



DEFENSA DE NIÑAS Y NIÑOS INTERNACIONAL DNI  
DEFENSE DES ENFANTS INTERNACIONAL DEI  
DEFENCE FOR CHILDREN INTERNATIONAL DCI

# Australian Children's Rights News

Newsletter of the Australian Section of Defence for Children International  
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## The Non-Government (Alternative) Report to the UN Committee on the Rights of the Child

Australia was one of the first countries to ratify the UN Convention on the Rights of the Child just over 15 years ago, in January 1990. Countries which have ratified the Convention are required to report on their implementation and compliance with the Convention. Non-government organisations also have the opportunity to present their own 'shadow' or 'alternative' non-government report to the UN Committee. Defence for Children International (Australia) has standing with the UN and Helen Bayes led the preparation and presentation of the first non-government report to the UN Committee in 1996. The Australian Government presented its first periodic report to the Committee in December 1995.

DCI-Australia has again played a key part in preparing and presenting the second Alternative Report to the UN Committee in response to the Australian Government's *Combined Second and Third Reports* (March 2003).

"The Non-Government Report on the Implementation of the Convention on the Rights of the Child in Australia" was presented by a delegation, led by Dr Judy Cashmore, President of DCI-Australia, to the UN Committee on the Rights of the Child in Geneva on June 9 2005.

## Decision to prepare a separate Non-Government Report

In 1998, a group of peak non-government organisations convened as the UNICEF Australia Taskforce on Child Rights (the Taskforce) chaired by Justice Marcus Einfeld. The purpose of the Taskforce was to assist the Australian Government in the preparation of its second report on the Convention to the Committee. Some members of the Taskforce raised concerns about the process and the Government's responsiveness to the non-government contributions and criticisms.

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# President's comments:

**The last six months, and particularly the last month or so have seen considerable work begun, and progressed over various areas of DCI's operations in Australia and internationally and has at last seen some outcomes and some changes in relation to children's rights in Australia.**

Closest to home, there has been a great deal of work over about two years involving DCI-Australia, the National Children's and Youth Law Centre, and a number of people from other non-government organisations and legal centres around Australia in preparing the Non-Government (Shadow) Report on Australia's compliance and implementation of the Convention on the Rights of the Child. Particular thanks are due to several DCI members who made significant and substantial contributions to the Report: Barbara Rogalla, Simon Quilty, and Moria Rayner. This report is now available on DCI-A's website to download and can be ordered in printed format – see the flyer included in this issue.

I had the privilege of being part of a very hard-working delegation which presented the report to the United Nations Committee on the Rights of the Child in Geneva in June. UNICEF, OXFAM and an anonymous DCI member contributed to the delegation's costs and DCI and the National Children's and Youth Law Centre and the members of the delegation are extremely appreciative of their support.

Work is continuing by DCI-Australia, the National Children's and Youth Law Centre, and the members of the delegation to follow up on the pre-sessional meeting and to use the report and the List of Issues for the Committee's September meeting with the Australian Government delegation as a basis for further advocacy for the rights of children in Australia.

The focus of concern is clear from the report's summary and from the List of Issues – in particular, the plight of Indigenous children, Australia's treatment

of children seeking asylum either as unaccompanied minors or with their families, and systemic issues in relation to Australia's implementation of the Convention. Various forces have finally brought some welcome changes in relation to asylum seekers but the real and actual value of these changes will need to be followed up. If you have any particular expertise or concerns in relation to any of the would like to assist with the follow up work in any of the areas identified in Part 4 of the List of the Issues, please contact me via DCI or via my email [judycash@bigpond.net.au](mailto:judycash@bigpond.net.au). Your support would be very welcome.

Two other significant events in the last month involved DCI-Australia's founder and long-standing supporter, Helen Bayes. Helen attended and participated on behalf of DCI-Australia in the 9th International General Assembly (IGA) held in Bethlehem from 27 - 29 June, and organised by DCI Palestine. Helen's feedback on the IGA was very positive and in her words – “inspiring and very positive. The DCI Conference as a triumph. Very well organised by DCI Palestine and a large number of enthusiastic young volunteers from Ireland, Wales, Palestine, Netherlands and other places.” This assembly elected a new International Executive Committee and a new President, Rifat Kassis (DCI Palestine).

Helen was also invited to speak at the international conference “Kids Behind Bars”, which took place directly after the IGA from 30 June - 2 July at the same venue, and which was also reportedly a great success. Her paper is presented in this issue.

A letter from the new President of DCI indicates that the team at DCI Palestine is currently drawing up the conference report, which will contain all the papers and presentations given by our distinguished guest speakers from all over the world. This report will be made available on their website ([www.dci-pal.org](http://www.dci-pal.org)). In his letter, Rifat Kassis “strongly encourages all sections to read the “Bethlehem declaration” (also on the above website), which was the final outcome

and culmination of this 3 day event. This historic document contains the principles that DCI as a global movement stand for and a call to action to all the different stakeholders in the mission to protect and promote children's rights according to the UNCRC. This document will guide us in our work over the next three years."

Further, in an important new development, the Australian Section of Defence for Children International is inviting funding applications for two carefully planned *action strategy projects* over the next few years that directly seek to protect, promote and/or advance the rights of children and young people who encounter the child protection, criminal justice and/or juvenile justice system - see page 9 of this issue.

This is a significant new direction for DCI-Australia's activities and we are very appreciative of former President Danny Sandor's initiative in arranging the donation and setting this up.

Grant applications will be assessed by a panel which will also settle the final terms of the submission to be funded, consider the interim and final reports and provide any recommendations arising to the National Committee of DCI-Australia. The panel will comprise The Hon. Alastair Nicholson AO RFD QC, Ms Moira Rayner, and Ms Janet Jukes as designates of DCI-Australia. DCI-Australia is also very appreciative of their support.

Lastly, we are also going to change our address to NSW. DCI-Australia has for some time enjoyed the accommodation and office assistance provided at very minimal cost by the Youth Affairs Council of Victoria (YACVic) and we are very appreciative of their support. It is time, however, to make a change and we are accepting the kind offer of the National Children's and Youth Law Centre to take on this role. Our address will therefore change to 32 Botany St Randwick and the fax number will be notified later.

Many thanks also to Danny for editing this issue of Australian Children's Rights News.

**Best wishes**  
**Judy Cashmore**  
**President, DCI Australia**

## **Change of Address from 1 August 2005:**

**DCI-Australia**  
**32 Botany Street,**  
**Randwick NSW 2031**

**Ph. 02 9398 7488**  
**Fax. 02 9398 7416**

DCI's International Executive Council (IEC) is the Movement's governing authority in the interregnum between General Assemblies. It is made up of a maximum of 13 persons, representatives of at least 10 countries, and a minimum of 7 persons, each from a different country and representing the four regions acknowledged in institutional geography: Europe, Asia-Middle East-Australia, Africa, and America.

The new IEC comprises:

President: Rifat Kassis (DCI Palestine)  
rka@wcc-coe.org (email address to be changed)

Treasurer: Benoit Van Keirsbilck (DCI Belgium)

IEC Asia and Pacific member: Fukuda Maasaki (DCI Japan)

IEC Latin America member 1: Virginia (Vicky) Murillo (DCI Costa Rica)

IEC Latin America member 2: Marcos Guillén (DCI Argentina)

IEC Africa member 1: Innocent Garakumbe (DCI Uganda)

IEC Africa member 2: Laurencio Akohin (DCI Togo)

IEC Europe member: Marjorie Kaandorp (DCI The Netherlands)

As a result of the concerns raised by members of the Taskforce, DCI-Australia and the National Children's and Youth Law Centre decided to jointly coordinate the preparation of a separate Australian non-government report to be presented to the Committee.

## Consultation Process – “What’s up CROC?”



Robert Ludbrook drafted the initial consultation document and his work formed the basis of two key materials released in February 2004: a Consultation paper and a Background Briefing paper. These papers identified the relevant Articles of the Convention, highlighted issues arising under the Convention in relation to Australia, and detailed aspects of the Government report and the concerns noted by the Committee about Australia.

Consultations were conducted with a wide variety of people in South Australia, Tasmania, Queensland, New South Wales and Victoria. These were organised by National Steering Committee members in conjunction with locally based non-government organisations. Further consultations were conducted with a range of individuals and organisations throughout Australia, in person, by telephone, by email, both directly and auspiced through other agencies.

## Submissions

National Children's and Youth Law Centre and DCI-Australia received many submissions responding to the CROC consultation materials from children and young people, academics, organisations that work with children, Indigenous and ethnic organisations, churches and charities and workers in schools, early childhood centres, foster and residential care, youth centres and legal centres. These addressed a range of issues including immigration law, child protection, Indigenous children and family law.

## The Report

The Non-Government Report represents the contributions of hundreds of advocates and workers and young people across the country. It was written by a team of volunteers, academics and authorities drawing on the material gathered and the issues identified.

The coordinating activity and report preparation was managed by the National Children's and Youth Law Centre and Defence for Children-Australia with the support of a Steering Committee and a National Advisory Group of prominent Australians.

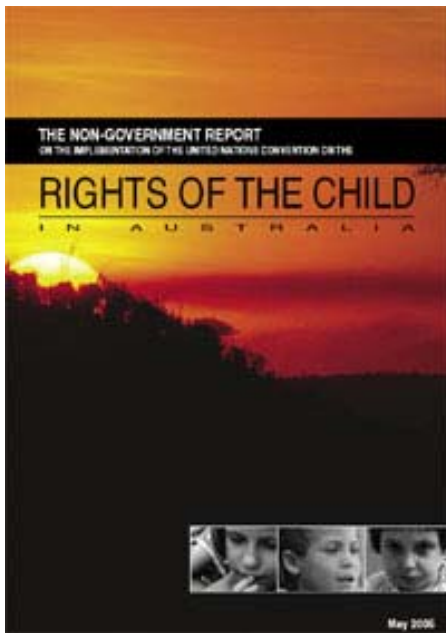
While the Report acknowledges the positive gains, it is clearly critical of Government policy and practice in a number of areas and of the material presented in the Government report. The major issues were:

- The over-representation of Indigenous children in many problem areas eg child protection, youth suicide, substance abuse, juvenile justice, etc and their under-representation in many positive areas eg completing high school, positive health and well-being etc;
- The continuing detention of children in immigration centres in breach of the Convention;
- The inequity and uncoordinated provision of services and resources in many important areas eg mental health services for children and young people, child care, and education especially for disadvantaged and vulnerable children and their families etc., and
- The lack of 'real' participation for children and young people in many areas that affect their lives.

The Report makes a number of recommendations (a hundred and five in all) designed to draw on the knowledge and resources that already exist for Australia to improve its care, support and protection for its children.

## Delegation to the UN Committee in Geneva

The Non-Government report was presented to the United Nations Committee on the Rights of the Child in Geneva on 9<sup>th</sup> June 2005 by a delegation of young advocates led by Dr Judy Cashmore.



The delegation comprised Dr Cashmore, Megan Davis, Louise Pounder, Thao Nguyen and Jason De Santolo.

Judy is the veteran of the group, an Associate Professor in the Faculty of Law at the University of Sydney and Honorary Research Fellow at the University of New South Wales. She is also President of Defence for Children International-Australia and a member of the Board of the National Children's and Youth Law Centre.

Megan Davis is a Research Fellow at the Jumbunna Indigenous House of Learning, University of Technology Sydney, has held a United Nations Fellowship with the Indigenous Project Team of the Office of the High Commissioner for Human Rights and has been working in international human rights law for eight years.

Thao Nguyen is a 5<sup>th</sup> year law student at the University of Sydney. As Australia's 2004 Youth Representative to the United Nations General Assembly, she already has had experience in a representative role with international processes and advocacy. She is now building on that experience and advocating on the issues of youth participation, culture and community in the context of a human rights framework. She has continued to consult with young people around Australia on their concerns and draws on her own experience and background from a Vietnamese refugee family.

Louise Pounder is a young lawyer with a strong interest in human rights and in particular the rights of children. In addition to her time at the National Children's and Youth Law Centre, working with Louise Goodchild on the report, Louise has been an intern at Wurringa Baiya, a legal centre which focuses on protecting Indigenous women and children from violence. Louise was also involved in an international pilot study on unaccompanied child refugees, focusing on the experiences of separated refugee children in Australia.

Jason De Santolo is a descendent of the Barunggam and Garawa peoples. He works in the legal-policy and creative research realms and has collaborated on various projects with Indigenous peoples in Australia, Aotearoa (New Zealand) and more recently the United States. Jason is currently a research fellow within Jumbunna UTS.

Carolyn Hardy, CEO of UNICEF, and Les Malezer attended as observers.

DCI-Australia and National Children's and Youth Law Centre very much appreciate the funding for the delegation provided by Oxfam, UNICEF and several anonymous donors.

The delegation also had great support from the Secretariat in Geneva for the NGO Group for the Convention of the Rights of the Child which provided preparatory materials, briefing, and de-briefing and advice about following up on the meeting with the Committee; and from the support group in Australia coordinated by James McDougall at the National Children's and Youth Law Centre and Sarah Lendon of UNICEF.

## The Follow-Up Process

The UN Committee has asked that the discussion and the questions asked of the Non-government delegation at the pre-sessional working group be confidential. The Committee has prepared a List of Issues that it would like the Australian Government to provide responses to both in writing and then at the Government's meeting with the Committee on September 13 2005. This list is a public document and is posted on DCI-A's website at <http://www.dci-au.org/html/news.html>.

Non-government representatives can attend the September meeting in Geneva as observers but they do not actively participate in the meeting. Following the September meeting, the UN Committee prepares its Concluding Observations in which it comments on Australia's performance in implementing and complying with the Convention and makes recommendations in areas where it sees changes to be necessary. The Concluding Observations are also a public document and again will be posted on DCI-A's website.

The Report and the Concluding Observations will provide the basis for further advocacy work. Examples of how other countries have used the Concluding Observations are available at the Child Rights Information Network (CRIN) website:

[http://www.crin.org/docs/resources/publications/ngocrc/CRIN-NGOCRC\\_WP2\\_en.pdf](http://www.crin.org/docs/resources/publications/ngocrc/CRIN-NGOCRC_WP2_en.pdf)

The Non-Government Report is available on the websites of a range of organisations including those responsible for the coordination of its production:

Defence for Children International (Australia) <http://www.dci-au.org/html/news.html>

The National Children's and Youth Law Centre <http://www.ncylc.org.au/croc/consultpaper.html>

Hard copy printed versions of the Report are available (for \$25) from the National Children's and Youth Law Centre (See enclosed flyer).

