however it has also criticised Norway's methods to treatment of children in particular situations. This document is the result of 100 children from the cities of Oslo, Bergen and Kristians and sharing their views and experiences on what it is like to grow up in Norway. The participating children and youth bring with them a range of experiences including child welfare, being in asylum centres, being separated children, disabled or having been abused. This document will be presented at the UN Special Session on Children. For further information, contact: Save the Children Norway, Postboks 6902, St. Olavs plass, 0130 Oslo, Norway. Tel: + 47 22 99 09 00; Fax: + 47 22 99 08 60; Email: post@reddbarna.no; Website: www.reddbarna.no

Young Voices

This publication presents findings of a survey of children's views in 35 countries in Europe and Central Asia. Conducted by UNICEF with the support of OSCE/ODIHR, the poll was launched in May 2001 at the 52-government Conference on Children in Europe and Central Asia. 93 million 9-17 year olds live in the countries surveyed. For more information, contact: Ms. Ekaterina Zimianina, email: ezimianina@unicef.org or Hans Olsen, email: holsen@unicef.org For more information, go to: <http://www.unicef.org/polls>

Unedited Report on the Day of General Discussion (28 September 2001) on Violence Against Children, Within the Family and in Schools

The unedited version of this report of the 28th Session of the Committee on the Rights of the Child - (CRC/C/111) - Friday 28 September 2001 can be viewed on-

line at: www.unhchr.ch/html/menu2/6/crcdod3.htm
For further information on the Day of General Discussion on - Violence Against Children, Within the Family and in Schools go to: <http://www.unhchr.ch/html/menu2/6/crcdod1.htm>

Violence in the Personal Lives of Children and the Threat of Terrorist Attacks

This submission from the International Secretariat of Defence for Children International to the CRC for its day of discussion on Violence Against Children, Within the Family and in Schools discusses the issue of violence against children in the family and in school. It argues that these issues cannot be discussed without taking into account the fact that we live in a violent world. In order to do so, new areas of research will have to be developed, as has been done in previous times of global insecurity. Go to: http://www.crin.org/docs/resources/publications/DCI_28SEPT01.pdf
For further information, contact:
Tel: + 41 22 734 0558; Fax: + 41 22 740 1145;
Email: dci-is@tiscalinet.ch;
Website: www.defence-for-children.org

Child Rights Information Network Annual Report 2000-2001

This annual report provides a narrative and financial report of CRIN's activities for the year from 1 April 2000 to 31 March 2001. It presents how CRIN is structured, information about its membership and an overview of the information services which it offers. In addition, it looks at key foci within CRIN's work, such as the challenges of managing information in the child rights community as well as particular research themes and special projects, for example, the UN General Assembly Special Session on Children. This document can be viewed at, or downloaded from, the CRIN website. Go to: <http://www.crin.org/docs/resources/publications/CRIN-2000-2001-AR.pdf>

SEECRANews

The weekly newsletter of the South East European Child Rights Action Network is available on-line at their website. This newsletter is open to all SEECRAN members and is intended to keep members informed of SEECRAN's events and membership, as well as providing briefings on relevant developments in the region with regard to children. The current issue, no. 28, includes news about the Yugoslav Child Rights Centre lobbying the government of FR Yugoslavia to sign optional protocols on the Convention of the

Rights of the Child as well as information about events such as the meeting of the Albanian Children's Network, the Regional ECCD Meeting on Better Parenting Initiatives and the 23rd International Human Rights Training Programme). This issue can be downloaded or viewed online from: <http://www.seecran.org/news/seecranews.htm>

Children's Rights: A Second Chance

Save the Children New Zealand have developed a Call for Action to the New Zealand Government. The ten points in the Call for Action are for the Government to:

1. Withdraw reservations to the Convention on the Rights of the Child
2. Review all legislation and government policies and actions for compliance with the Convention on the Rights of the Child.
3. Develop and implement an effective national strategy for children.
4. Act urgently to improve the situation of Maori children.
5. Act urgently to improve the situation of Pacific children.
6. Establish effective government structures for children.
7. Eradicate child poverty within ten years.
8. Act to protect children from violence.
9. Act to protect the rights of children in special circumstances.
10. Increase the opportunities for children to participate in civil society.

