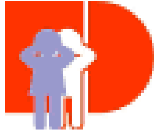

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Australian Children's Rights News

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The Rights of Children in the Australian Juvenile Justice System Prenatally Affected by Alcohol

Sue Miers[1] and Anne Russell[2] - NOFASARD[3]

> ***"At a time in history when many people with disabilities are demanding the right to be fully participating members of their community, there is another group of people with disabilities who are crying out to be identified. At a time when people with disabilities are desperately trying to rise above their impairment and be recognised for their basic humanity, people with Fetal Alcohol Spectrum Disorder (FASD) are still struggling to be identified and understood. The disabilities associated with FASD are seldom recognised; seldom treated effectively and seldom connected to service dollars."[4]***

Alcohol is a teratogen, an agent that adversely effects normal fetal formation and in particular alcohol is known to have its greatest effect on the structure and function of the developing brain. Individuals with Fetal Alcohol Spectrum Disorder (FASD) have hidden brain damage that is permanent, long-lasting and has far reaching effects.

Unfortunately FASD has received very little attention by health authorities in Australia. There are no specially trained multidisciplinary teams to diagnose this disability and the Australian medical profession has received very little information about the disorder in their medical school training. In contrast, North America has over 70 specially trained FASD diagnostic teams and in Canada, FASD training is being implemented into their police service, corrections system and to lawyers and judges because they have realized that prevention and appropriate intervention and management is a far less costly alternative than serving them in jails.

So, in Australia, the disorder is poorly understood and affected children and adolescents are slipping through the system. Many affected children are not diagnosed with a disability because they either have IQs that

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President's comments:

This issue of Australian Children's Rights News is focussed on two important issues: the children and young people whose lives are blighted by pre-natal exposure to alcohol and the challenges that brings to the health and juvenile justice systems as well as education to respond to these young people in an appropriate and compassionate way. Like those incarcerated in the adult prison system, young people with a disability are heavily over-represented in the juvenile justice system, but their disability often goes undiagnosed, especially when this is a result of alcohol and substance abuse by their mothers.

Sue Miers and Anne Russell from NOFASARD (National Organisation for Fetal Alcohol Syndrome and Related Disorders) have clearly outlined the problems and challenges and pointed to some of the 'solutions', a result of their own extensive experience with the issues at first hand. Sue is a foster parent of a 26 year-old daughter who has partial fetal alcohol syndrome (pFAS). Sue has lobbied extensively on both a state and national level to raise awareness about FAS issues and is a founding member of NOFASARD. Elizabeth Russell describes herself as a recovering alcoholic who in 2001 found that her addiction had physically harmed her two sons. She has resolved to devote the rest of her life to the prevention, education and support of sufferers of fetal alcohol spectrum disorder and their carers ensuring a positive consequence of her sons' suffering and to this end has written two books on FASD. They are *Alcohol and Pregnancy – A Mother's Responsible Disturbance and Alcohol and Pregnancy – No Shame No Blame*. These are the first two books on FASD written from the Australian perspective.

This article comes out just as the Australian National Council on Drugs (ANCD), the principal advisory body to Government on drug policy, has released its report, "*Drug Use In The Family: Impacts And Implications For Children*", prepared by national and international leading clinicians and experts. This report found that more than 230,000 of the nation's children aged 12 and under were living in a household where they were at risk of exposure to a binge drinker. After reviewing the many data sources, the following figures represent the authors' best estimate at the numbers of children living in households with parental substance misuse:

- Over 230,000 children live in households where they are at risk of exposure to at least one adult binge drinker;
- Over 40,000 children live in a household where one adult is taking cannabis daily;
- Over 14,000 children live in a household where one adult uses methamphetamines monthly;
- Substance abuse occurred in families with complex circumstances, experiencing a host of problems.

This report did not, however, follow up on the numbers of children affected by Fetal Alcohol Syndrome and Related Disorders.

The Council Chairperson, Dr John Herron quite rightly pointed out that: " To improve child outcomes in substance misusing families we need more treatment programs that can go beyond just treating the individual and that can cater to the needs and demands faced by the whole family."

The second key article concerns the physical punishment of children – children's rights not to be hit in line with CROC. This article is an edited version of the speech given by the Honourable Alastair Nicholson AO RFD QC, Honorary Professorial Fellow, Department of Criminology, University of Melbourne and Former Chief Justice, Family Court of Australia, and Patron, Children's Rights International and Epoch Tasmania to mark International 'No Smacking' Day at Parliament House in Hobart on 30 April 2007. Professor Nicholson outlines the legal and social issues in Australia and elsewhere in a comprehensive review that takes in the research on the consequences of physical punishment and the perspectives of children. Since that speech, on May 16, the New Zealand Parliament has passed legislation (on a vote 113:7) that removes the defence of 'reasonable force', the first English-speaking common law country to do so. Once again, New Zealand 'punches above it weight' on children's rights and social justice issues and shows the lead to Australia.