The Australian Government's *Second and Third Reports*:

[http://www.ag.gov.au/agd/WWW/attorneygeneralHome.nsf/Page/Latest\\_News\\_Current\\_1\\_October\\_2003\\_-\\_Australia\\_presents\\_Report\\_on\\_Rights\\_of\\_Child](http://www.ag.gov.au/agd/WWW/attorneygeneralHome.nsf/Page/Latest_News_Current_1_October_2003_-_Australia_presents_Report_on_Rights_of_Child)

The Concluding Observations of the UN Committee following its last consideration of Australia's implementation of the Convention in 1997 as a guide to the likely concerns of the Committee :

<http://www.unhcr.ch/tbs/doc.nsf/0/3d744477ea59fdaf8025653200508bb8?Opendocument>

The Non-Government Report draws heavily on the work of earlier Reports - particularly of those of the Human Rights & Equal Opportunity Commission that highlight the plight of children:

[http://www.hreoc.gov.au/human\\_rights/children/seen\\_and\\_heard.html](http://www.hreoc.gov.au/human_rights/children/seen_and_heard.html)

[http://www.hreoc.gov.au/human\\_rights/children\\_detention/index.html](http://www.hreoc.gov.au/human_rights/children_detention/index.html)

[http://www.hreoc.gov.au/social\\_justice/stolen\\_children/index.html](http://www.hreoc.gov.au/social_justice/stolen_children/index.html)

A Summary and Key Issues Table is also available on the Centre's website.



L to R: The Team Thao Nguyen, Louise Pounder, Megan Davis, Jason De Santolo, Judy Cashmore - with Les Malezer

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# Extract from the Summary Briefing to the Committee on the Rights of the Child

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In September 2005 the United Nations Committee on the Rights of the Child (“**the Committee**”) will examine the Australian Government’s *Combined Second and Third Reports* and make recommendations to further Australia’s compliance with the United Nations Convention on the Rights of the Child (“**the Convention**”). The National Children’s & Youth Law Centre and Defence For Children International (Australia) have prepared a non-government report and materials to assist the Committee in this process, following consultations with a wide range of people working with children and young people in Australia across many sectors as well as some participation and input from children and young people themselves.

It is now 15 years since Australia ratified the Convention and nearly ten years since the Australian Government presented its first periodic report to the Committee (December 1995). Defence for Children International-Australia presented the first non-government report to the Committee in 1996.

Australia has made some advances, and there are numerous examples of governments and communities developing programs and projects that provide support for children and their families. But the lack of an effective national commitment to the Convention, a national Commissioner for Children, and a national plan of action for children inhibits the development of a national collaborative process to evaluate, share information, learn lessons and promote best practice.

The non-government sector shares the Committee’s concern that Australia’s ratification of the Convention does not give rise to legitimate expectations that an administrative decision will be made in conformity with the requirements of the Convention. Under the present constitutional arrangements, unless the Australian Government explicitly enacts legislation to implement its obligations under an international treaty such as the Convention, the only effect of the Convention is indirect, by, for example, affecting the way a court may interpret the law about procedural fairness in relation to the doctrine of natural justice. The Australian Government has shown little interest in developing a domestic human rights regime to implement its human rights obligations under international law, and has little economic or political incentive to do so in the present circumstances.

The non-government sector is concerned that the Australian Government was initially tardy, and now seems inclined to retreat from its commitment to the Convention and other international human rights vehicles. Given the lack of any constitutional or statutory bill of rights or other domestic regime for giving local effect to the Convention, the other important uses of the Convention are educational and benchmarking. The deliberations of the Committee will provide an important reminder to all governments in Australia that children have survival, protection, development and participatory rights and the publication of its findings will provide a significant rallying point and yardstick for children’s advocates.

While the Australian Government’s report outlines numerous positive examples of policy initiatives and programs, it falls well short in providing substantial evidence of accountability or review and evaluation. The gaps and priorities for action are clear - the substandard living conditions of Indigenous children equivalent in many cases to conditions more commonly seen in developing countries remains Australia’s greatest shame. Despite increasing awareness of the importance of self-determination, the Australian community continues to repeat the mistakes of previous generations, and to make new ones.

Despite Australia's wealth, Indigenous children are not receiving effective health care or education, and they are many times over-represented in the child protection, out-of-home care and juvenile justice systems. The Federal Government has failed to explain why Indigenous children, when compared with their non-Indigenous peers, do not have the benefits of the excellence of education, health and welfare that the non-Indigenous community takes for granted.

The Federal Government has failed to explain why it persists in a policy of arbitrary immigration detention of children in adult prisons for long periods of time in clearly damaging circumstances. This and the survival of mandatory sentencing in Western Australia criminal justice indicate that Australia fails to maintain a commitment to the use of detention as a measure of last resort.

A consistent theme in the submissions to, and from the consultations for this report, was a very great concern about the ad hoc service delivery for children and their communities, and a failure to achieve systemic change and greater equity and equality of opportunity. Increasing numbers of children are identified as abused or neglected, or homeless, but for many, being identified in this way does not solve their problems or meet their needs. There is a shortfall in the delivery of services for the most vulnerable children in a country which is wealthy in world terms. Many children with a disability, mental health problems or subjected to violence or experiencing homelessness are not getting the help they need to ensure healthy development.

While there have been a number of developments in relation to children's participation, there are significant restrictions and tokenistic or manipulative processes in some important areas of children's and young people's involvement in society. Some Australian children and young people are still subject to discrimination and are not yet treated with respect by the education, health care, justice and social security systems.

The non-government report and accompanying materials address the areas of non-government concern and make recommendations for systemic and specific changes to improve Australia's compliance with the Convention.

## Voices of Youth

The UNICEF Innocenti Research Centre launched a discussion forum on Voices of Youth (VOY) at <http://www.unicef.org/voy>, on 7 June 2005 concerning children's participation in the implementation process of the Convention of the Rights of the Child at national level. The discussion is promoted in two languages (English and French) to solicit inputs and feedback from young people, and to generate awareness and dialogue around the following questions:

- How children take action to make their human rights reality?
- To what extent do they participate in law reform, promoting awareness of the CRC and rights of the child, formulating national or local strategies on child rights, co-ordinating activities concerning the rights of the child, monitoring the situation of the rights of children, and the work of children's ombudsmen or similar institutions?

This Discussion Forum is part of a Study on the Implementation of the Convention on the Rights of the Child (CRC) conducted by the UNICEF Innocenti Research Centre (IRC) in Florence. Its aim is to assess the impact of the ratification of the Convention on the Rights of the Child across regions. With this Study, the IRC is committed to supporting UNICEF's efforts designed to document the process of mainstreaming children's rights; to identify examples of good practice and lessons learnt as well as to share these experiences widely; to clarify children's rights concepts and promote effective policy responses.

The Study also constitutes a contribution to the follow-up to the Declaration and Plan of Action of the General Assembly Special Session on Children and aims to support efforts towards the achievements of the "Millennium Development Goals".

For more information, contact: Peggy Herrmann, UNICEF Innocenti Research Centre Child Protection Section, UNICEF Innocenti Research Centre, Piazza SS. Annunziata, 12 50122 Florence, Italy Tel: + 39 055 2033 351, Fax: + 39 055 244 817 Email: [pherrmann@unicef.org](mailto:pherrmann@unicef.org) Website: <http://www.unicef.org/irc>

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# DCI-Australia Invites Funding Applications - Small Grants For Action Strategy Projects

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DCI-Australia is delighted to announce that it has received a private donation enabling it to make two grants each of up to \$5500. Applications for the first grant to be awarded in the 2005 – 2006 financial year must be received by 7 October 2005. The project can have a life of up to 24 months.

The Judging and Monitoring Panel comprises The Hon. Alastair Nicholson AO RFD QC, Ms Moira Rayner, and Ms Janet Jukes.

## **AIMS:**

- The Australian Section of Defence for Children International is to fund carefully planned *action strategy projects* that directly seek to protect, promote and/or advance the rights of children and young people who encounter the child protection, criminal justice and/or juvenile justice system.
- Possible examples of action strategies are: test case litigation; piloting a targeted service provision model; demonstration of peer support/education methods concerning the exercise of rights; and the development and field-evaluation of a rights-centred protocol. The funded action strategy may take place anywhere in Australia and should be designed to principally concern under 18 year olds.
- The grants are not intended to: build the general capacity of a grantee; maintain an existing activity; purchase equipment; provide material aid; or meet the costs of general social support structures for children and young people. Such types of expenditure could, however, be a necessary component of the design and budget of an action strategy project.

## **SOME GUIDING PRINCIPLES OF THE COMPETITION:**

- The protection, promotion and advancement of the rights of children and young people in relation to the child protection, criminal justice, and/or juvenile justice systems within Australia is a priority area for DCI – Australia. The knowledge gained from action strategy attempts to improve how children and young people experience their rights in those systems and expands the force of policy advocacy arguments.
- DCI-Australia supports the right of children and young people to meaningfully participate in projects that aim to protect, promote and/or advance their rights. Action strategies are stronger when the project as a whole meaningfully involves children and young people with relevant knowledge and interest who feel valued because their input is being taken seriously.
- The way in which DCI-Australia action strategy projects are established and executed with children and young people is intended to demonstrate and promote excellent models of participation, planning and practice. The lessons learned from performing the project as a whole are as important as those particularly associated with the action strategy.
- The processes, outcomes and impacts of DCI-Australia action strategy projects must be communicated in persuasive and accessible ways. The key audiences are: stakeholders with the capacity, influence and/or motivation to address the targeted problem; and children and young people who are concerned with and/or vulnerable to the target problem.

Further information and application forms are available from the DCI-Australia website at [www.dci-au.org/html/competition.html](http://www.dci-au.org/html/competition.html)

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## Child Protection and Juvenile Justice – Two Sides of the Same Coin

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By The Hon. Alastair Nicholson AO RFD QC  
– Former Chief Justice,  
Family Court of  
Australia.\*



**When the state takes on responsibility for abused and neglected children and teenagers it makes a moral commitment on behalf of us all and we are to blame when it fails in that task.**

Our young have the right to laws, systems, resources, and people that do the utmost to recognise and redress the harms that they have suffered. We owe the obligation to hold governments accountable for providing these.

One element of our duty is to recognise that too often the young offenders of today are the victimised children of yesterday and that they bear the legacy of how little we tried then to prevent that happening. They are two sides of the same coin. Sometimes it takes a decade to seem them both.

Will it be the same tomorrow? Even top quality attention cannot bring a 100% guarantee but it is incumbent that the state's approaches and investments strive to be as clever, competent and comprehensive as possible.

So what should we expect in a federation as diverse as Australia? *Seen and heard – priority for children in the legal system*<sup>1</sup> provided a searchlight and should have been a catalyst for national planning and action on this theme. Instead, the wide-ranging and deep 1997 report commissioned by the Keating Government from the Human Rights and Equal Opportunity Commission and the Australian Law Reform Commission has been consistently ignored by the Howard Government. That failure is not for want of reminding over the years, a fact that speaks

volumes about the Commonwealth's commitment to children.

One feature of the report is of particular relevance. In discussing principles of sentencing, the report agreed that "national standards should require that in sentencing juvenile offenders, courts should take account of failure in protective service provision or community based juvenile justice services for young offenders."

The State also bears responsibility for turning out a "bad penny" when it has been neglectful of its responsibilities. It too is in the dock.

We need to do better at genuinely seeing the two sides of the coin and requiring that the approaches and investments made on our behalf systematically reflect this understanding. How this should happen around the country must be tailored to local circumstances. It would obviously be pointless to wait for Commonwealth leadership and there is absolutely no reason why each State and Territory cannot take the initiative.

If we really care, as a public, it begins with us demonstrating a solid, visible appreciation of the interconnectedness between past victimisation, later offending and the expectation that the state lives up to its promises and obligations. Practical steps then flow logically.

We have to ask how thoroughly the state actually provides for the children under its responsibility, not just whether their plight came to be detected through reporting and investigation mechanisms. We cannot afford to be shortsighted.

We need to maintain the same degree of critical scrutiny over its support and responsiveness to those who begin to encounter the criminal justice system, regardless of the tag they are given or whether they slipped through the protection net.

We must accept the need for the state to spend intellectual, social and financial capital on striving to do better on all fronts. This includes but goes beyond the critical issue of how individual cases are prevented and responded to.

It means we expect governments to make fundamental and perhaps controversial social policy decisions on subjects such as safety-net incomes, housing, family violence, harm-minimisation and affirmative programs that have been demonstrated to shape the risks of victimisation and later offending.

Our response needs to be different when politicians seek to exploit fear and high profile cases. We should reject their attempts to espouse expensive knee-jerk “get tough” measures like minimum mandatory sentences, confident in the research showing that they distract resources without reducing crime risk.

This is because we value knowledge and expect political decisions to reflect proper research. In keeping with the importance we rightly attach to children, we expect our universities and those who operate the state systems to collaborate, to continually improve our evidence and evaluation information, and to make sure they are making it easy for us to know how our efforts are going.

Finally, we must sustain our concern beyond today’s headline, promise, scandal or recommendation. Busy in our own lives, we need to support and encourage those advocacy groups that keep track and continue pressing for our expectations to be met and acted upon.

In this sensitive political arena they are typically unpopular and endangered.

Our vigilance is not just be rewarded by feeling we have done the right thing.

It pays dividends in community safety and social health and the first people to feel that difference are our children as they mix and make friends.

## Footnotes

\* An edited version of this text appeared in The Age on 10 May 2005

<sup>1</sup> <http://www.austlii.edu.au/au/other/alrc/publications/reports/84/19.html#Head-6>

## Taking Young People Seriously handbooks

These resources explore young people’s participation in their communities. They were developed by the Youth Affairs Council of Victoria and the Office for Youth, Department for Victorian Communities, as the product of a partnership project called Participation in Practice. The series contains two books for organisations working with young people, *Consulting Young People About Their Ideas and Opinions* and *Young People On Boards and Committees*, and a book for young people *Creating Change In Your Community*.

The handbooks outline some principles of young people’s participation and practical advice that help ensure that young people are included, empowered and purposefully engaged. They focus on young people’s participation in consultations, organisational structures or in other activities in creating change in their communities. The resources were written following consultations with young people and youth service providers across the State, who shared their knowledge and experiences with the project to ensure the development of relevant, useful and timely resources.

PDF’s of the books can be found at <http://www.yacvic.org.au/pages/policy/participation.htm>

## Can You Help?

The ISPCAN Secretariat received the query below, and will forward information from the responses to the person below, as well as to the ISPCAN list. Best regards, Matthew Mohlenkamp [ispcan@ispcan.org](mailto:ispcan@ispcan.org) Communications Manager ISPCAN -

Original Message- “I have also been working on a background paper on commercial sexual exploitation and was struck by the links with domestic sexual abuse of children - in other words, many advisors in the area note that sexual abuse at home is often a precursor to commercial sexual exploitation. As such as we begin to look at how to address that issue, therefore, it took us back to sexual abuse with the family. I am particularly interested in learning about how the problem is measured and described, how the issue has evolved, who is involved, and how it is being addressed through interventions (particularly from a developing country perspective). Many thanks for any help you can offer! Yours sincerely, Elisabeth Paulson”

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# Australia's Multiculturalism: Time for Assessment and Renewal

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**Sir William Deane, former Governor-General of Australia, has argued the case for “true multiculturalism based on mutual understanding, respect and acceptance” as “the most effective way of combating the evil of racism, nationally and internationally.” The following article presents an abridged version of Sir William’s 2005 Vice Chancellor’s Oration in March 2005 at the University of Western Australia. It is printed here with the kind permission of Sir William Deane and is particularly relevant to DCI-A’s concern about the plight of Indigenous children. It is also timely given recent events in London.**

## **“Australia’s Multiculturalism”**

Our Continent has been the home of a diversity of cultures since the earliest times. We now know that the Aboriginal cultures, which stretch back into the Dreamtime of 60,000 years ago, included great variations in spiritual and cultural beliefs, languages, traditions and practices. During the 217 years following European settlement, many of them were lost. Others have managed to survive.