See the full text - including what needs to be done to implement these ten actions at <http://www.savethechildren.org.nz/pag.cfm?i=194>; click on "NZ National Call for Action" to read about the situation in New Zealand and on "10 Calls to Action" to read about what needs to be done. If you would like a copy of the full publication, please contact Alena Lynch on Tel + 64 (0) 4 385 6847 email alena.lynch@scfnz.org.nz

CRIN Newsletter 13: Children and Macroeconomics

Following protests in Prague and Seattle, there is growing recognition that "structural adjustment" programs and lending policies are driving millions of people including children around the world deeper into poverty and causing environmental destruction. The views of these authors provide an interesting complement to the challenge by citizens' groups of a

global economic process that they say is controlled by transnational corporations, the World Trade Organisation and the Bretton Woods institutions. Go to www.crin.org/docs/resources/publications/CRINvol14e.pdf

UNICEF medium term strategic plan.

UNICEF has announced that it will dedicate its core efforts over the next four years to: promoting girl's education, integrating ECD, immunizations and micronutrient interventions, HIV/AIDS prevention, and child protection.' For more information go to: www.unicef.org.

Focus

This newsletter highlights significant issues and activities relating to human rights in the Asia-Pacific region. The September 2001 issue focuses on the topic of child labour and working children, including articles such as – "Child labour in Asia: A review" and "Child labour and India's football-making industry". Go to: <http://www.hurights.or.jp>

"I did not choose to come here": Listening to refugee children

What does it feel like for young refugees and asylum seekers to be in care in the UK? Sent here alone to find safety, unaccompanied refugee children are often fleeing war or terror. Without the care and protection of their parents, they have the same needs as other children but also require services based on their particular needs and circumstances but they often experience an unacceptable level of care in this country. Based on interviews with 33 refugee children from countries including Afghanistan, Rwanda, Ethiopia, Eritrea, Somalia and Yugoslavia, this book asks them about their experiences of being an asylum seeking child in the UK. It offers a moving record of what they think and feel about their pre-exile experience, arrival and care in the UK, school life, immigration and asylum determination process, informal support available and the impacts of racism, prejudice and xenophobia. Their messages make it clear that they have complex needs that require the effective and compassionate collaboration of professionals. To order e-mail: pubs.sales@baaf.org.uk

Hard Words

This video is an educational resource for children, carers and families and those who work with them. It focuses on the issues facing children who have a parent with a mental illness. ARAFEMI Victoria Inc now has copies of the video available for purchase (\$30 incl post, handling and GST). Contact Elise Whatley Email: ewhatley@infoxchange.net.au for details or download an order form from Website: http://www.aicafmha.net.au/4members/SIGs/COPMI/VIC/vic_news.htm

Psychosis

The CD-ROM is the first of its kind, targeted at students, explaining what psychosis is, its symptoms and what it's like for those who experience it, their families and friends. Produced for SANE by multimedia developer Violetta Stojanovski, the CD was a finalist in the recent Australian Interactive Multimedia Industry Association Awards. This guide for young people is available from SANE Australia for \$35 plus postage and handling on 1800 688 382 or at www.sane.org

Choices and Challenges: behaviour intervention and use of restraint in care and supported accommodation services for children and young people.

This report by Christine Flynn, published by the Community Services Commission in New South Wales, Australia, highlights the serious gap in policy and practice guidance in respect of behaviour intervention. The report is available free: Tel: + 61 (2) 9384 4999, Fax: + 61 (0) 2 9384 4948 or download from the web www.csc.nsw.gov.au

Unseen and unheard: The Case for a Children's Rights Commissioner.

Rachel Harvey's article welcomes regional developments in the appointment of Children's Commissioners (e.g. in Wales and Northern Ireland) but argues that none of the initiatives are adequate substitutes for an independent Children's Rights Commissioner for the whole UK. In: *Childright Issue* 178, 2001 pp 18-20.