Judy Cashmore
President, DCI Australia

fall within the 'normal' range; they are misdiagnosed with ADD, ADHD or one of the autism spectrum of disorders; or they are branded 'delinquent'.

> *"Delinquency is increasing in Australia................the presumed origin of certain delinquent and antisocial behaviour in Australia needs to be urgently revised because we are sending people with disabilities to prison for behaving in a manner that is consistent with every expert opinion on that disability. Would we punish a person with depression because they were sad?"* [55]

Children and adolescents with FASD are unable to learn from their mistakes; make changes in their behaviour or understand the consequences of their actions. They are impulsive; have poor personal boundaries; impaired judgment; easily manipulated; and often have far better expressive language skills than receptive language so they appear to understand more than they actually do.

Affected children have difficulty distinguishing between strangers and friends and have trouble structuring their own lives and their behaviours. They also require the consequences of their actions to be immediate and relevant. Without FASD competent therapists, psychologists and psychiatrists to help manage mental health, affected children experience problems with day to day life that they might otherwise avoid.

Children with FASD require external positive, consistent supervision and structure and unfortunately because of inadequate screening and diagnosis most find this through the legal system and juvenile detention facilities so in effect we are incarcerating these children/adolescents and punishing them for their disability.

Traditional interventions in juvenile detention facilities are usually based on principles of learning theory that expect individuals to learn from consequences either natural or imposed and take responsibility for their actions. There is an expectation that they can understand and process information, understand ideas and concepts, make links and form associations, interpret, store and remember information and take what is learnt in one situation and apply it in another. In actual fact this is exactly what is missing when a person has FASD.

> *"Psychological and social services have been put in place for people who are likely to respond to abstract concepts and who can independently work on their thoughts and behaviours keeping an ultimate goal in mind. Considering that FASD is a recognised diagnosis of prenatal alcohol exposure causing brain damage, imprisoning people with FASD seems counterproductive if the aim is to promote rehabilitation."* [6]

These interventions do not meet the needs of affected young people and their rights **will** be compromised unless their disability is diagnosed, understood and appropriately managed.

In financial terms, the cost of someone with FASD to society has been assessed as around $US5m. A good proportion of this figure belongs to the cost of incarceration of the individual; attempted rehabilitation, which because of the rationale cited above is unlikely to be effective; and then the highly probable recidivism. When we are looking at the cost of this condition, we must also look beyond the financial to the cost to the friends, family, employers, youth services, educational institutions and above all, to the individual whose human rights has been compromised in the worst possible way. Not only is that individual incarcerated because they are behaving in a way that is considered 'normal' for their disability, but it is compromised by the victimisation, wrongful sentencing, misunderstandings, discrimination and oppression of them **because** of their disability.

A young person with Down Syndrome would not be treated in the same way as a young person who has normal genetics; it would be unfair, definitely damaging and probably illegal, a contravention of his or her human rights and yet the human rights of people with FASD are being compromised daily. Amnesty International tells us that human rights are universal, they are inherent, they are inalienable and they are essential, but they **can be** violated, and in the instance of young people with FASD and the juvenile justice system in Australia – they are!

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Endnotes

[1] Sue Miers is the foster parent of a 26 year old daughter who has partial fetal alcohol syndrome. (pFAS) She has lobbied extensively on both a state and national level to raise awareness about FAS issues and is a founding member of NOFASARD (National Organisation for Fetal Alcohol Syndrome and Related Disorders) She has been invited to be a member of, and has reported to, various national and state government agencies in Australia, as a recognised parent authority in this area. In June 2006 she was awarde d the Member of the General Division of the Order of Australia for service to the community through the establishment of the National Organisation for Foetal Alcohol Syndrome and Related Disorders, to community education and reconciliation.

[2] Elizabeth Russell is a recovering alcoholic who in 2001 found that her addiction had physically harmed her two sons. Her eldest son, who is 25 years old, was diagnosed with Neurodevelopmental Disorder – Alcohol Exposed and her youngest son who is 22 years of age has full Fetal Alcohol Syndrome. Elizabeth has resolved to devote the rest of her life to the prevention, education and support of sufferers of fetal alcohol spectrum disorder and their carers ensuring a positive consequence of her sons' suffering and to this end has written two books on FASD. They are Alcohol and Pregnancy – A Mother's Responsible Disturbance and Alcohol and Pregnancy – No Shame No Blame. These are the first two books on FASD written from the Australian perspective.