One legacy of those 217 years has been that less than one in forty of the people of this Continent now claim indigenous descent<sup>1</sup>. The rest of us are all immigrants or descended from immigrants. Immediately or more distantly, we come from practically all the inhabited regions, races, cultures and religions of the world. Obviously, Australia is a multicultural country in the basic sense of being populated by people of many different cultures and cultural backgrounds. And that cultural diversity is not likely to lessen in the foreseeable future. In 2002-2003, 52% of our population growth was attributable to net overseas migration.

History abundantly demonstrates that, within a nation or community as well as at the international level, cultural diversity, including religious and racial differences, can be a source of disharmony and

dispute and a cause of, or excuse for, injustice, disadvantage, violence and even war. On the other hand, such cultural diversity can be a source of knowledge and understanding, an impetus and challenge to development and improvement, a broadening of human horizons, an enrichment of human life and an economic asset. In a truly democratic culturally diverse nation such as ours, the challenge to ensure that such diversity is a source of advantage and benefit rather than a cause of disadvantage, injustice and conflict is an integral part of the quest for national well being and even survival. In such a nation, the democratic ideals of personal dignity, freedom and true equality of treatment under the law demand, if they are to have real content, a positive policy of true multiculturalism which applies to protect the essential rights and legitimate aspirations of all its citizens.

In that context, the phrase “Australia’s multiculturalism” must be understood in a broad conceptual sense. So understood, it signifies positive acceptance of our cultural diversity as a defining and valuable national characteristic which, to borrow the words of the Premier, Dr Geoff Gallop, in his 2003 Walter Murdoch Lecture, “enriches our social fabric and brings with it a variety of cultural and economic benefits, generating innovation and enhanced flexibility”. In that sense, our multiculturalism encompasses legislative, administrative and social policies, programmes and attitudes formulated and implemented to protect, advance and exploit that cultural diversity. By and large, the positive story of our multiculturalism in that conceptual sense is largely confined to the years since the middle of the 20th century, particularly the last four and a half decades.

Even within that limited time frame, there have been some failures and weaknesses. Yet, subject to the special case of Indigenous Australians to which I shall return, the overall balance is strongly positive and reflects much of which we can be justly proud. Indeed, in this modern world rent by so much hatred

and conflict, Australia's multiculturalism is at least arguably our most significant achievement as a nation. For it is our multiculturalism that has enabled us to encompass the many within a pretty harmonious whole while largely avoiding bringing to this land old hatreds, prejudices and conflicts.

Nonetheless, multiculturalism is currently being subjected to a variety of pressures and challenges in our community. I specifically mention but some of them. There is a degree of dispute and confusion about its underlying objectives and philosophy. There is a growing tendency to distort its nature and belittle its importance. There are some widely supported attitudes and policies which are antithetical to its underlying ethos and rationale. There are the distrust, the fears and the prejudices arising from political, economic and social pressures, not least the incidence of international terrorism and conflict. On another front, even among some genuine supporters of multiculturalism, there is a rather common tendency to concentrate upon high-sounding rhetoric to an extent that ignores the critical importance of actual attitudes, circumstances and opportunities. And there is a common failure to appreciate the extent to which attitudes towards, and the circumstances of, Indigenous Australians lie at the very heart of a responsible national multiculturalism.

### **Assimilation or Celebration?**

By and large, the purpose of the initial adoption and implementation of a national policy of multiculturalism in this country was to encourage a favorable environment for the harmonious absorption or assimilation of the influx of migrants in the decades following the Second World War. On the other hand, the increasingly altered cultural composition of our population over the last half century has inevitably seen the evolution of the approach that multiculturalism is not to be seen merely or primarily as a transitory means to an end, namely, the harmonious assimilation of new arrivals into an essentially British and Irish society. On that approach, which seems to me to be well founded, multiculturalism should be seen as an end in itself, namely, the celebration and exploitation of a cultural diversity which should be accepted as a permanent defining characteristic of our national citizenship and identity. It's easy to exaggerate the extent of the

antithesis between the two approaches since those who see multiculturalism primarily as an aid to harmonious assimilation are also likely to be appreciative of at least some of the permanent community benefits flowing from cultural diversity while those who see multiculturalism as a concept or policy celebrating the fact and benefits of cultural diversity at all levels including national citizenship and identity are likely to be appreciative of its advantages as regards easing the path of new arrivals. Nonetheless the underlying tension between the two approaches is a cause of real weakness not only to the formulation of policies but in the way we actually view our nation<sup>2</sup>.

### **Some Hostile Attitudes and Policies**

One cannot but be conscious of a tendency in recent times to seek to discount or trivialize policies and attitudes protecting the dignity and self esteem of other human beings by dismissive or occasionally sneering reference to the pejorative and largely meaningless catchphrase of "political correctness". Or, in some more strident sections of the media, by childish reference to things such as drinking chardonnay, or cappuccino or even latte or an undefined "chattering class" from which those who are enamored of the phrase apparently see themselves as strangely exempt. Again, there is the tendency to use misleading labels or generalizations to appeal to prejudice or to arouse antagonism or distrust in relation to fellow human beings of different cultural backgrounds. Who of us, for example, will easily forget the all too recent and widely accepted attempts to brand asylum seekers, including many genuine refugees, as "queue jumpers" or "illegals" or "people like that" who threw their children overboard. Even more serious is the antithesis between the humanity and decency of the mutual respect and acceptance of multiculturalism and some actual policies, often enjoying popular and sometimes bilateral political support. One example is the incarceration of innocent children for indefinite periods behind razor wire in isolated areas of Australia or in the harshness of a manufactured legal vacuum in a place such as Nauru. Another is the artificial manipulation of national borders to foil asylum seekers, again including genuine refugees. Perhaps reminiscent of the Priest and Levite who,

in the Parable, crossed the road to avoid contact with the victim of terrible misfortune.

The extraordinary response in the face of the devastation caused by the recent Tsunami demonstrated how generous Australians can be towards people from different places and cultural and ethnic backgrounds. What then is the explanation of those hostile attitudes and policies against people in real need seeking to reach our shores? It seems to me to lie in a mixture of political and economic pressures and genuine apprehension consequent upon terrorist outrages and conflict and violence in so many foreign parts. With all respect to those who genuinely see things differently, however, those attitudes and policies seem to me to be misguided even from a selfish point of view.

The genuine apprehension of many Australians in the face of terrorism in other parts of the world is, to no small extent, a consequence of the assertion by some involved that they are acting in the name of one of the world's great religions, Islam, which, on conservative estimates, has more than 1.2 billion adherents world wide, with some 300,000 in Australia<sup>3</sup>. In fact, of course, terrorist acts against innocent people are contrary to the teaching of true Islam with its Golden Rule<sup>4</sup> and its mandatory injunction of "True Charity"<sup>5</sup>. To the extent that they enjoy the support of some rogue Islamic extremists, it is no more justifiable to treat all followers of Islam with disaffection and distrust because of them than it would be to treat all Christians similarly because of terrorist violence and killings by Catholics and Protestants over the years in Ireland and other parts of the world. In recent times, I personally have had considerable contact with the leaders of Islam in Australia. For example, in the last six months, I was, on one happy occasion, privileged to open Canberra's new Islamic Centre while, on another tragically sad one, as outgoing Chair of CARE Australia, I welcomed representatives of Islam in Australia to a private ecumenical memorial service after the murder in Iraq of CARE Australia's much loved Country Director, Margaret Hassan. There is no doubt at all in my mind, nor was there any in Margaret's after a lifetime of direct personal experience and contact, that the most effective opponents of terrorism by those falsely purporting to act in the name of Islam are the leaders and

followers of true Islam. That means that, from Australia's point of view, one of the most effective defences against the evil of such terrorism is the type of informed and reasoned dialogue between Muslims and non-Muslims which multiculturalism, with its underlying mutual respect and acceptance, makes possible. Moreover, it is that multiculturalism which is best calculated to prevent the development in Australia of the sort of environment of disconnection, disadvantage and perceived injustice which is most calculated to give rise to dangerous disaffection and resentment on the part of our Muslim fellow Australians, particularly the young.

Quite apart from our own self interest, those policies and attitudes seem to me to be unfortunate in that they reflect a weakening of our sense of shared humanity and humane values and a loss of true perspective. In so far as values are concerned, I venture the thought that all but the inhumane would ordinarily recognize what the Pope has described<sup>6</sup> as a "duty to welcome" fellow human beings who come knocking in desperate need. In so far as loss of perspective is concerned, let me illustrate the point by a contrast.

In the terrorist outrages of September 2001 in America and October 2002 in Bali, a total of some three thousand people lost their lives. Not surprisingly, the media coverage and public outrage and sympathy were overwhelming. We could readily identify with the victims. Our horror and concern have been intensified by subsequent terrorist murders in Madrid, in Beslan and in other places.

In stark contrast to that legitimate horror and concern is the comparative indifference which many of us seem to show to another, less dramatic but constant and overwhelming, set of facts and circumstances affecting people with whom we do not readily identify.

On average, on each day of the past four years, more than 16,000 of the world's children died of preventable starvation, malnutrition or related sickness. More than 6 million each year. More than the total number of adults and children killed on 11 September 2001 in America, 12 October 2002 in Bali, in Madrid and in Beslan every five and a half hours of every day. Yet day after day one looks in vain in our media for even a word about the

approximately 16,000 children who died as the result of preventable starvation or malnutrition on the previous day. Somehow we seem to have managed to disconnect from the basic message of human decency that each of those victims is not just a statistic but a human child . . . just like our own. As is each of the innocent children who have been incarcerated by us Australians both within and outside our country, including the children who were not thrown overboard.

It is only when we Australians again really focus on our shared humanity with people everywhere that we will finally rid ourselves of attitudes and policies which are antagonistic to the generosity of spirit and mutual understanding, respect and acceptance which lie at the heart of our multiculturalism. It is also only then that we will properly focus on the overwhelming imperative that all the millions of starving and disadvantaged children of the world, including, of course, the refugees and asylum seekers, be saved and given lives worth living. It is true that that objective will almost certainly not be achieved without a global revolution in thinking and practice, particularly in the world's affluent countries. But it is not unachievable. And its achievement is necessitated not only by basic considerations of justice and humanity but also by cold pragmatism. For it is through such a global revolution in thinking and practice that we are most likely significantly to reduce the current prevalence in the world of the conditions in which conflict is inevitable and the agents of terrorism can flourish.

### **Some Other Genuine Fears**

One sometimes hears genuine suggestions that multiculturalism discourages pride in our country's traditions, institutions and achievements. Or that it precludes legitimate questioning and proscription of cultural practices that are unacceptable according to fundamental standards of our society. Those suggestions are ill-founded.

Through its inclusiveness, multiculturalism encourages and makes possible truly national pride – that is pride in which all citizens can genuinely share - in our country and its traditions, institutions and achievements. Indeed, properly understood, multiculturalism reflects and implements some of the basic notions of equality and fairness which lie at the heart of our traditional

values and institutions. In that sense, it should be seen as a fulfillment, rather than an undermining, of our democracy. It is true that multiculturalism may at times be seen by some as challenging or helping lessen the dominance of some traditional influences in our country. But in that it is simply reflecting the working of democracy in the context of our altered identity as a people.

Nor, on any sensible and responsible approach, does multiculturalism mean that introduced or indigenous cultural or religious practices or weaknesses are immune from examination, reasoned criticism or control within Australia. Rather it helps make possible an environment in which there *can be* reasoned and informed discussion, criticism and control. It should not and does not, for example, protect practices which damage or destroy the person or property of other citizens - such as, to take an extreme case, the genital mutilation of young women - or which are simply unacceptable according to the standards of our society - such as polygamy. Nor, for that matter, does it absolve governments or the community of the responsibility to protect the weak and powerless in every cultural group or section of society, such as the obligation to advance the education and welfare of all Australian children and to protect them from the consequences of exposure to alcohol and drug abuse, truancy and domestic violence.

### **Indigenous Australians**

In the early stages of the story of Australia's multiculturalism, when it was essentially concerned with the harmonious assimilation of new immigrants, Indigenous Australians and their cultures tended to be seen as lying outside its scope. It would now seem to be generally recognized that the circumstances of Indigenous Australians and the relationship between them and their fellow Australians must lie in its forefront. Once that is recognized, it is apparent that Australia's multiculturalism will remain flawed - and, at least to some extent, a tragic mockery - unless and until true and lasting reconciliation is reached between our Indigenous peoples and the nation of which they form such an important part.

Nine years ago, when I left the High Court to

become Governor General, I had high hopes that we would achieve Aboriginal reconciliation by our national Centenary on 1<sup>st</sup> January 2001. That was at the middle of what has been described as the “Decade of Reconciliation” which culminated in the great bridge marches of May 2000 and the presentation to the Governments and the People of Australia of the Council for Aboriginal Reconciliation’s landmark Declaration and Roadmap. If it had been possible to achieve national consensus on those documents, it would have constituted an auspicious start to what the Council described as “Australia’s continuing journey”.

However, as we now know, that was not to be. While we had walked far together, no national consensus was achieved.

In the years since Corroboree 2000, relations between Indigenous Australians and their and our nation seem to me to have significantly deteriorated. And the plight of our Aboriginal fellow Australians, particularly our nation’s indigenous children, has remained overwhelming.

Most Australians, I have noticed, tend to tune out when figures or statistics are quoted. And that is not surprising since it is so often difficult to get one’s mind properly around them or to translate dry figures and statistics into human reality. But there is one overwhelming statistic which should always be the starting point and of which we should all always be conscious in any discussion of Aboriginal disadvantage. It is, of course, the simple statistical fact that an Aboriginal baby born in this country on this day will, on average and if things don’t improve, have a life expectancy of around 20 years less than will a non-indigenous baby ... around 19 years less if the baby is a girl and around 21 years less if a boy. That appalling state of affairs is dramatically worse than the corresponding statistics in what should be comparable countries ... New Zealand, Canada and the United States where the discrepancies, although still unacceptable, are between a third and a sixth of the Australian figure. And it would seem that, in this country, the discrepancy is, if anything, still growing.<sup>7</sup>

Those statistics are not simply statistics of shortened lives. They are statistics of diminished ability, happiness and opportunity during life. For one

cannot isolate indigenous ill health from the human suffering, loss and disadvantage that it entails. Nor can one isolate its effects from the other focal points of indigenous disadvantage in our land: educational standards, employment opportunities, living conditions, hope, self-fulfillment and self-esteem or from the related problems of entrenched welfare dependency, alcohol and substance abuse and domestic violence.