You can order the publication at: www.childrenslegalcentre.com, Tel: + 44 1206 872466, clc@essex.ac.uk

More Websites !

www.childuniversity.org

UNASEA, a French federation that linking more than 100 associations working on social and medical issues associated with childhood and family. Its website (available in French and in English) functions an international network designed as a university and is open to researchers, social workers and NGOs. It offers visitors an overview of the current events regarding social development and children welfare; a virtual library; an interactive lectures hall; free discussion forums and an interactive database of projects for social development all around the world.

www.ncsmc.org.au

The Australian group, the National Council of Single Mothers and Their Children, has expanded its website to include a page of resources for the Abuse Free Contact Campaign which is aimed at developing improved processes to reduce post-separation child abuse during child court-ordered contact. Suggestions for useful material to include are also welcome. Email them to: ncsmc@ncsmc.org.au

www.asylumsupport.info

The UK National Asylum Support Service (NASS) website lists all of its current policy documents and has a search engine allowing for keyword searches across all the bulletins.

www.youthandfamily2002.com

The website for information about the International Association of Youth and Family Judges and Magistrates XVIth Congress to be held in Melbourne during October 2002. Further information is available from Email: youthandfamily@meetingplanners.com

www.aicafmha.net.au/enews/

The Australian Infant Child Adolescent and Family Mental Health Association has commenced an online News In Brief series.

www.create.org.au

The Create Foundation's mission is to ensure that children and young people in care are afforded the same life opportunities as all young Australians.

www.acys.utas.edu.au/ncys/events/

The Australian Clearinghouse for Youth Studies EVENTS Calendar has recently been updated.

Join DCI!

You too can become a Member of Affiliate (for NGOs)

Your subscription includes each quarterly issue of ACRN. Members and affiliates also receive lots of other information about DCI's campaigns and activities

Subscriptions

under \$20,000 pa/student	\$25	pa
\$20,000 - \$35,000 pa.	\$55	pa
\$55,000 - \$75,000 pa.	\$85	pa
over \$75,000 pa.	\$115	pa

OR you can simply subscribe to our newsletters:

Australian Children's Rights News	NGO	\$35	pa
	Govt	\$60	pa
DCI Geneva Newsletter	NGO	\$35	pa
	Govt	\$60	pa

Donations help to expand DCI's important work. Please consider adding a donation to your subscription:

\$10..... \$25..... \$50..... or \$.....

I enclose a cheque for \$.....

Credit Card Authority

Please debit my Bankcard/Visa/Mastercard

Account

Card # / / /

Exp date .. / ..

Signature

Name on Card

Name

Organisation

Address

State Postcode

Ph Fax

Email

Send this form with your cheque to:

DCI-Australia
GPO Box 3131
Canberra ACT 2602
or fax (card payments only) to 02 6257-6722

DCI members and affiliates add to the action!

Websites

www.boat-people.org

This ever expanding group of media activists, artists, videographers, writers, designers use tactical media actions to remind governments and people everywhere that all non-indigenous Australians are in fact 'Boat People'. "From the first fleet explorers, to the most recent arrivals, we share a common past and a current obligation to help our fellow human beings."

www.dci-pal.org/arabic/index.html

Defence for Children International/Palestine Section has uploaded an Arabic language version of its website.

www.seyso.net/index.html

The Sexually Exploited Youth Speak Out Network website details the work and activities of survivors of sexual exploitation in Canada. It includes information on the perspective of youth survivors, publications, good practice manuals, one public interactive discussion bulletin, and three private bulletins for youth survivors. It also contains a pdf version of the new publication "Peers Story: Impossible, eh?". This tells the story of a group of experiential people who started an experiential support service for girls and women exiting the sex trade.

www.itsnotyourfault.org

NCH, a UK children's charity provides information about handling family breakdown with targeted pages for parents, children and teenagers.

www.geocities.com/bhutanwomen

The website of the Bhutan Women and Children Organisation is now up and running. It contains information on the status of Bhutanese women and children, basic information on Bhutan, its people, government, judiciary, legislature, human rights situation and in particular women's and children's rights, statistical facts on Bhutan and links to other Bhutanese sites.

Continued page 51