[3]The National Organisation for Foetal Alcohol Syndrome and Related Disorders Inc. (NOFASARD) was established and incorporated in Adelaide in 1998. It is Australia's peak body representing parents, carers and others interested in or affected by Fetal Alcohol Spectrum Disorder (FASD). NOFASARD is a registered charity and is staffed totally by volunteers. Through education and advocacy NOFASARD aims to improve the lives of children/adults with FASD and representatives from the organization present at seminars and workshops for both government and non-government agencies throughout Australia www.nofasard.org

[4] From: Attaining Human Rights, Civil Rights, and Criminal Justice for People with Fetal Alcohol Syndrome; by Ann Streissguth, and published in TASH Newsletter, Sept. 1998. For more information on the work of TASH, visit www.tash.org.

[6] Alcohol and Pregnancy: No blame No shame! Elizabeth Russell (2007)

Alcohol and Pregnancy: No Blame No Shame A Case Study

This case study about a young lad with Fetal Alcohol Spectrum Disorder (FASD) appears in the book "Alcohol and Pregnancy: No blame No shame!" and it is reprinted here with permission of the author Elizabeth Russell. Whilst this story is about a young Aboriginal youth, it is important to understand that Fetal Alcohol Spectrum Disorder does not just affect Aboriginal children and will be found wherever alcohol is part of the culture.

The narrator of this story 'adopted' Jack, a young Indigenous youth; or as Jack would tell it, he quite determinedly 'adopted' her. Regardless of who adopted whom, Dr Janet Hammill not only willingly took Jack in and stayed by his side throughout challenging times with the Queensland juvenile justice system, but also chose to advocate for him and the disability from which he suffers. Dr Hammill is an academic with a doctoral degree in Indigenous family violence and is a descendant of the Gamilaaray people of the NSW Pilliga forest. She hoped that by providing Jack with a stable home and 'mother' figure that it would give him a chance to turn his life around. Unfortunately both Dr Hammill and Jack were to find that very few interventions, even those of a loving, generous and knowledgeable 'mother' can stop a young person with FASD from spiraling down the path of petty crime into the waiting arms of the justice system.

Introduction

To describe Jack's story as tragic would create a depiction of a child born into only sadness and deny the happiness of early years being nurtured and secure within an extended family that chose to embrace him. Jack's awful misfortunes relate to his origins as an Aboriginal child with unrecognised neurodevelopment birth disabilities in a country not conversant with the teratogenic effects of alcohol or the complexities of intergenerational exposure to poverty, racism and discrimination. Jack's circumstances of birth were beyond his choosing and he was destined to follow a pubertal pathway through to adulthood bereft of valid interventions by those in authority. His experience as

an adolescent is not related to the dedicated and generous 'grandmother' who adopted him and ensured security for his vital early years.

Given the miserly recognition of Indigenous social justice issues in Australia, including the crucial side effects of bleak deprivation, there are many destined for similar poor life outcomes especially in relation to dependence on alcohol and other substance use. The most critical and unrecognised of these is Foetal Alcohol Spectrum Disorders (FASD).

By tracing Jack's story as an Aboriginal teenager, invisible to identification by health and welfare professionals for early intervention yet highly visible to the juvenile and criminal justice systems, may trigger the appropriate reaction of shame and shock.

By explaining Jack's story, I will attempt to catalogue some of the neglect by those in authority and the long road, still with no apparent destination, that he, as a child, has had to navigate while burdened by a lifelong organic brain disorder. Where were the child advocates? Why was Jack's situation ignored; put in the too hard basket? How was Jack invisible to meaningful intervention? What about the others like Jack? What are the commonalities? How can our state, territory and federal governments maintain these cataclysmic circumstances?

Jack's story is just one of thousands that demonstrates the impact of historical racism and despair that Indigenous people are labouring under in Australia's contemporary, prosperous and envied society. It should be unnecessary to have to tell it.

Growing Up[1] Jack

Jack, born in 1987, was the second child to an Aboriginal teenager from an inland city. Exposed to heavy drinking during his time in the womb and throughout his mother's labour, Jack's arrival in an ambulance en route to hospital was earlier and quicker than expected. Today his prematurity status remains unknown as are his measurements at birth, that is, his Apgar assessment of heart rate, breathing, muscle tone, reflex response and colour, as well as his weight and length. These and the circumstances surrounding his first weeks remain unknown and will do so until Jack is of an age when he can personally seek the information should he feel the need is warranted. Given Jack's cognitive status, his birth data might always remain unexplored.

At three months of age, unable to cope with the demands of her second born, Jack's mother abandoned her baby in a community hospital. Alone in a crib in the children's ward, the plight of the little infant came to the attention of a member of the hospital domestic staff, Aboriginal grandmother, Clare. Beginning to take in the world around him and thriving with abundant attention from all who cared for him, baby Jack was irresistible. Clare acted swiftly to adopt him before other potential mothers made their bid.