I do not, however, wish to end on that discouraging note. For, notwithstanding past and present disappointments, I remain hopeful about where we are placed now for making real progress if we possess the necessary will and determination and can succeed in establishing reasoned and informed dialogue and consultation in the context of a genuine search on all sides for true consensus about the way forward. That hopefulness is largely based on the remarkable change in the attitude of Australians generally in recent decades and on the innumerable outstanding efforts and achievements at the grass roots level. It is also based on the remarkable generosity of so many Indigenous Australians and my confidence in the encouraging number of extraordinarily talented young Indigenous leaders and future leaders.

What is missing is a general community sense that those and other changes, efforts and achievements and some impressive Government Programmes, are part of the kind of renewed *national* movement that is essential if we are to achieve true national reconciliation, both practical *and* spiritual or symbolic – for it is futile to talk of one without the other. In that regard, let me respectfully urge you to lend what support you can to the ambitious programme of Reconciliation Australia, of which I am a Patron, to reinvigorate the search for reconciliation at the national level. That programme, which will culminate in a major National Convention in 2007, will really get under way at the end of May this year with an important National Workshop in Canberra in which national leaders, including leader, of Indigenous Australia, will participate.

Let us all hope that, as regards relations between Indigenous and non-Indigenous Australians at the National level, it will at least help get us back to where we were.

## Time for Assessment and Renewal

As I have indicated, I believe that, until we begin to make much more effective progress towards resolving the searing problems of Aboriginal disadvantage and towards true and lasting reconciliation, Australia's multiculturalism will remain vitally flawed. Otherwise, in what I have said this evening, I have sought to explain why I am convinced of the absolutely critical importance of our commitment to multiculturalism as a national policy and way of life. The challenges and the pressures, to some of which I have referred, seem to me, if anything, to add emphasis to that importance. They combine, however, with the genuine distrust and fears of many of our fellow Australians, to strongly indicate that the time is appropriate for a concerted campaign, of assessment, education, and renewal at all levels of government and the community. **Assessment:** to resolve undesirable ambiguity or uncertainty and to ascertain the most effective means of promotion and implementation. **Education:** to seek to persuade those of our fellow Australians who are yet to be convinced of its fundamental importance to our decency, our wellbeing and our future. **Renewal:** of our commitment as a nation. I should perhaps add that, in light of its recent and eloquent Charter of Multiculturalism and its encouragement of informed dialogue, I would hope that this State would play a leading role in any such campaign.

Looking back, I had Australia's multiculturalism very much in mind when, in my 1999 Australia Day message as Governor General, I sought to articulate the objectives, the theme and the vision which I believed we Australians should take into our second century as a nation and the third millennium of our time. The objectives were "relief of disadvantage", "reconciliation" and "multiculturalism". The theme was one "of caring ... of tolerance ... of concern for true equality, dignity, opportunity and hope ... for all Australians". The vision was one not "of imposed uniformity but of true and worthwhile unity and mutual acceptance Of Australians walking together, talking together, caring together, working together, achieving together".

Those objectives, that theme and that vision should, I believe, lie at the very heart of Australia's multiculturalism. Some may see them as high-flown and even unrealistic. It seems to me however that

they are more important now than they have ever been if we and our children are not to risk losing our generosity, our values and our way.

## Footnotes

<sup>1</sup> In the 2001 Census, 2.2% of the total claimed Indigenous origin)

<sup>2</sup> See, e.g., Professor Jayasuriya, "Chartering a New Way for Australian Multiculturalism", *Migrant Action*, Vol. XXVI, No.3 2004.

<sup>3</sup> 261.6 thousand at the 2001 Census.

<sup>4</sup> "Do as you would be done by".

<sup>5</sup> See, e.g., The Holy Koran, (Published under the authority of the Custodian of the Two Mosques), s51, n. 5001 and s.83, n.6011

<sup>6</sup> Message for the 89th World Day of Migrants and Refugees (2003) and see, generally, the Australian Catholic Bishops Conference's 2003 Social Justice Sunday Statement, pp.7-9.

<sup>7</sup> See, e.g., Australian Bureau of Statistics & Australian Institute of Health and Welfare, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander People* 2003, p.182; Commonwealth Grants Commission, *Report on Indigenous Funding 2001*, p.105.

### Assisted Reproduction Technologies and Adoption Law Reform

As part of its reference on these matters, The Victorian Law Reform Commission has published three Occasional Papers which explore the rights of children born from assisted reproductive technology: *ART Surrogacy and Legal Parentage: A Comparative Legislative Review* by Adjunct Prof John Seymour, Australian National University and Sonia Magri, Victorian Law Reform Commission; *The Convention on the Rights of the Child: The Rights and Best Interests of Children Conceived through Assisted Reproduction* by John Tobin, Law School, University of Melbourne; and *Outcomes for Children born of Assisted Reproductive Technology in a Diverse Range of Families* by Dr Ruth McNair, Department of General Practice, University of Melbourne. The Commission is also releasing three position papers containing interim recommendations for community comment. The Commission is currently seeking public feedback in relation to interim recommendations made in its *Assisted Reproduction and Adoption Paper Two: Parentage* which concerns legal parentage, access to donor information and adoption. The deadline for making a submission is Wednesday 31 August 2005. For more information visit [www.lawreform.vic.gov.au](http://www.lawreform.vic.gov.au)

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# AMA Urgency Motion - Asylum Seekers

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**This is the text of the speech given by Dr Michael Gliksman, member of Council of the AMA(NSW) in support of the motion proposed by Dr Gliksman, produced below, that condemned the treatment of children in detention by the Federal Government, at the AMA Federal Conference held on 27-29<sup>th</sup> May in Darwin. The motion was adopted by majority vote of delegates.**

Doctors as a group are reluctant to enter the political fray, for good reason. It is the antithesis of why we chose to practice medicine: to help people, to labour in an honest profession, to benefit society without prospect of or desire for disproportionate reward.

But there is a long established exception to this reluctance; when the health and well being of people are threatened by any policy or practice espoused by any government, of any political flavour.

We doctors gathered here at the AMA Conference in Darwin represent an association distinguished by its public advocacy of prominent health issues.

The AMA is the premier medical association in Australia, without exception. Its respect and authority is born not only from the large number of doctors it represents but also from the integrity, power and principle it brings to bear on its policy and advocacy role. Our tradition of advocacy for the disadvantaged, for the indigenous community, for women's health and rural health are testament to that.

In Australia today there exists another shameful conjunction between injustice and ill-health involving foreseeable, avoidable and possibly irreparable harm to the most vulnerable of all. I speak of the indefinite detention of children – babies too – charged with nothing, guilty of nothing, in Australia's very own Gulag Archipelago stretching from Christmas Island through our remote deserts and on into malaria blighted islands in the South Pacific.

Some of the children have been there from birth, born in Australia but denied their birthright of citizenship,

knowing no crib but one bounded by razor wire, denied the protection of the States' child protection legislation we all take for granted.

Out of sight and largely out of mind, Australia is building a generation of damaged children almost all of who, statistics show, will at some indeterminate time in the future be granted refugee status. In the deserts and on isolated islands, we are building a legacy to haunt and shame us for generations, for abuse is transmissible.

Our psychiatrist and paediatric physician colleagues know well the breadth and depth of damage that indefinite detention inflicts on young minds. Perhaps some may speak of that here in favour of this motion?

As we consider this motion, 68 children remain in indefinite detention, their health and development blighted by the ongoing abuse that is integral to the fact of that detention.

We know the damage done and equally, we know the remedy. We would not remain silent in the face of such abuse in any other setting. We must not here.

We need to send a strong, clear and unequivocal message, one that cannot be spin doctored into oblivion, one that is true to our tradition; that each child's health, development and well being is paramount, standing above individual and party political interests. This motion provides that message.

We stand at a watershed. In the battle between votes and children, decent people, our profession, have little choice. We can fight with the angels or stand silent with the devil. Our choice is that stark.

In the years to come, when your grandchildren learn in school of what was done in our name to the children of others and ask: "what did you do to stop it?", remember the words General Patton addressed to his anxious troops before a crucial battle of liberation:

"At least you can say – I didn't shovel shit in Indiana".

## Children in Immigration Detention

*Mover: Dr Michael Gliksman*

*Seconder: Dr Michael Noel*

In accordance with AMA Policy Resolution 7073-3/02 “That Federal Council endorse representatives to approach the Government as a matter of urgency to address the issue of health care provided to asylum seekers in Australia,” and there being strong medical evidence of significant harm to children’s emotional and developmental health from being in indefinite detention.

That the Federal Council be requested to look into the situation of children in immigration detention and develop a position that calls on the Federal Government to:

1. Recognise that the indefinite detention of children is child abuse;
2. Recognise that it is unethical to provide psychiatric services in a setting where the provider is under the direction, influence or control of the abuser;
3. Release immediately all children detained in immigration detention facilities;
4. Release immediately all immigration detainees suffering mental disorders into appropriate psychiatric facilities.

## 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. Others 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 next edition of 2005. Contributions of between 700 and 1500 words are preferred and should be e-mailed with full author details to [judycash@nsw.bigpond.net.au](mailto:judycash@nsw.bigpond.net.au)

Suggested graphics or photos to accompany the article are most welcome. The closing date for receipt of material is 1 November 2005 but please advise the editors as soon as possible if you are planning to submit.

If you have an idea which you would like to discuss, please email Judy Cashmore [judycash@bigpond.net.au](mailto:judycash@bigpond.net.au)

Articles published in Australian Children’s Rights News may also be placed on the DCI-Australia Website: [www.dci-au.org/](http://www.dci-au.org/)



## Contempt Over Child

The editor of The West Australian newspaper has pleaded guilty to contempt in the Supreme Court. He contravened the *Children’s Court of Western Australia Act* - a contempt that carries a maximum penalty of \$10,000 or a one-year prison sentence – by identifying a nine-year-old Aboriginal young offender and ward of the state. The Court heard that the child suffers from attention deficit hyperactivity disorder, had a troubled family history and had committed many burglaries. The editor authorised the publication of photographs of the boy and stories revealing his first name, age, nickname and suburb in consecutive editions of the newspaper.

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# State Developments Update

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## Victorian Update

### Proposed Charter of Human Rights

On 1 June, the Attorney-General of Victoria launched a discussion paper for consultation on human rights which explores whether Victoria should develop a Charter of Human Rights and if so what form it might take and what should it protect. This discussion paper is open to consultation and submissions.

Copies of the discussion paper are available on the web at [www.justice.vic.gov.au/humanrights](http://www.justice.vic.gov.au/humanrights).

### Charter of Rights for Children in Care

A Discussion Paper on developing a Charter of Rights for Children in Care has been prepared to inform children and young people in care, their parents, the out of home care sector and the wider community about some key issues relating to a charter.

The Office of the Advocate is very keen to hear views on developing the content of a future charter or any matter raised in the Discussion Paper. A Feedback Form has been prepared to assist people in their submissions.

The Discussion Paper and Feedback Form are available from the Advocate's website: <http://www.dhs.vic.gov.au/advocate>.

### Child Safety Commissioner

In December 2004 the Premier announced new arrangements for children's services in Victoria. These included the appointment of a Minister for Children, the establishment of an Office for Children within the Department of Human Services, and the creation of the position of Child Safety Commissioner.

The role of the Commissioner, who reports to the Minister for Children, will report his activities to the parliament and is to provide advice and recommendations to the Minister about children's

safety issues and to ensure that the safety and protection of children is properly addressed.

Legislation relating to the Commissioner's establishment, roles, and responsibility has yet to be introduced. Functions to be included are: overseeing the functions of the Advocate for Children in Care, and the Victorian Child Deaths Review Committee, monitoring the introduction of the Working with Children Check, and education and advocacy to promote child friendly and safe practices in the community. Bernie Geary's appointment as Child Safety Commissioner was announced by the Minister for Children in May. Bernie is a former CEO of Jesuit Social Services, and a long serving member of the Youth Parole Board

Organisations including DCI, which have been advocating the establishment of a broadly focused independent rights based Commission for Children and Young People in Victoria look forward to meeting with the new Commissioner.

Janet Jukes

## South Australian Update

### New Child Protection Legislation

*Keeping Them Safe* is a five year reform program for child protection initiated by the South Australian Government in 2004 as one response to the Layton Child Protection Review. The *Children's Protection (Keeping Them Safe) Amendment Bill 2005*, released for public consultation in May, is the legislative response to the *Keeping Them Safe* program.

The *Bill* includes new principles aimed at improving the ability of all members of the community to identify children being harmed, or at risk of harm, and strengthening the capacity of the care and protection system to act in the best interests of the child.

The *Children's Protection (Keeping Them Safe) Amendment Bill 2005*:

- Recognises that situations of real danger may occur when there has not yet been an incident of abuse;
- Gives greater respect to the voice of the child in decision making;
- Introduces a major focus on child safe environments in recognition of the need for a whole of community response to address the trend of steadily increasing reports of abuse and neglect;
- Requires organisations which have contact with children to provide a safe environment for them, through having policies and procedures that prevent and minimise opportunities for harm and provide for timely actions, when abuse and neglect occurs or is suspected;
- Formalises mechanisms for independent monitoring and review of the care and protection system through the powers and functions of the Council for the Care of Children, the Guardian for Children and Young Persons and the Child Death and Serious Injury Review Committee;
- Extends the range of persons legally required to report suspicions of neglect or abuse, or risk of abuse and neglect.

The *Bill* was passed in the Lower House on Thursday, 7 July, and will be debated in the Upper House when Parliament resumes in September. Copies of the *Bill* and associated Fact Sheets are available for downloading from the website of the South Australian Department for Families and Communities.

[www.familiesandcommunities.sa.gov.au](http://www.familiesandcommunities.sa.gov.au)

### **Office of the Guardian for Children and Young People**

In South Australia, there are about 1,400 children and young people under the Guardianship of the Minister and three out of four are on long term orders, that is, until they reach the age of 18. Almost one in five are Aboriginal or Torres Strait Islander children and 10 per cent have significant disabilities.

Ten months into its operation the Office of the Guardian for Children and Young People has determined its early priorities and commenced its 2005 projects.

For its major systemic inquiry this year the office is investigating the prevention of sexual abuse in care. This is linked to the SA Commission of Inquiry (Children in State Care) which is due to report in June 2006. As part of its monitoring function the Guardian had commenced auditing annual reviews for children in long term care. The advocacy projects this year include developing a charter of rights and producing information for children when they first enter out of home care.

The Office produces a quarterly newsletter. To subscribe to the newsletter or for further information email [gcyp@saugov.sa.gov.au](mailto:gcyp@saugov.sa.gov.au) or (08) 8226 8570.