Jack's world became that characteristic of many Aboriginal children. He was surrounded by an extended family of big sisters, lots of aunties, uncles, little cousins, nieces, nephews and doting Mum Clare. Jack's new big sisters remember him as "a beautiful, fat little fulla" who met every criterion for full membership of their family. Clare was especially protective of Jack and cared for him in the manner of her own strict upbringing. He was loved and taught to respect others and be mindful of his manners.

Jack remembers those early years as very special with Mum despite the crises she was going through in her own personal life with her partner, a younger man, who was drinking heavily and often violent towards her. Clare's last years were endured suffering from breast cancer and the treatment regime necessary in order to prolong her life. Her battle to survive was painful and lengthy until she finally succumbed when Jack was about ten years old. A year or two later, Jack's biological father, with whom he had little to do, hanged himself in a remote community.

Jack's world fell apart with the death of Mum Clare. He spent some time living in another state with an older 'sister' where he completed Grade 7 before returning to Queensland and a community high school for several months in 2001. It was while he was interstate that Jack first became involved with the juvenile justice system and this has since become a regular feature of his life.

The Department of Family Services placed him with another 'sister' who showed much patience with Jack and tried hard to assist him but he had developed a lifestyle of disappearing for days on end when he was not in the custody of the youth detention centre.

In hindsight and knowing now that he has the disability, Foetal Alcohol Spectrum Disorder (FASD), it can be seen that Jack has suffered considerably through the loss of stability and structures provided by Clare. His limited language and numeracy skills were the

secondary disabilities that can be recognised now as compatible with his diagnosis of FASD.

Because his limitations prevented him from attending school, Jack was a sad and lonely figure. Unable to commit to routine and rules, he sought the company of like minded young people. He found them on city streets deliberately blurring their reality by sniffing paint, often mixed with toluene based thinners, huffing it through the mouth, from soft drink bottles barely concealed down the front of sweaters. Jack too became a sniffer, or more commonly known as "chromers". More recently, the preferred vessel for chroming has become a two litre milk bottle as Jack explained to me "because it can hold more paint, Man". There is no attempt at concealing these larger vessels which can be found discarded in city streets and parks.

Meeting Up With Jack

Jack came into my life through the front door in January 2002. He was in the company of boys from a rural community who had picked him up downtown. I thought he was from their community and made him welcome as such. However, when the boys returned home, Jack remained. Somewhat bemused, I found myself with a 14-year old boy, small of stature, happily ensconced in my spare bedroom with no apparent plans to leave. He was a congenial enough companion, willing to prepare us both a meal, take frequent half hour showers with lashings of shampoo, soap and whatever toiletries he could find in the bathroom, share his personally allocated bed with two little dogs and happily monopolise the television. He was delighted to give me a hand to do the grocery shopping, not just purchasing it but also unpacking it and putting it away. He also enjoyed being driven around in the car and appeared to enjoy my company and I own to being flattered by his respectful attitude towards me. On reflection, I had obviously replaced his beloved Mum Clare.

I was concerned about Jack's absence from his home wherever that might have been but he readily volunteered his homeless status. I had no idea that he was meant to be living with his 'sister' in an outer suburb and that there was no reason at all why he was not allowed to return home to her.

The attraction of being at my house, as I was to find out, was that I lived close to the city and he had easy access to his peer group of chromers. That, in conjunction with an abundance of food, a warm bed, shopping for new clothes and motoring magazines, cruisin' in the car, romping with four-legged playmates, netting for crabs in the nearby creek and being accepted into another family with little questioning, was indisputably a blissful life.

All that was missing were other young people. I tried to remedy this by enrolling him in the local high school where there was a higher than normal percentage of students from diverse backgrounds, some of whom were Aboriginal. Both Jack and I thought he would be better accommodated in this environment. But his patience ran out early, in the uniform shop in fact. Jack could not see that being fitted with the appropriate uniform was an essential function before fronting up to school. What's more it was taking longer than the requisite five minutes that he was prepared to allocate to any task.

That was the way Jack and I continued our lives together for much of 2002, that is, when he was not resident in the youth detention centre. Some nights he would not arrive home and I would drive and walk the city streets asking others who lived as he did, whether or not they knew where he was. I was always greeted amiably and offered friendly replies from people who professed to know him whether it was those waiting for Rosie's van to call at City Hall at 9pm to dispense hot drinks and sandwiches or whether it was from others rugged up on park benches, around fires in favourite parks, or huddled in church doorways .

Jack introduces me to the juvenile justice system

Jack's escapades introduced me to the justice system. Frequently, I would receive a call from the police to tell me he was either in the watch house after having been picked up for some criminal activity such as travelling in a stolen car, or from the legal service telling me he had to be appear in the Children's Court on the next working day. I always made a point of being there for him and I know this strengthened our relationship. Likewise he looked out for other Murri young people. On one occasion, he said to me "Jan, David's down there and no one came for him." With a wave of the hand he indicated the lower level of the courthouse. On other occasions he brought a young offender home to share his own luxuries, namely warmth, food, shelter, television and his personal chauffeur. Clearly Jack had the makings of a youth advocate, a trait that would manifest strongly in 2005.

For those who haven't had the experience of waiting at a children's court, it is both a trial for all involved and a tiring experience. One has to be on time for the first cases to be heard as it is difficult to find out which juvenile offenders will be seen first and how long the proceedings are going to be. If one arrived half an hour late, it could all be over due to the fewer than usual cases set down for that day. On other days one could sit, often with families whose acquaintance had been made at previous sessions, drinking water from the slot machine, buying sandwiches at minimal cost made by volunteers from the Salvation Army while sharing our frustrations and despair at the behaviour of those we were there to support. Mostly waiting supporters were grandmothers and always the discussion centred on "What is wrong with our kids? Why can't they stay out of trouble?"

Often too it was not hard to see what the immediate problems were. On a number of occasions, the young ones waiting to be called into the court would have their plastic containers of paint strategically placed in the landscaping of the court. There they could continue their chroming habit and, at the same time, comply with their summons to appear in court.
Firstly, their legal representative would brief them outside in the garden and then disappear again inside. The miscreants could resume their huffing before being called before the magistrate while clearly still under the influence.
When the court had decided their fate, the youngsters had agreed to the magistrate's requests and put their signatures on whatever documentation was proffered to them, they were free to go and resume their habit. The courts recognised me as Jack's carer when he was not in the detention centre although I never applied for or received any financial remuneration. Each time he was released into my care, Jack would be required by the courts to fulfil certain obligations under the terms of his parole or bail orders and the Department of Family Services would be assigned the task of ensuring that Jack abided by the formal agreement.

Each court appearance would leave Jack and I drained. Often we would see another young person who had been discharged and had no transport home and between us check to see if they wanted a lift somewhere. On one occasion, to my dismay, after having convinced the magistrate that Jack had not been involved in a particular incident, he gave a running commentary to our passenger on how he and his mate carried out the offence for which he had just been proven innocent.

Too frequently, the magistrate's terms meant that Jack had to undertake community service and adhere to a curfew. This is where his capabilities failed him and I was later able to place this behaviour into the context of his disability as well as the guilelessness as demonstrated above. Jack was in fact unable to meet the requirements of his bail conditions because his poor executive functioning impacted on what was expected of him.

The Department of Family Services was also lax in their obligations and probably weighed down under the increasing burden of child care that was being dropped in their laps. Their duty was to collect Jack on the agreed days to take him to do either his community service work or other activities under their supervision.

On the days they were rostered to pick him up at and return him home, they could not be counted on and their hours were often quite flexible. Sometimes the department would call for Jack 3 hours late and bring him home an hour or two later.

Despite Jack phoning me immediately he arrived home, it always took me at least ten minutes to walk to my car and drive home. Jack's disability disallowed him any understanding of time and although I knew it was only ten minutes, to Jack it seemed hours or he would forget I was on my way. That was sufficient time for him to go seeking friends who were hanging out on city streets. This peer group was engaged in chroming, petty crime, car theft, break and enters, ram-raiding liquor stores with older boys, etc. To Jack it was exciting and a privilege to be included for these were "my family" as he often told me and sometimes used when he was pleading for me to allow him to bring girls home.

Jack's method of contacting me to go and collect him from somewhere was usually made via a reverse charge call from a public phone box. These calls were charged to my account at the rate of slightly less than $5 each as against 40c if he had the cash or a phone card.

Each time I drove Jack to a designated place where he could meet friends for a few hours, along with several dollars to buy food and drink, I would give him change for the phone. However, the few hours frequently became overnight or several days and in that time, the money for a phone call became an essential contribution to his survival. I then tried

buying $10 phone cards but these lasted less time as they became a barter item and I suspect were promptly traded, at a discount, for cash. I would be told that a certain bully stole it from him.

Solving the mystery, getting a diagnosis

I knew instinctively that Jack was being truthful to me in his efforts to stay out of trouble. Moreover, I was able to observe his cognition and incapacity to make good choices, manage time in any form and especially to control his impulses. My ponderings became concerns about his neurodevelopment status as he had known alcohol exposure in utero. In collaboration with the psychiatrist at the detention centre, I was able to instigate his diagnosis and assessment by a developmental paediatric who verified my concerns that Jack appeared to have a form of Foetal Alcohol Spectrum Disorder and….

……. in essence I would regard him as extremely disabled.

The most obvious area of disability is academic. Regardless of the cause, [Jack's] academic capacity with reading, maths and writing are essentially at a late 1st, early 2nd grade level (age 6-7 years). With reading, for example, he had a word recognition of year 2, and this was essentially over-learned sight vocabulary. He had few strategies to decode words he could not immediately recognise.