## **Tasmanian Update**

### **Screening of Individuals Who Work with Children in Tasmania**

In January 2005 the Tasmanian Commissioner for Children released this consultation paper for public comment. Its purpose was to disseminate information on the current screening practices adopted in Tasmania and interstate, and to propose a new model of screening for use by Government and non Government organisations.

The overall objective was to increase the protection of children by providing a consistent comprehensive, effective and readily understood process for the screening of persons who are working with or who are seeking to work with children. He also sought to ensure that natural justice was afforded to persons who are the subject of screening.

The consultation paper proposed using information regarding a person's criminal history and previous employment history to assess how suitable the person is to work with children. All persons who work with children would be the subject of a 'working with children check' and if the accuracy of the check is positive the person would be issued with a "Tas card". A feature of the proposal is that once a person has been issued with a Tas card, this could be used by the person to undertake other work including voluntary work with another organisation without the need to be the subject of further screening.

Government departments and approved non Government organisations would be responsible for undertaking screening of most persons who wish to work with children.

The central screening agency would also assess self employed persons who wish to work with children and would also be the depository of information relating to complaints and disciplinary action against persons if these relate to working with children. The screening process would look wider than simply checking a person's criminal history. (see Commissioner for Children's Media Release dated 7 January 2005).

The consultation paper is available at [www.childcomm.tas.gov.au](http://www.childcomm.tas.gov.au). The Children's Commissioner is currently having discussions with the Government regarding the proposals contained in the consultation paper and an announcement is to be made shortly.

### **Review of claims of abuse from adults in State care as children**

The Tasmanian Ombudsman is shortly finalising the list of claimants for ex-gratia payments. Approximately 400 adults contacted the Ombudsman's review team wishing to register a claim for an ex-gratia payment as a result of the abuse they suffered whilst in State care as children.

Whilst the large number of claims was alarming, the Ombudsman did not see the need for a full commission of enquiry into child abuse as she stated in her report the great majority of claims were old. Recent information indicative of shortcomings in the present system was limited. The situation may change once the Commissioner for Children has completed his investigation into recent cases of abuse.

The actions of the Ombudsman's office and the Commissioner for Children in Tasmania has helped to focus attention and scrutiny on this issue. Abuses whilst children are in State/foster care needs to be eradicated or at the least detected at the earliest available opportunity. This seems to be recognised by the Tasmanian public as there has been a conspicuous absence of complaints concerning the money and resources the Government has allocated

towards stamping out this problem. The media attention must also be helpful in raising public awareness.

### **Violence Between Young Women**

A recent article in a Tasmanian newspaper highlighted the trend in juvenile offences for females to be charged with assaulting other females. The article resulted from a review of statistics released by the Police department.

It is difficult to interpret the sociological reasons for this trend. There may be a number of factors to account for the increase including a better reporting system by victims. Youth workers believe that this may be a temporary feature in juvenile crime offences and it was also noted that there have been similar international trends.

Peter Briffa

## **Western Australian Update**

### **Children's Commissioner Bill**

The Minister for Community Development Sheila McHale introduced a bill for the creation of WA's first Children's Commissioner on 1st June. The Commissioner is to have the power to conduct inquiries on his/her own initiative or the request of the Minister and must have regard to the best interests of the child but cannot receive individual complaints even in extraordinary circumstances.

Although the Office is avowedly 'independent' (i.e. reporting to Parliament) it is encumbered with a number of small impediments to independence:

- (a) the 'Minister' in the legislation appears to be the Minister responsible for the Department for Community Development (DCD) which delivers children's services;
- (b) the Commissioner is obliged to send a draft of any investigation report to the Minister before finalising it and may be directed to consult with persons before doing so and though need not change the report must indicate in the report that he/she has done so;
- (c) the UN Convention on the Rights of the Child is referred to in only a passing reference; and

(d) the Commissioner, it appears, is to enjoy both a miniscule (\$1.5 Million recurrent) budget and the pleasure of having that set from within the DCD portfolio (i.e. by the Department he/she is required to oversee).

It is rumoured that a former cabinet minister responsible for the child welfare portfolio under a former Labor administration is to be appointed to the position, which is unlikely to be advertised and subject to merit selection (as usual in Western Australia).

Perth is notoriously gossipy, and the 'traffic' on the bill should be treated as such: both the bill and the planned administrative arrangements are the subject of considerable lobbying, for self-evident reasons.

Moira Rayner

## Queensland Update

### Rising Notifications

In the child protection system there has been an alarming increase in the number of cases of abuse of children being notified to the new Department of Child Safety, rising from 27,592 in 2001-02 to 35,023 in 2003-04, an estimated 43,000 in 2005-2006 and 47,000 in 2005-06.

The number of children subject to child protection orders is similarly increasing. In June 2003, almost 4,000 children were subject to child protection orders. This number had increased to 4,599 in June 2004 and is expected to reach 5,300 by June 2005. Has this been brought about because of a heightened community awareness of abuse and a willingness to report, or of better practices within the new Department, or worryingly, because more children and young people are being abused in Queensland?

Queensland has had a very long history of under-funding its community services compared to the other States and of turning a blind eye to the welfare of its children and young people. It may now be experiencing an accumulative effect for the current generation of children and young people.

Allison Tait

## Handbook to Help Journalists Monitor Child Rights

A new edition of a booklet designed to help journalists monitor their government's performance as signatories to the Convention on the Rights of the Child has recently been published by the Bristol-based media ethics charity MediaWise on behalf of UNICEF. The original edition, commissioned in 1999 to celebrate the 10th anniversary of the Convention is in use in over 20 countries and has been translated into a dozen languages. It has already shaped training programmes for journalists around the world.

The revised and expanded, pocket-sized edition, based on the practical experience of working journalists, includes story ideas drawn from issues raised by the Convention and checklists to ensure that media professionals acknowledge children's rights in their working practices.

"Media professionals are well placed to keep children's rights - and their abuse - on the news agenda, by scrutinising policies and legislation, and challenging those who fail to meet their commitments to children," says Lynn Geldof, UNICEF Communication Advisor for Central and Eastern Europe and the Commonwealth of Independent States, introducing the handbook.

The handbook outlines two milestones for children's rights since the 1st edition: the Millennium Development Goals, signed up to by 191 UN member states, and A World Fit for Children, the declaration adopted by the UN General Assembly in 2002 to provide criteria against which to measure the achievements of governments. It also contains International Federation of Journalists guidelines and over 60 useful international contacts for journalists seeking facts, figures, quotes and advice about children's rights. For more information, contact: Mike Jempson, MediaWise 38 Easton Business Centre, Felix Road, Bristol BS5 0HE, UK Tel: + 44 117 941 5889; Fax: + 44 117 941 5848 Email: [info@mediawise.org.uk](mailto:info@mediawise.org.uk) Website: <http://www.mediawise.org.uk>

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# Juvenile Justice in DCI - The Story So Far

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**Helen Bayes founded Defence for Children International in Australia in 1993. A social worker by training, Helen has worked in social policy and program areas of both Commonwealth and ACT Government. She also spent some time working in the Geneva office of DCI. Helen was awarded the Human Rights Medal in 1999 by the Human Rights and Equal Opportunity Commission in recognition and National Coordinator of her outstanding contribution to promoting and protecting Human Rights. Helen was invited to deliver this talk overviews the work of Defence for Children International to protect the rights of Kids Behind Bars - or, in more formal language, the detention (or deprivation of liberty) of children and adolescents at the at “Kids Behind Bars” DCI International Conference, Bethlehem June, 2005.**

DCI/DNI/DEI celebrated its 25<sup>th</sup> birthday last year. It is 10 years older than the Convention on the Rights of the Child. Yet it was the drafting of that Convention that was the genesis of DCI and over the years we have developed quite a special personality as an NGO:

- a clear commitment to the UN Convention on the Rights of the Child as the central framework for projects and policies
- an enthusiasm for starting innovative projects in many parts of the world
- an ideological willingness to collaborate with other interested parties: other NGOs of course, and experts, but also with governments and inter-governmental organisations, who want to improve the world for children.

We seem particularly good at developing example projects of how to promote and protect children's rights. We often see our examples taking root much more widely than DCI itself.

Sometimes we are accused of thinking we own the Convention, but of course we don't – and we really do know that. The Convention belongs to the whole world, and especially to all children and adolescents.

Juvenile justice has always been a high priority for DCI and we have taken many initiatives over the 26 years to protect the rights of children and adolescents who are in conflict with the law. We work at the international, regional, national and local levels to stimulate the progressive reform of juvenile justice systems and services, so that the UN Convention on the Rights of the Child, and the three instruments of UN Rules and Guidelines about Juvenile Justice are properly implemented.

At our International General Assembly held here over the last 3 days, we agreed to put the theme of Juvenile Justice into the centre of our global actions for the coming years. So this work has been promoted from being “high priority” to being the core issue of DCI's international work. We intend to increase the visibility of this issue in human rights forums and in international and intergovernmental arenas. We are planning further projects to explore and demonstrate good practise. And we will put concentrated energy into networking to stimulate and support the reform of juvenile justice systems so that children's and youth rights are fully implemented.

As a human rights NGO, we tend to focus on worst-case scenarios, that is where breaches of human rights have the most serious consequences for real people. Also where significant numbers of individuals are suffering. Detention – or deprivation of liberty – by the State is such an area. It is there, behind bars, out of public view, inside closely guarded institutions - which are often house large numbers of individuals - that the human rights of young people can so easily and comprehensively be taken away – even the most basic right to survival.

Articles 37 and 40 of the UN Convention on the Rights of the Child deal specifically with detention, but let us remember that detainees do not lose their other rights by virtue of being detained. They are entitled to the whole system of rights in the Convention - all the rights relating to survival, development, participation and protection. All the rights must be protected for a JJ system to meet the requirements of the UNCROC.

Most of the breaches of rights in the juvenile justice system are rooted in traditional beliefs that young people need to be punished. I use the word 'punish' deliberately, even though we flinch from it these days. One of the strongest influences in the field of Juvenile Justice is the ordinary public's demand for punishment. And their view that a person, even a child loses his or her rights if they commit offences, so that justice means justice for the victim of an offence, or for society generally, and this can be obtained by punishing the offender.

This creates a political demand for 'punitive sentencing' rather than for help and rehabilitation. It is the public demand for *punishment* of offenders, together with commonly-held fears about crime, and intolerance of youth, that lead to the human rights suffering of 'kids behind bars'.

### **Developing International Standards**

In 1985, when the Convention was still being drafted – DCI commissioned a study of children in prisons. It demonstrated clearly that many children were imprisoned in terrible conditions, that this problem was widespread but largely invisible and that the international standards *existing then* gave these children no actual protection. This research provided the detailed picture necessary for it to help draft precise proposals for the JJ articles in the UNCROC (1989) and three further sets of UN rules and guidelines. DCI consulted widely with JJ experts, DCI sections and other NGOs for input to the drafting process. Every organisation now working for reform relies on these basic standards<sup>1</sup>, yet they are barely implemented today.

To increase awareness of these welcome developments of international law, DCI published a Kit - in English, French and Spanish - which contains the texts with explanatory introductions.

The DCI Kit has stimulated reform and training in many parts of the world.

### **Facilitating International Cooperation and the use of experts**

During the 1990s, work at the international level, to stimulate and support the effort of reform continued to be a high priority for DCI. In that first decade of the Convention, the UN Committee on the Rights of the Child recommended comprehensive reform of juvenile justice systems to more than half of the States Parties that reported to it. The Committee repeatedly stressed that there was a great need for international cooperation by technical experts to reform Juvenile Justice around the world.<sup>2</sup>

To answer this need, DCI established the International Network on Juvenile Justice (INJJ) in 1997. The INJJ is a co-operative network of experts – individuals, academic bodies and NGOs – which can serve the needs of governments and others working on improvements to JJ law and administration.<sup>3</sup> By 2001, the Network had grown to 275 partners worldwide who were available to offer expert advice to others in need of it. Because of resource difficulties, the inter-active elements of the INJJ are currently suspended, but while it was fully operational, we responded to hundreds of such requests each year. We also developed a model training manual and delivered training in Uganda and Macedonia. The website has back issues of the Network newsletters and a huge annotated bibliographical database. The importance of such facilitating and co-ordinating work is reflected in DCI's membership of the United Nations Co-ordination Panel on Technical Assistance in Juvenile Justice<sup>4</sup> and our role as convenor of the Sub-group on Juvenile Justice, which is an arm of the NGO Group for the Convention on the Rights of the Child.

### **Socio-Legal defence for children and young people**

At the national and local levels, however, equally important work is done by DCI's sections in providing free legal advice and defence to children and adolescents. These services are offered with a profound respect for the young person's views and preferences. They invariably mean having an open door for those who come to DCI offices, as well as DCI lawyers visiting detention centres and prisons to

check whether children are being held with adults, whether they have enough food, whether they are safe from violence and sexual exploitation, and to offer assistance to them to make complaints and appeals.

Such services help young people, but - also importantly - they collect information about the ways in which social change, social institutions and laws create problems for young people. In 2000, we launched a 3-year program to establish Socio-legal Defence Centres for children in 7 countries, Albania, Bolivia, Colombia, Ghana, Macedonia, Sri Lanka and Uganda. These countries were selected to demonstrate the potential of this approach to helping children and adolescents in different settings. The centres are staffed by interdisciplinary teams of lawyers, social workers and psychologists.

Another recent initiative is in Latin America, where six DCI sections<sup>5</sup> are working in a regional alliance to promote alternatives to detention. Many other DCI sections do work which is prompted by issues arising in their own countries. The section to which I belong, Australia, successfully campaigned in the late 1990s against Government plans to privatise some juvenile detention centres. The child rights framework was the very basis of that campaign. The Netherlands Section has recently done a study of child rights concerns in relation to restorative justice.

Lastly, I will mention briefly, the global campaign “No Kids Behind Bars” which is being led by an international team, supported and co-ordinated by DCI Netherlands. This very recent initiative will be covered in detail in a plenary session tomorrow morning. Other DCI projects that I have mentioned will be covered more fully in parallel workshops.

The need for law reforms and good practice improvements in this area has never been more urgent than it is now. The use of detention seems to be gaining wider public and political support, but at the same time, research is exposing the damage that detention does to young people’s physical, emotional and moral health, and its impact on their life prospects.

At the heart of the problem is the failure of many States to grasp the reasons for having a special system of justice for children and young people. Reform proposals are also handicapped by the lack of sympathy for young offenders, especially boys, who are in the majority. Ordinary community attitudes seem extremely resistant to change, even though research shows detention is ineffective and damaging. It does nothing but alienate young people from society and

cripple their creative spirit. What a tragic loss to humanity!

## Footnotes

<sup>1</sup> The UN Standards Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985, the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) 1990 and the UN Rules for the Protection of Juveniles Deprived of their Liberty (JDL’s) 1990.

<sup>2</sup> The INJJ has analysed of the Concluding Observations issued by the Committee on the Rights of the Child to more than 140 State Parties on the subject of juvenile justice, from 1993 to 2000. The research looked at the number of States found to need ‘comprehensive reform’ and the number urged to end inhumane treatments such as torture, flogging, death penalty and life imprisonment. Altogether, the Committee has recommended to 57 States that they seek technical assistance.