…… he was relatively uncommunicative, but his spoken conversation was characterised by limited vocabulary. Without formal testing evidence I suspect his language was limited to an extent that would meet criteria for language disorder.

Another area of disability is within [Jack's] "executive control". This includes attention control, impulse control, short-term memory, ability to self-monitor, and ability to work in a goal-oriented manner. A large body of evidence on this conversation converges on the conclusion that [Jack's] executive control is not only poor, but represents a functional handicap in terms of his ability to meet anything like the developmental objectives of his age. The practical consequence of this developmental picture is that I suspect [Jack] does not have the capacity for intentionality or the moral framework that is presupposed by the criminal justice system…………

…… [Jack] himself appears to have little insight into his own predicament. His capacity for planning is limited and he lives in a perpetual present. His behaviour is often impulsive and as far as I could tell he had little sense of long-term future direction. [Jack's] background has been highly prejudicial. There is a mixture of sniffing, alcohol, abuse, neglect, inconsistency and a variety of other factors all known to be causal for the problems he is currently experiencing.

In short, if [Jack] was a light skinned child presenting with the same spectrum of problems we would classify him as extremely disabled. He is a 14-year-old boy with the academic skills of the average 7 year old. In functional terms this is equivalent to a mild to moderate intellectual disability. He essentially does not have the skills to manage the present, yet alone build towards any form of optimistic future. I feel this is a tragedy that his situation could have reached this state.

Despite this pertinent and revealing diagnosis, and written appeals by me to the Premier, the Minister for Health, the Minister for Family Services and the Commissioner for Children and Young People, I was referred back to the Director General of Family Services who assured me that his staff was dealing appropriately with Jack.

Still, meaningful services for Jack's needs were not forthcoming. Indeed they did not exist and at the time of writing this chapter, Queensland does not have available a framework for action or strategic plan specifically for people having, or suspected of having, FASD. Increasingly though, a degree of awareness is stirring with initiatives based around training health educators and providers with the most concerted efforts originating from within Indigenous communities.

During one of his periods in the youth detention centre, I mentioned to a warder that Jack had been diagnosed with FASD. The Aboriginal warder replied "Yes, all the Murri kids are like that." While this was probably not true of all community children and young people it is more than likely true of those who become involved in the juvenile justice system. In Canada and the USA, having FASD equates with high incarceration rates and is a critical issue in the profile of those affected.

Around that time I was unable to continue as Jack's carer as his chroming habit was becoming a problem even when I was home with him. He had paint secreted in various places under and around my old

house and my close proximity to the city was particularly detrimental to his wellbeing. His involvement with the juvenile justice system continued and it was only during the periods of detention that his health improved.

Inside he would regain weight, have hobbies, play sport and paradoxically benefit from structures in his life. Inside he had the company of other Indigenous young people many of whom Jack had grown up with and frequently among these was a smattering of relatives.

On his release the Department of Family Services attempted a reunion for Jack with his birth mother who resides in a northern coastal town. She and her partner continued to drink, have very stressed lives and another five children. The mother's partner regularly beat Jack and the situation proved too difficult for all to manage and before long Jack was in trouble with the law again. He spent some time in a northern detention centre and upon release returned to Brisbane.

Jack and his Peers

Raising a teenager again, and one with a disability that perpetually compromised his ability to function on a daily basis, was inevitably an interesting experience that brought daily challenges for both Jack and myself as we tried to work together as well as outwit each other.

I refused to supply money for cigarettes and this drove Jack to use every opportunity at shopping malls and elsewhere to scour the streets for bumpers or cigarette stubs. On the pretence of needing to go to the toilet, he would use the opportunity to check out the sand-topped receptacles outside doorways.

It was clear that various youth groups had spoken to Jack and his friends about the dangers of chroming in particular but they saw the habit purely as a social interaction as Jack explained to me.

> Jan, when you're happy, you go out for a feed and a drink with your friends. I like to go down to Hungry Jacks for a feed and a sniff afterwards.

This was similarly expressed by a 20 year old girl who spoke laughingly of joining her friends down in the riverside park for "a bit of a sniff". At the time she was waiting in the court minding a small girl in a stroller while the carer, the toddler's father, had to appear before the magistrate.

Later I volunteered to babysit in the waiting area while she went in to hear the verdict. She returned quite shocked "Shit. He's just been sent up for six months. What am I going to do with her?" She pointed to the child who was apparently not related to her.

I resumed my babysitting role for the young woman while she went to the public telephone to call her father who then drove in from an outer suburb to pick them up. I never found out what became of the child whose principal carer was now incarcerated.

Chroming was clearly an addictive habit that Jack was unable to beat. Homes abound in volatile substances no matter how vigilant one is and mine was no different. I became adept at locating and tossing everything I could think of that could be used by Jack in this way.

Often it would be a felt pen in his pocket or an aerosol innocently stored under the kitchen sink. But there were other telltale signs that Jack was sniffing in his behaviour such as sleeping with a knife, screw driver or other "weapon" under his pillow. Once, when I arrived home from work, he refused to let me enter the front door because he said there were people on the roof who would hurt me.

But if I thought Jack was having it tough, the young Murri girls he brought home were often in a more desperate situation and they resisted all my best intentions to find them help. Jack saw the solution as having them at our place but truthfully Jack was the limit of my emotional and financial capacity.

On one of many occasions, when we had one of Jack's "sisters" in the house, I insisted on driving her home with an apology for not being able to accommodate her. As we returned home in the car, Jack gave a most theatrical performance. With much exaggeration, he covered his face with his hands and rocked back and forth…..

> (Jack) *I'm shamed. I'm shamed. Jan you've shamed me. I told her you were a nice lady and now you've shamed me.*
> (Me) *I can't have underage girls staying. Their families must be worried.*
> (Jack) *Her mother told her to fuck off. She was drunk. She's always drunk. I told you that.*

And another time Jack wanted to share his bedroom with a 12-year old girl but of course I insisted on taking her home. Afterwards I was really made to feel the guilt …

> *Her mother's inside* (in jail). *She can't go home. You don't know what he does to her. And he makes her do everything – clean up after everyone. He talks bad to her – swears – tells her she's nothing – bashes her – and does worse. She told on him but no one listens. Her grandmother calls her a slut. No one believes what she says.*

When I was able, I would gently question the girls to see if their situation at home was okay. Mostly the girls would volunteer that their parents were either strict and/or punished them for chroming.

One very engaging girl, Karen, was a delight to have in the house and was especially caring of Jack particularly during a period when he was recovering from an attack with a broken beer bottle that cut a tendon in his hand.

I would drop them off at the hospital clinic and Karen would patiently sit with him until he was seen by the doctor. Had she not done this, Jack would have stayed only the obligatory five minutes.

On completion of the consultation she would phone me to collect them or catch the bus back to my place. When Karen felt the city sojourn was complete and she wanted to return home, she would phone her father and ask him to call for her. Clearly a daddy's girl, the diligent father would arrive, hug his daughter and thank me politely for letting her stay.

Police Profiling and Doing Time as an Adult

When Jack was first diagnosed with FASD I endeavoured to impart knowledge of the condition to police even providing them with resources on the condition.

For months we enjoyed an amiable relationship. If Jack was seen around city streets he was frequently brought home. For example, there would be a knock on the door around 3am and police would be on the doorstep with Jack in tow. I would ask Jack to apologise, shake the officer's hand and say "I'm sorry for being a pest." Grins would break out on faces, the police would depart with a stern reprimand and Jack would flop into bed.

However when Jack turned seventeen, things changed. He was no longer a juvenile and able to qualify for children's services but became eligible for the big house.

Queensland is the only state in Australia that jails seventeen year olds. Ironically, adulthood and the associated services are not available until the individual turns eighteen years of age. Thus the 17 year old youth of Queensland are placed in limbo where they are truly "neither fish nor fowl" but even so still highly visible in a negative context. When they offend, which inevitably they will do, simply because of the grim situation that is their reality, they become highly visible.

Indigenous young people with cognitive disabilities and the Australian juvenile justice system was the basis of a report by the Aboriginal and Torres Strait Islander Social Justice Unit of the Human Rights and Equal Opportunity Commission that was made public in December 2005.

It reported a high incidence across Australia of young people with disorders ranging from mild impairments to severe psychiatric disorders, and Indigenous young people were over-represented.

A crucial element in young people's involvement was poor educational achievement and this is well demonstrated in a community where Jack spent several years of his childhood.

That community has three primary schools within a five kilometre radius yet, in 2005, less than one in five young students graduated into high school. Regularly I see some of the community's young people living on the streets of Brisbane attracted by the excitement of activities lacking at home.

From time to time my house becomes a drop in centre for these young ones, some of whom I have known for the past decade. They are unable to read or write, engage in chroming and are heavily reliant on addictive substances especially cannabis. They are all good kids. I am treated respectfully and, despite their dire circumstances, no one has ever stolen from me.

Nevertheless, like Jack they are conspicuous to police. When apprehended, as may happen several times a day, they react with abuse and hostility which immediately triggers a response of power from the law. It is on these occasions that Jack and his friends come off second best.

As an example, I returned from overseas with gifts of new clothes for Jack which he immediately wanted to show off to his peers. A Murri kid in new clothes stands out like a beacon flashing "look at me - look at me." I should have been more vigilant because within two hours of donning his new gear, Jack was charged with possession of goods suspected of being stolen and, being Saturday of a long weekend, he was detained in the watch house until Tuesday.