<sup>3</sup> The INJJ was launched at a Seminar on “Children in Conflict with the Law” held in Senegal in January 1997 which was attended by 130 participants from 44 countries, as well as UN representatives and other international NGOs. The participants shared information about the rights violations of detained or imprisoned children and young people in each country. It was made abundantly clear that ‘Kids behind Bars’ suffer in similar ways regardless of the country, continent or culture of the country.

<sup>4</sup> The Panel was established in 1997 by the UN Economic and Social Council. It consists of representatives of the Committee on the Rights of the Child, the Office of the UN High Commissioner on Human Rights, UN Crime Prevention and Criminal Justice, UNICEF, UN Development Programme plus other inter-governmental, and regional organisations and NGOs. It assists the States Parties to the Convention on the Rights of the Child that have been given a recommendation to seek technical assistance in juvenile justice.

<sup>5</sup> In Argentina, Bolivia, Chile, Colombia, Costa Rica and Uruguay



L to R: Jorge Restrepo, Helen Bayes and Carlos Pampín Garcia

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# Ending State Care at 18 is Heartless

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**The Hon. John Fogarty is a former Family Court judge, patron of the Centre for Excellence in Child and Family Welfare, and a DCI-Australia Advisory Panel Member. Stephanie Francis is leaving care project officer for the Centre. This article appeared as an opinion piece in *The Age* on 4 July 2005 and is reprinted with permission.**

Each week, on average, nine teenagers leave state care, usually because they have reached 18. This should be a positive step in their lives; unfortunately, for most it is not.

They were children who were abused or neglected by their family and placed in state care, usually involving many changes in homes and education. When they leave care, most are ill-equipped to face the outside world. Many have no family connections and little education. They usually face great disadvantage and hardship. The state regards its responsibilities as at an end.

The Centre for Excellence in Child and Family Welfare report *Investing in Success: The Economics of Supporting Young People Leaving Care*, released [4 July 2005], raises these important issues and advocates that the state extend its responsibilities to young people leaving care. One message that is crystal clear from the centre's report is that these young people are ill-prepared and at a disadvantage, compared with young people who are able to remain with their parents.

Young people in contemporary Australian society are increasingly delaying their transition to independent living until they are in their mid-20s, often returning to the family home at least once after moving out. Unlike their peers, young people who have been in state care leave care at 18, or often younger, without recourse to any support.

What happens to these young people? As part of its research, the centre conducted a survey of 60 young people who had been in care in Victoria. The following statistics generate a bleak picture of the lives they are leading:

- 76 per cent of the young people interviewed were unemployed.
- 45 per cent were living in unstable housing arrangements such as refuges or transitional housing.
- Nearly half had had some involvement with the police in the year before the survey.
- Almost two-thirds had been diagnosed with a disability or significant illness.
- More than a third had been diagnosed with a mental disability or illness, such as depression, schizophrenia and bipolar disorder.
- Only 13 per cent had completed year 12. For one-third, the highest level of schooling was year 7 or year 8.
- Two-thirds had not received any support from their families, friends or previous carers in the two years after they left care.
- For 22 per cent no case plan was prepared by the Department of Human Services when they left care and 32 per cent had a case plan involving the Supported Accommodation Assistance Program or transitional housing.

This is a depressing picture - especially as it needs to be remembered that these are young people who have entered state care under protection orders because they have been abused or neglected.

Young people who have been in state care often experience developmental delays arising from their traumatic experiences. They need more - not less - support than the average young Australian in making the transition to independence. Of course, many young people who have not been in care have some of these disadvantages.

The Child Rights Information Network (CRIN) has just published a new reader on "Children and HIV/AIDS" containing key resources designed to support the work of child rights professionals. For more information, contact: CRIN c/o Save the Children, 1 St. John's Lane, London EC1M 4AR, UK Tel: + 44 20 7012 6867; Fax: + 44 20 7012 6952 Email: [info@crin.org](mailto:info@crin.org) Website: <http://www.crin.org>

The uniqueness of those who have been in state care is their history of disadvantage, including that arising from their care by the state.

The other message that is clear from the report is that the lack of preparation and support for young people leaving care, and their subsequent struggle with independent life after care, costs the State Government significantly more than it would cost to provide an integrated range of services to support them in the transition to independence.

As the report outlines in detail, cost projections prepared for the report by Associate Professor Brett Inder of Monash University's department of econometrics and business statistics, demonstrate the significant savings that would be made to government expenditure when one compared present expenditure with the costs of the centre's proposals.

The centre's conclusion is that the State Government must legislate a commitment to support young people leaving care, up to the age of 25, depending on need. The model being proposed is a flexible one in which a package of services - support with housing, education and training, job hunting, mentoring, life skills and family history research - are made available to each person leaving care, up to the age of 25, according to the individual's basic needs. Other states already have these provisions, the age varying from 21 to 25 years. While a first impression might be to limit support to 21, there should be a discretion to continue it to 25 in special circumstances.

Under the present policy, a young person's experience of being cared for by youth and family welfare agencies and/or foster parents is abruptly and irrevocably terminated on or before their 18th birthday. The centre's report shows the tragic human cost, as well as the economic cost to the State Government and the taxpayer.

We urge the Government to use the opportunity, presented in this review of the Children and Young Person's Act, to extend its responsibilities as a "good parent" to young people leaving care up to the age of 25. This would bring policy into line with contemporary parenting practice and be economically responsible. It would also be a compassionate choice, giving young people leaving

care a fighting chance to become happy, independent and productive adults. For further details about the project, contact Sunitha Raman, [policy@cwav.asn.au](mailto:policy@cwav.asn.au) phone + 61 3 9614 1577; website [www.cwac.asn.au](http://www.cwac.asn.au)

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## New Family Law Bill

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On 23 June 2005, the Commonwealth Government released an exposure draft of the Family Law Amendment (Shared Parental Responsibility) Bill 2005. It has been referred to the House of Representatives Standing Committee on Legal and Constitutional Affairs which will report in August.

Some of the proposed changes can be traced to lobbying by father's rights groups associated with the the House of Representatives Standing Committee on Family and Community Affairs inquiry into child-custody arrangements in the event of family separation. In particular, the Bill introduces a new presumption of joint parental responsibility with parents required to consult with each other on what are termed 'major long term issues' such as education, religious or cultural up-bringing and health.

The presumption will not apply if there are reasonable grounds for the court to believe that a parent of a child, or a person who lives with a parent of the child, has engaged in child abuse or family violence. The presumption will also be rebutted where the court considers that joint parental responsibility would not be in the best interests of the child.

Section 60B – the objects section concerning parenting proceedings - would be amended by the bill to include the following new so-called "right" of the child: "children have a right to spend time on a regular basis with, and communicate on a regular basis with, both their parents and other people significant to their care, welfare and development". Parents, advisers, mediators and the courts will be required to consider arrangements or orders that involve substantially sharing of parenting time. However the Bill does not create a presumption that a court will make orders that the child spend equal time with each

parent and, as with all matters listed in sub-section (2), the proposed new “right” is subject to the caveat “except when it is or would be contrary to a child’s best interests”.

A further proposed change is that disputing parties will have to attend dispute resolution before taking a parenting matter to court. There are exceptions to this general rule such as urgent circumstances and situations where a court is satisfied that there are reasonable grounds to believe that child abuse or family violence has occurred or may occur.

The Bill also contains legislative support for a less adversarial approach to be adopted in all child-related proceedings under the Act. This approach largely reflects that taken by the Family Court of Australia in its pilot of the Children’s Cases Program. The applicable rules of evidence are significantly altered. Most of subsection 190(1) of the Commonwealth *Evidence Act* will not apply in child-related proceedings, unless the court considers that it is in the best interests of the child to apply one or more of those provisions to a particular issue or issues in the proceedings. The rules of evidence that will apply in child-related proceedings are the court’s control over questioning, use of interpreters; examination of a person without subpoena or other process and rules about improper questions.

The explanatory memorandum to the Bill also highlights the following significant shift in legislative terminology:

“There are a number of amendments which replace references to children’s ‘wishes’ in the Act with references to children’s ‘views’. Research has found that the use of the word ‘wishes’ means that children may feel that they need to make decisions about their future and that they do not necessarily want to do this, even though they want to be heard. By referring to ‘views’ in the Act, children may still be heard and their views taken into account, but they should not feel that they need to make a decision. This approach is consistent with the wording in the United Nations Convention on the Rights of the Child at Article 12.

... In determining what is in a child’s best

interests, the court must consider any ‘views’ expressed by the child and any other factors that the court thinks are relevant to the weight it should give to the child’s ‘views’. This amendment recognises that a child may not necessarily want to express a ‘wish’ about which of his or her parents the child will live with or spend time with. It is intended that ‘views’ will also include a child’s perceptions and feelings, and will allow for any decision to be made in consultation with the child without the child being required to make a decision or express a ‘wish’ as to which parent he or she is to live with or spend time with. References to a child’s ‘views’ will not exclude a child expressing his or her ‘wishes’ if they want to do this.”

The Bill contains numerous other changes. Submissions about it should be directed to the Legal and Constitutional Affairs Committee through their website at <http://www.aph.gov.au/house/committee/laca/index.htm>. The exposure draft and explanatory memorandum are available at [www.ag.gov.au](http://www.ag.gov.au)

## Child Abduction

International parental child abduction occurs regularly in Australia and the rest of the world in part as a result of greater movements of people between countries. In Australia official records estimate that 2 – 3 children are taken illegally by a parent out of and into Australia each week. Many people believe this figure is much higher because not all cases are brought to the attention of the authorities and presently only cases relevant to the Hague Convention on Child Abduction are counted. In 2004 International Social Services (ISS) received a small amount of funding from the Federal Attorney General’s Department to undertake a project to review relevant local and overseas models of information and referral services for families affected by international parental child abduction which could be applicable to Australia. A report of this project, *Living in Limbo*, is available on the website [www.iss.org.au](http://www.iss.org.au).

Further modest funding has now been received from the Attorney General’s Department to establish a support service for families experiencing child abduction, this national service will operate from ISS in Melbourne and provide crisis counselling, referral and support and also training and development on child abduction issues. For more information call ISS on 03 9614 8755

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## Select Committee on Youth Justice System

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The Select Committee on the Youth Justice System handed down its report to the South Australian Parliament on 4 July 2005 for consideration and response. It is a comprehensive report that has reviewed the Juvenile Justice system and made recommendations on how it can be improved.

The Select Committee made 43 recommendations that they believe will add to and improve the system. In general the review held that the system had good processes to deal with juvenile justice issues. The ten major themes from the report are:

- The need to provide appropriate custodial and residential facilities centres for young offenders.
- Making parents and children accountable for their offending behaviours through the introduction of Parental Responsibility Orders
- Providing targeted and therapeutic support to assist children and young people to make change
- Providing safe communities by ensuring early intervention through targeted care and protection strategies
- Placing significant focus on reducing the overrepresentation of Indigenous young people by increasing their access to diversion and increasing and supporting family and community participation in finding sustainable solutions to youth offending.
- Better and timelier intervention with young people who offend
- Ensuring young people's connection to community by preventing truancy and enabling engagement in constructive education and training options
- Ensuring the system works better by emphasising collaboration, good information exchange and joint ways of working across all parts of the Youth Justice System.
- Aiding court processes by ensuring the understanding of everyone engaged in the system
- Providing appropriate and sufficient post-release support

The areas to watch will be:

- The levels of intervention with young people considered at risk of offending
- The effect on parental responsibility
- The development of a youth drug court
- 24 hour legal advice hotline for young people
- The expansion of eligibility for a family conference. Previously an admission of guilt was necessary. Now considering an admission of involvement only.
- The closing of a detention centre in favour of community based secure residential care and community based sentence options including "Intensive Supervision and Surveillance Programmes"
- Youth workers to be placed at police stations

*Children's and Youth Legal Service SA*

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## Physical and Humiliating Punishment

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### New Report and Resource

The physical punishment of children in the UK has provoked considerable debate. The Government has been criticized by both the European Court of Human Rights and the UN Committee on the Rights of the Child for failing to protect children from physical assault yet it has still steadfastly refused to change the law which allows parents and others to hit children through the defence of 'reasonable chastisement'.

*Listen Up! Children Talk: About Smacking* by Anne Crowley and Cea Vulliamy for Save the Children presents the views and experiences on 'smacking' of over 70 young children living in Wales. [Download from <http://www.rb.se/NR/rdonlyres/4885EA47-E61C-47D4-9BB5-45A96735280F/0/ListenupChildrentalkaboutsmacking.pdf>]

Researchers met with children in primary schools

and after school clubs throughout Wales and using an alien character called Splodge, asked them a series of questions about smacking – what it is, what it feels like and why it happens. This report presents the answers that children gave and reviews the key messages on smacking that young children have for adults, both parents and policy makers alike.

Children’s experiences and views on smacking provide a powerful insight into the effect of hitting children and provide a clear message that children are people too and that hitting children is wrong.

The International Save the Children Alliance has also produced advocacy material in English, Spanish, French and Arabic on ending the physical and humiliating punishment of children, including a child friendly version: “Call for action” advocacy messages and recommendations for the thematic issues of Child Participation, Child Sexual Abuse, Physical and Humiliating Punishment and Children in Conflict with the Law to be used for the UN Study in its regional consultations, preparation of the report and follow-up actions.

Visit: <http://www.crin.org/violence/search/closeup.asp?infoID=5592>. Child Friendly text on Physical and Humiliating Punishment called “What Save the Children thinks about physical and humiliating punishment - Information for children and young people”. Visit: <http://www.crin.org/violence/search/closeup.asp?infoID=5593>

## Landmark Ruling

More than a third of European countries now prohibit all corporal punishment, including in the home, following landmark human rights decisions in the Council of Europe. In these countries, hitting children is as unlawful as hitting anyone else. Responding to human rights complaints brought against five countries, in compliance with the European Committee of Social Rights’ report, the Committee of Ministers of the Council of Europe has confirmed that supreme court judgements in Italy and Portugal do prohibit all corporal punishment. This means that 16 of the 46 member states of the Council of Europe have taken this step.

But the Committee found that Belgium, Greece and Ireland are in breach of their human rights obligations under the European Social Charter because they have not prohibited all corporal punishment. Article 17 of the Charter requires a prohibition in legislation against any form of violence against children, whether at school, in other institutions, in their home or elsewhere.

The government of Greece has signalled that it will legislate quickly to comply with the ruling, and Belgium and Ireland are expected to soon act on the Committee’s decision and legislate to abolish all corporal punishment. Other European countries - including the Netherlands, Slovenia and the Slovak Republic - have already announced they will take this step this year following other domestic and international human rights pressure.

The Committee’s rulings are the result of complaints submitted in 2003 by the World Organisation Against Torture (OMCT). OMCT made the case that the law in these countries failed to protect children from corporal punishment and other humiliating treatment or punishment. Peter Newell, Co-ordinator of the Global Initiative to End All Corporal Punishment of Children, said:

“The human rights pressure is now overwhelming. It’s shaming that children have had to wait until last for equal legal protection from being hit and humiliated. We should now see quick progress across the continent.”

Only a small number of European countries have signed up to the Social Charter complaints procedure used against Belgium, Greece, Ireland, Italy and Portugal. But all states which have accepted the Social Charter have to submit regular progress reports to the Committee of Social Rights. Since 2003, the Committee has concluded that France, Hungary, Malta, Poland, Romania, the Slovak Republic, Slovenia, Spain and Turkey are in breach of article 17 for not prohibiting all corporal punishment.

Of these, Hungary and Romania have since changed their laws, and the Slovak Republic and Slovenia are committed to doing so soon. In addition, there

is also strong pressure for reform from the United Nations.

All European states have accepted the UN Convention on the Rights of the Child, which requires them to protect children from “all forms of physical or mental violence” while in the care of parents or others. The Committee which monitors states’ compliance with the UN Convention, has told many European states that their obligations require that they prohibit all corporal punishment, including in the family.

For more information, contact: Global Initiative to End All Corporal Punishment of Children Email: [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org) World Organisation Against Torture (OMCT) Email: [omct@omct.org](mailto:omct@omct.org) To read the Global Initiative’s report on “Ending Legalised Violence Against Children”, visit: [www.endcorporalpunishment.org/pages/pdfs/Report-SouthAsia.pdf](http://www.endcorporalpunishment.org/pages/pdfs/Report-SouthAsia.pdf)

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## Sexual Exploitation in Cyberspace

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The forthcoming *Report on Abuse and Exploitation via Virtual Settings*, the UN Secretary-General’s Study on Violence against Children, will organise information according to locations or sites at which children are subjected to (or at risk of being subjected to) physical and psychological harm. Locales identified include the home, the family, the street, the school, institutions and the workplace. A critical site of violence, however, is absent from this list: cyberspace.

Cyberspace is regarded as the so-called virtual world provided by the Internet, the World Wide Web and other forms of computer networks and systems. In the countries of South Asia, the means and extent of violence against children and young people within and via cyberspace and various new technologies is not fully known or understood. But reports of such violations are increasing. This is as Internet and mobile phone connectivity in the region expands rapidly.

In Pakistan, for example, just 1,5 million people use the Internet, yet this is an increase of more than 1000 per cent in five years. And the growth in connectivity will encompass very large populations in the future. Consider India, where the almost 40 million people who log into cyberspace now represent not even four per cent of the country’s population. Amid the shift to a new information society, the nexus between abuse and exploitation of children and the use of new technologies to facilitate such crimes is becoming more apparent.

Child sex tourism is a case in point. Foreigners are known sometimes to contact children and young people in cyberspace in order to try to arrange real-world meetings, as occurred in the case of a British man who sought out children in Sri Lanka via the Internet and was subsequently prosecuted in Britain. Reports from Goa and Kerala in India indicate that abuse-intent visitors also employ the Internet to ascertain the situation regarding local laws and the availability of children for sex.

In Nepal, almost all child respondents in focus group discussions about child sex tourism reported having been photographed nude by a tourist at some stage; 81 per cent said they had been shown pornographic materials by tourists. It was unclear whether the children understood that there was a possibility that photos might be posted online or otherwise disseminated.

Meanwhile, evidence for locally organised abuse of children in the making and distribution of images of child sex emerges in interviews conducted for a study by India’s national Human Rights Commission (NCHRC), where people traffickers admitted forcing children, in particular teenage girls to make pornography. It might be reasonable to presume that profits are sought by distributing the materials widely, and thus via the World Wide Web and/or through video sales at local markets.

As evidence of victimisation of children within cyberspace and through the use of new technologies becomes more apparent across South Asia, there appears to be limited recognition of the very real and serious physical and psychological harm done to children and young people when they are abused within and via virtual settings. This is clear, for

example, in the failure of national laws to define child pornography specifically and to provide provisions that treat its production, dissemination and possession as criminal violations of the rights of the child. [For more information, contact: ECPAT - International Secretariat 328 Phaya Thai Road, Bangkok 10400, Thailand Tel: + 662 215 3388; Fax: + 662 215 8272 Email: [ecpat@ecpat.net](mailto:ecpat@ecpat.net) Website: <http://www.ecpat.net>]

Commercial sexual exploitation of children and youths is a significant form of child abuse and undoubtedly the most underreported form of abuse. A 2-volume text on the subject has recently been completed: Medical, Legal, & Social Science Aspects of Child Sexual Exploitation: A Comprehensive Review of Pornography, Prostitution, and Internet Crimes (Sharon Cooper, Richard Estes, Angelo Giardino, Nancy Kellogg, and Victor Vieth) by GW Medical Publishing ISBNs 1-878060-37-6 and 1-878060-72-6. More information about the text can be found at [www.gwmedical.com](http://www.gwmedical.com).

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## Children's Comments on CROC Rights and Country Compliance

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After attending a forum to gather input into Australia's Non-Government report to the UN Committee on the Rights of the Child, Sally Nicholes took up the challenge posed by workshop convenors to formulate a method of having young people directly comment on their rights and their views about whether their country complies with the United Nation Convention on the Rights of the Child.

A questionnaire in "child speak" was settled by the senior counsellor at KidsHelpline, a charity that provides toll-free telephone and free on line counselling to children by professional/paid counsellors. KidsHelpline agreed to post the interactive questionnaire on the website and it was also submitted to groups of children in Africa. The results of the questionnaire were presented in March 2005 at the World Congress on Family Law and Children's Rights in March, Cape Town South

Africa. For further information on the World Congress visit [www.lawrights.asn.au](http://www.lawrights.asn.au)

The questionnaire was only active for a relatively short amount of time prior to the 2005 World Congress but produced interesting results from both the Australian and African responses.

KidsHelpline have agreed to keep the questionnaire on their website for use in further World Congress studies. The World Congress is keen to promote the tool of the child friendly questionnaire to better the position of children and young people in giving them a voice. The World Congress is calling for interested individuals and organisations who may wish to spread the use of the questionnaire on a wider scale in terms of quantity and differing social/economic backgrounds to produce a study that may be presented at the next World Congress in 2009 and associated fora.

Any interested parties are to contact Sally Nicholes in her capacity as Board member of the World Congress at the following address: Sally Nicholes - Partner - Kennedy Wisewoulds - Ph: (03) 9618 7302 - Fax: (03) 9618 7322 e-mail: [sally.nicholes@wfl.com.au](mailto:sally.nicholes@wfl.com.au)

### Children at Work Research

The New South Wales Commission for Children and Young People has recently released a report on children's work. In the first Australian study of its kind, the Commission surveyed 11,000 high school students in years 7 to 10 about their experiences at work. The research shows there is considerable diversity to kids' work, from babysitting and working in retail outlets to making deliveries, teaching and helping out on the family farm. Over half of children in the study worked and most of them enjoy working and its financial, social and personal benefits. But the report also highlighted some serious concerns. For example, just under 10 percent of kids said they'd been seriously injured. Just under half said they had been verbally harassed and about 20 percent said they had been physically harassed at work.

<http://www.kids.nsw.gov.au/files/ATCChildrenatwork.pdf>

# UN News

## New Guidelines for Child Victims and Witnesses

The Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime were adopted by the United Nations Commission on Crime Prevention and Criminal Justice at its 14th session, held in Vienna from 23-27 May 2005. They were finalised by an intergovernmental group of experts convened by the UN Secretary General, which met in Vienna earlier this year thanks to the financial support of the Government of Canada.

The Guidelines provide a framework to ensure that children who have been victims of crimes or witnesses to crime are treated in a fair, dignified and secure manner when they are involved in a judicial process. The Guidelines are based on the guidelines on justice for child victims and witnesses of crime finalised in 2003 by the International Bureau for Children's Rights (IBCR).

In addition to adopting the Guidelines, the UN resolution - originally presented by Canada and co-sponsored by more than 50 Member States - invites Member States to draw on them when drafting legislation regarding children. It will be submitted for final adoption at the next session of the United Nations Economic and Social Council in July. For more information, contact: International Bureau for Children's Rights 1185, St-Mathieu, Montréal, Qc, Canada H3H 2P7 Tel: + 1 514 932 7656; Fax: + 1 514 932 9453 Email: [info@ibcr.org](mailto:info@ibcr.org) Website: <http://www.ibcr.org>

## New Members of the Committee on the Rights of the Child

In accordance with Article 45 of the Convention on the Rights of the Child, elections for nine members of the Committee on the Rights of the Child were held on 23 February 2005.

Of the seven Committee members, running for re-election, five were re-elected in the first round of voting. Ms. Ghalia Al-Thani (Qatar), Ms. Lucy Smith (Norway), Ms. Yanghee Lee (Republic of Korea), Ms. Joyce Aluoch (Kenya), and Ms. Nevena Vuckovic-

Sahovic (Serbia and Montenegro). Mr. Ibrahim Al-Sheddi (Saudi Arabia) lost in the second round of voting and Ms. Marilia Sardenberg (Brazil), who was attempting an unprecedented fourth term, was eliminated after the first round. Mr. Luigi Citarella (Italy) and Ms. Saisuree Chutikul (Thailand) did not run for re-election.

New Committee members elected in the first round included Mr. Kamal Siddiqui (Bangladesh), Mr. Jean Zermatten (Switzerland), and Mr. Brett Parfitt (Canada) and Mr. Awich Pollar (Uganda). Committee members, who were not up for re-election and remain on the Committee through to February 2007, are Ms. Anderson (Jamaica), Mr. Doek (Netherlands), Mr. Filali (Algeria), Ms. Khattab (Egypt), Mr. Kotrane (Tunisia), Mr. Krappmann (Germany), Mr. Liwski (Argentina), Ms. Ortiz (Paraguay) and Ms. Ouedraogo (Burkina Faso). For more information, contact: Laura Theytaz-Bergman Liaison Unit Program, NGO Group for the CRC c/o Defence for Children International 1 rue de Varembe, PO Box 88, CH-1211 Geneva 20, Switzerland Tel: + 41 22 740 47 30; Fax: + 41 22 740 1145 Email: [ngo-crc@tiscalinet.ch](mailto:ngo-crc@tiscalinet.ch) Website: <http://www.crin.org/> [NGOGroupforCRC](http://www.ngogroupforcrc.org/) Biographical data on the new members can be obtained at: <http://www.ohchr.org/english/bodies/crc/SPmeeting.htm>

## New International Organisation Based In Australia

Children's Rights International is an initiative of the World Congress on Family Law and Children's Rights and arose from a direct recommendation of the Congress's Bath meeting in September 2001. It aims to bring together judges, lawyers, psychologists, medical practitioners, mediators, counsellors, mental health workers, media representatives, child cares, teachers & allied professionals to contribute their specialised expertise in a practical manner through education, legal and other advocacy to promote and protect the interests of the most vulnerable amongst us, our children and youth. For more information, visit [www.childjustice.org/html/index.htm](http://www.childjustice.org/html/index.htm) or contact Bill Jackson, Chief Executive Officer, World Congress Inc and Children's Rights International PO Box 163, Newtown, Sydney, Australia 2042, Phone: +61 2 9519 9506 Fax: +61 2 9519 9505

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## Youth Against Landmines

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Jonathan Greenacre is the founder and president of The Australian Youth Against Landmines Association (TAYALA) and founder and international director of The International Network of Youth Against Landmines (INYAL). Jonathan lives and studies in Sydney, Australia. Jonathan has been involved in the fight against landmines since early 2003, after he visited a landmine aid centre in Cambodia. This visit changed his life:

“We were driving along the dusty roads common throughout Cambodia, with some of the other landmine aid workers. The truck stopped and, like the others, I got out to go to the toilet. I began to venture off the side of the road. The other passengers could not speak English and so could only scream ‘boom’ at me. I realized that there were landmines just off the side of the road - if they didn’t warn me, I might have had a leg blown up. Then I went to the landmine aid centre and saw the effects of landmines myself. I met people who suffered blindness, amputation or brain injury because of landmines. I realized that these landmine casualties had not had a chance in life and I resolved to help them upon my return to Australia. The memory of the horror of these sights has driven me since.”

In 2004, Jonathan participated in the “International Youth Symposium on a Mine-Free World” held in Nairobi, Kenya, in which 39 committed young people from 25 countries gathered to meet and discuss how to take landmine action forward. The Youth Symposium was held alongside the “Nairobi Summit 2004 for a Mine Free World”, the first governmental review conference of the Mine Ban Treaty.

The youth participants joined some of the main conference sessions, and they created a statement that was issued to the main landmine conference, affirming their commitment to a mine-free world. The general message of the Nairobi Summit was that while much progress has been made against landmines a new generation of young people is needed to carry on this fight in the future.

“Last year, I realized that there were probably many young people like me, working against landmines and that we should seek to unify our efforts. I contacted other youth organizations and together we started the International Network of Youth Against Landmines. At the International Youth Symposium, we decided to design a body that will establish permanent links of communication between us, to learn from each other and unite our efforts in the future. I am currently working on setting up regional dialogues. We have a relatively well-established arm in Africa and are working on another in Southeast Asia.”

The effects of landmines to the lives of young people are not mentioned in the World Programme of Action for Youth, the blueprint for youth policies and programmes of the United Nations. Jonathan aims to lobby for the inclusion of landmines in this document.

“With 200 million landmines in over 82 countries, landmines are an issue, which truly requires ongoing international co-operation to defeat. We need another generation of young people to work towards eradicating this weapon of war. It needs to happen fast: every 22 minutes a person is maimed or killed by a landmine. Further, landmines have a special relevance for young people. After hearing the stories of young people in Cambodia, I realized that at an age when we were all running around full of energy, thousands of children will be consigned to a hospital bed. Many more will not survive the explosion.”

To become part of the International Network contact [antilandmines@mail2president.com](mailto:antilandmines@mail2president.com) For more information on the International Network of Youth Against Landmines (INYAL), visit: <http://www.aplaceof.info/inyal>

### ***The Case for Investing in Young People as Part of a National Poverty Reduction Strategy***

This publication produced by the United Nations Population Fund presents seven arguments why national public policy makers should give more attention to young people if these efforts are to be successful. It offers a conceptual framework to work out what arguments and supporting evidence in relation to young people are likely to be most appropriate to apply in the context of developing or refining a national poverty reduction strategy. Available online at: <http://www.eldis.org/cf/rdr/rdr.cfm?doc=DOC18266>

## New Resources

### Voices of Children Join in the Fight Against Poverty

Poor children in developing countries have been given a voice in the fight against poverty. The report "Achieving Our Dreams for 2015" is the result of a unique consultation with more than 4000 poor children and their carers, in 19 developing countries around the world. It was undertaken by the Grow Up Free From Poverty Coalition, made up of 21 NGOs, faith groups and civil society organisations.

This report brings together the voices of those most affected by the outcomes of international development policy with those who design it. However, the authors of the report are warning world leaders that they must listen more to young people and their carers, if the outrage of child poverty is to end and sustainable change brought about. Coalition members asked children, their parents and grandparents about the reality of their situation, their hopes for the future and what they would like to say to people in positions of power.

The resulting report not only maps children's own plans and paths out of poverty, it also provides a starting point for wider consultation between western decision makers and the young people and their carers who they are trying to help.

"Most poor people in developing countries are children and older people," says George Gelber, chairman of the Grow Up Coalition, "but they just aren't being considered and consulted by the western governments trying to help them. In 2015, the target date for our Millennium Development Goals, young people will be young adults. It's only by involving them now, while they have enthusiasm and idealism, that they'll be ready and able to contribute to the development of their societies in adulthood."

One of the strongest and most constant themes to come out of the consultation was the children's creative ideas and desire to be involved in the

development of their communities. Another key finding was that all children related their poverty directly to insecure livelihoods within their families. If crops fail or poor roads prevent goods getting to market, children are directly affected through having fewer meals, being unable to buy school books, having to sell household items and having to do more money-earning themselves to help the family survive. According to the Grow Up coalition, this particular finding highlights the need for an intergenerational and multi-sectoral approach, which takes forward the rights of children and those that care for them.

For more information, contact: Grow Up Free From Poverty c/o Angela Penrose, Penquite House Liskeard, Cornwall PL14 5AQ Tel: + 44 1579 347503; Fax: + 44 1579 340154 Email: [angela@penquite.com](mailto:angela@penquite.com) Website: <http://www.grow-up-free-from-poverty.org>

### Children Deprived of Liberty Rights and Realities

In all parts of the world, excessive use is made of the deprivation of liberty of children by State authorities. There are an estimated one million children in closed establishments throughout the world. The Convention on the Rights of the Child states that the arrest, detention or imprisonment of a child must be in conformity with the law, and only used as a measure of last resort and for the shortest appropriate period of time. Despite the commitment made by States by ratifying this instrument, this book, launched at the Conference, shows that the conditions of detention for most children fall far short of international standards. For more information, visit: <http://www.crin.org/resources/infoDetail.asp?ID=5814>

### Children's Rights in Competitive Sport

The human rights of the child have been recognised by the UN's 1989 Convention on the Rights of the Child, and ratified by 192 countries. Paulo David's work makes it clear, however, that too often, competitive sports have yet to recognise the value of respect for international child rights norms. The book, "Human Rights in Youth Sport: a Critical Review of Children's Rights in Competitive Sport"

offers critical analysis of some very real problems within youth sport and argues that the future development of sport depends on the creation of a child-centred sport system. Areas of particular concern include issues of over-training, physical, emotional and sexual abuse, doping and medical ethics, trafficking and sale, civil rights of young athletes, education, and child labour. The text also examines the specific responsibilities and accountabilities of parents, coaches and managers. It is essential reading for anybody with an interest in the ethics of sport, youth sport, coaching and sports development. Paulo Davis is currently Secretary of the Committee on the Rights of the Child at the Office of the High Commissioner for Human Rights. For more information, visit: <http://www.crin.org/resources/infoDetail.asp?ID=5178>

### **The State of Children's Rights Around the World**

The International Bureau of Children's Rights is publishing a report summarising the views, facts and recommendations expressed by a wide array of distinguished children's rights specialists who spoke at a conference organised by the IBCR last November to celebrate the 15th anniversary of the adoption of the Convention on the Rights of the Child (CRC). The report, entitled "Making Children's Rights Work: National and International Perspectives" is a concise analysis of the implementation of the CRC, with experts weighing in on the progress being made in children's rights on the national and international fronts. Chapters in the report include Where are we now? Children's Rights and the Justice System, Child Trafficking and Justice for Child Victims and Witnesses of Crime, and feature important observations by professionals such as professor Xin Ren on the phenomenon of child trafficking in Asia and the Pacific, Mr. Toshiyuki Niwa, Deputy Executive Director of UNICEF, on the integral role of UNICEF in the adoption and implementation of the CRC, and the Honourable Irwin Cotler, Canadian Minister of Justice, on the actions being taken by the federal government to protect children's rights. For more information, contact: International Bureau for Children's Rights 1185, rue Saint-Mathieu, Montréal, Canada H3H 2P7 Tel: + 1 (514) 932 7656 Email: [info@ibcr.org](mailto:info@ibcr.org) Website: <http://www.ibcr.org>

## **Upcoming Events**

**12 August 05: "International Youth Day"** This year's theme will be: "Making Commitments Matter - the tenth anniversary of the World Programme of Action for Youth". Youth around the world are encouraged to celebrate their role in society and to review what their countries have achieved in youth development in the past ten years. The Website of the Programme on Youth will list various events taking place that day. To add your event, send an email to [youth@un.org](mailto:youth@un.org). More info at: <http://www.un.org/esa/socdev/unyin/iyouthday.htm>

**30 Sept-2 Oct 05: "Fourth UNESCO Youth Forum"** UNESCO Headquarters, Paris. The fourth UNESCO Youth Forum will form an integral part of the 33rd UNESCO General Conference - the highest decision-making body of the Organization. The Youth Forum will be a unique opportunity for young people to express and exchange their ideas, make their voices heard and ensure their views are integrated in UNESCO's programmes and policies. More info at: <http://www.unesco.org/youth>

**11-14 Sept 05: "Xth ISPCAN European Regional Conference"** Berlin, Germany. The Xth ISPCAN European Regional Conference on Child Abuse and Neglect. The conference will be organised by the International Society for Prevention of Child Abuse and Neglect (ISPCAN) and the German Society for the Prevention of Child Abuse and Neglect (GESPCAN). The theme chosen for the conference is, "New Developments in Science and Practice: Influences on Child Protection." The following main topics will be discussed: Child Protection Systems in Europe, Neuro-Biological Effects of Child Maltreatment, Young Children in Institutional Care in Europe, Primary Prevention and Community Intervention, and Abuser and Abused. The Scientific Committee invites Conference delegates to submit abstracts for consideration. The conference will be open to professionals from all disciplines involved in child abuse and neglect work, including psychologists, social workers, physicians, educators, legislators and law enforcement officers.

Special forums will be devoted to social settings for child abuse, street children in Europe, children with mentally ill parents, institutional abuse, care giving settings and child abuse, legal and policy issues, medical diagnosis in child abuse and gender-specific ways of coping with abuse. For more information, contact: Conference Secretariat DGgKV e.V., Konferenzbüro, Mühlendamm 3, 10178 Berlin, Germany Tel: + 49 30 27 49 64 63; Fax: + 49 30 27 49 64 62 Email: [euroconf2005@dggkv.de](mailto:euroconf2005@dggkv.de) (in German) Email: [euroconf2005@ispcan.org](mailto:euroconf2005@ispcan.org) (in English) Website: <http://www.ispcan.org/euroconf2005>

**4-10 Sept 05: “National Child Protection Week - Australia”.** Organised annually by the NAPCAN Foundation, National Child Protection Week 2005 is coming up on 4th- 10th September, commencing on Father’s Day. Join the thousands of Australians who get involved in National Child Protection Week every year. In September 2004, nearly 100,000 Australians directly participated in at least one of the 737 registered NCPW activities, including community forums, information displays, family fun days and breakfasts. Child abuse and neglect affects the whole community. Evidence shows that community support can help prevent child abuse, before it starts. We challenge the view that parents carry the sole responsibility for children. Instead, we are working to build a community where children’s wellbeing is everyone’s responsibility – a community where child abuse and neglect has no place. We call this, a ‘child-friendly community’. This National Child Protection Week, we are challenging all Australians to help make your community child-friendly. It is the time for you and your community to: \* register an event, \* do child friendly things that lead to reduced child abuse and neglect, \* promote your own programs and projects, and \* showcase and acknowledge the stories, innovative ideas and successes of your work towards being a Child Friendly Community. Want to be involved? Find out more at <http://www.napcan.org.au/NCPW/index.htm> [contact@napcan.org.au](mailto:contact@napcan.org.au) or email [contact@napcan.org.au](mailto:contact@napcan.org.au)

**6 Oct 05: “Evaluation of the World Programme of Action for Youth”** UN Headquarters, New York. The UN World Programme of Action for Youth will be evaluated by the General Assembly during two plenary meetings. Youth organizations are not able to participate, but can attend if they have an entrance pass to the UN building. The day before the plenary meetings, an informal interactive round-table discussion will be organized on the theme “Young people: making commitments matter”, which will be open to participation by non-governmental youth organizations. A summary of this round-table will be presented by a youth representative from a Member State to the

General Assembly at the beginning of the plenary meetings the next day. More info at: <http://www.un.org/esa/socdev/unyin/ga60.htm>

**18 –22 Oct 05: “The Right to Education: Solution to all Problems or Problem without Solution?”** Sion, Switzerland. The International Institute for the Rights of the Child (IDE) has organised a seminar which aims at: giving a clear view on the problems (definition of the right to education and its contents, knowledge of main international standards), bringing up especially blatant situations and identify causes, singling out best practices, by exchanges of experiences between international organisations, NGOs, professionals concerned by education, State officials, field workers, etc, identifying possible synergies and partnerships between the various stakeholders, and reaching a conclusion allowing for strong and concerted international action. Members of NGOs active in the field, people responsible for education issues, doctors, lawyers, teachers (any level), head of teaching establishments, psychologists, sociologists, social workers and anyone else concerned (media, politicians); researchers and final-year students are also welcome. For more information, contact: Institut Universitaire Kurt Bösch (IUKB) P.O. Box 4176, CH-1950 Sion 4, Switzerland Tel: + 41 27 205 73 00; Fax: + 41 27 205 73 02 Email: [ide@iukb.ch](mailto:ide@iukb.ch) Website: <http://www.childsrights.org>

**12-16 Feb 06: “Impact of Global Issues on Women and Children”** Dhaka, Bangladesh. The Conference Secretariat for the Third International Conference on the Impact of Global Issues on Women and Children is organising an exchange of knowledge, expertise, and experience on issues relevant to positive and negative effects of globalisation on children and women. This conference is for individuals from all parts of the world and all walks of life: anthropologists, basic scientists, ecologists, environmentalists, economists, health economists, historians, human rights activists, information technologists, lawyers, nurses, nutritionists, physicians, politicians, sociologists, social workers, etc. The major themes that will be addressed are: lessons learned from the Tsunami; impact of violence/war/terrorism on children and women; biological health issues; empowerment of children and women; HIV/AIDS and tuberculosis/depression: children and women; prevention/rehabilitation: physical and mental health of children and women; adolescent male/female issues. Organisers of the Conference are inviting interested parties to submit abstracts relating to one of the ‘Theme Categories’. They want to hear about the efforts being made to improve the health and well-being of women and children around the world. For more information, contact: McMaster University 1200 Main St W, HSC-3N28, Hamilton, Ontario, CANADA L8N 3Z5 Tel: + 1 905 525 9140; Fax: + 1 905 521 8834 Email:

[ic2006@mcmaster.ca](mailto:ic2006@mcmaster.ca) Website: <http://www.fhs.mcmaster.ca/slru/ic2006/main.html> <http://www.ic2006.info>

**18-19 May 06: “International Interdisciplinary Conference on Children’s Rights - An appraisal of the Children’s Rights Convention. Theory meets practice”**, Ghent, Belgium. The conference aims at evaluating the progress and achievements of the Convention, and at exploring the challenges ahead in realising children’s rights. It will in particular do so by creating an open forum where academics can meet and exchange views with other professionals, dealing with children’s rights in a more practical way. Major sub-themes of the conference include: enforcement of the UNCRC at international, regional and domestic level - the right to (human rights) education - rights of children in especially difficult circumstances such as refugee children and children belonging to minorities - juvenile justice and detention - participation rights of children - children’s right to life, health and health care - children’s rights in relation to their family - exploitation of children. The conference will comprise both plenary sessions and workshops. The keynote speakers, who will address to participants during the plenary sessions, will be some of the world’s leading experts on children’s rights. Names will be released shortly. The workshops will be organised in parallel sessions. Those interested in presenting a paper (in English or French) at one of the workshops are invited to respond to the call for papers on the website: [http://www.law.ugent.be/pub/iuap/c\\_call.html](http://www.law.ugent.be/pub/iuap/c_call.html) For more information, contact: Marie Delplace Human Rights Centre, University of Ghent Universiteitstraat 4, B-9000 Ghent, Belgium Tel: + 32 9 264 68 22; Fax: + 32 9 264 69 95 Email: [Marie.Delplace@UGent.be](mailto:Marie.Delplace@UGent.be)

## Websites

**www.crin.org/violence** CRIN has launched a website dedicated to civil society activities around the United Nations Study on Violence Against Children. It offers a shared platform for civil society to exert an influence on the UN Study on Violence Against Children and serves as the basis for discussion and the exchange of information between advocates, practitioners, researchers and other stakeholders in the study. It will provide access to established and state of the art information on the many aspects of the study, including

information about regional activities and children’s participation in the study. The website contains several categories of information, including: a section for children, information on the Study, definitions of violence, a publications catalogue (featuring tools and training materials for use by practitioners, analytical resources on child protection, etc), statistics on violence against children, and details of organisations involved in the Study.

**www.business-humanrights.org** The Business & Human Rights Resource Centre is an independent, international, non-profit organisation, in a collaborative partnership with Amnesty International sections and leading academic institutions. It seeks to promote greater awareness and informed discussion of important issues relating to business and human rights. Its website contains details on the social and environmental conduct of 2000 companies worldwide, and covers over 160 countries, over 150 topics. The website includes reports of corporate misconduct, as well as positive examples of “best practice” by companies. It also produces weekly updates that alert readers to the top stories and breaking news about business and human rights by email. The updates include a unique feature: company responses to alleged abuses. Subscriptions can be made from the homepage.

**www.stopkillingchildren.com** Many people assume that the days when children were shot dead in the street have been consigned to the pages of history. They have not. In Brazil for example, four to five children are being killed every day. This international web-site by Jubilee Campaign is dedicated to documenting and exposing the killing of children and young people.

**www.againstsexualexploitation.org** The new website of the Focal Point on Sexual Exploitation contains information about the Focal Point Programme, newsletters, documents on the sexual exploitation and abuse of children throughout the world, and links to other organisations, UN agencies and governments also promoting and protecting the rights of the child.

**www.article2.8k.com** Children from the Voices of Youth UNICEF forum have recently launched an online Newsletter called “Article 2: Youth for a Change”, to connect youth all over the world, make their voices heard, and raise awareness as well as take action on important problems that affect world-wide teenagers: poverty, education, war, HIV/AIDS, violence, social exclusion, etc. Readers’ direct participation are encouraged. For more information, contact: Article 2 Team, Voices of Youth UNICEF Forum Email: [article2\\_youth\\_for\\_a\\_change@hotmail.com](mailto:article2_youth_for_a_change@hotmail.com)

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