My pleas to the watch house staff went unheeded. Once a charge was made the individual can only be released by the court. The lesson here that I learned for the future was to save the dockets and put them with a signed, written statement that they were the property of Jack, a gift bestowed on him by me and pop the evidence into his pocket.

Another time while waiting at a bus stop with friends, he and a mate were subjected to an on-the-spot search.

A stub of a joint was found in Jack's pocket and he and his friend were marched down to the nearby police beat through the midday market.

Inside Jack and his mate claim they were assaulted and thrown against a "steel cupboard". On direction from Jack's legal representative I filed a complaint with the Crime and Misconduct Commission (CMC) who handed the investigation back to the Queensland Police. In due course, and without making an appointment, I answered my front door to three police officers whom I invited in. Another emerged from down under my house where he was obviously checking out possible escape routes. They told me that Jack had an outstanding warrant which was not unusual. They also mentioned my letter to the CMC. Several weeks later I received a letter from the CMC informing me that the police had spoken with Jack and he did not validate my grievance against them. I quizzed Jack who said he "was down under the bridge sniffing and they come along." He explained that he was alone, was high on paint fumes at the time and scared when approached by the police. Not unexpectedly he told them he did not have a complaint about their behaviour.

While engaged with his peers and spending days on end down under the bridge, chroming and inebriated from stolen alcohol, Jack quickly ran up more charges, most of which are still to be heard. These range from unlawful use of motor vehicle (he was a passenger), robbery in company and with assault (his mate grabbed the victim's collar), two cases of burglary, enter premises and commit an indictable offence, assault and obstruct police as well as several breaches of bail conditions.

Issues of immediate concern

From Jack and my interactions over the past three years with youth service organisations there is no mistaking the groundswell of interest in neurodevelopment of young people who have been exposed in utero to alcohol, marijuana and tobacco. How do we then get the attention of the policy makers at higher levels and especially nationally?

Jack is now 18 and, despite being diagnosed with an organic brain disorder four years earlier, he has been invisible to help from government services. Jack's rights both as a child and as a young adult with a disability have been denied him and the violations against his liberty continue in breach of all international Human Rights Charters.

A medical practitioner who made an assessment of Jack when he was 17, while knowledgeable about Jack's condition, informed me that the state 'had' him, as at that time he was no longer a child and not yet an adult until he reached 18 years.

The doctor also advised that when Jack did legally become an adult, there are no existing services pertinent to people affected by FASD despite the obvious incidence of many cases.

Jack's place in society was determined by his exposure to alcohol when he was in his mother's womb. Likewise his mother's fate was undeniably predetermined for her too.

Jack's organic brain disability, although 100% preventable, will direct his entire life course and he will be unable to meet society's life expectations because his injury was not diagnosed until the crucial years of learning had passed. The suffering caused by the invisible disability that Jack has had to endure thus far has been shameful because he has been punished and blamed for not meeting the expected criteria for a healthy young person. In the absence of identification and appropriate treatment, Jack has developed secondary disabilities characterised by dropping out of school, chroming, addiction to alcohol and other substances, trouble with the law, repeatedly offending and being incarcerated.

Thus far he has been unable to extricate himself from

being a negative statistic caught up in a cycle because services that may have helped his cause and enhanced his self-image were just not available.

Diane Malbin, Executive Director of FASCETS, Inc, an Oregon based non-profit organization aimed at reducing the incidence of FASD and promoting better outcomes for those already affected, advocates interventions that recognize individual strengths.

> *Many people with FASD are concrete, experiential, kinesthetic learners who learn by doing. Many are also friendly, verbal, creative, artistic, musical, mechanically inclined, and determined. People with FASD are willing and able to learn when techniques match learning styles and build on strengths rather than focusing on deficits. People with FASD can be and are successful in many professions. Some are accomplished musicians, computer technicians, athletes, electricians, artists, mechanics, carpenters, teachers, and are successful in other areas. Although some continue to need support, for example managing time and money, accommodations such as electronic organizers and networks of supportive people are effective in minimizing the disability's impact* (Malbin D, "Fetal Alcohol Spectrum Disorder (FASD) and the Role of the Family Court Judges in Improving Outcomes for Children and Families", *Juvenile and Family Court Journal*, Spring, 2004, 53-63.)

Jack's advantage for improved life prospects was shaped by his early years being raised by Mum Clare, a grandmother with old fashioned values and a lot of love for the small boy. Because of her early death, we can only surmise how he would have weathered the passage into puberty as a young person with FASD under her care.

For now though we need to concentrate on improving Jack's future prospects so they are not a continuation of those years without Clare's guidance. We need to ensure he retains his friendships with peers while finding a pathway that will maximize life chances for him.

As I close this chapter, Jack phoned from the prison where he will spend several more months. He said when he gets out he wants a job, a dog, maybe to do some surfing, a bit of cooking, some fishing and help me in the garden. I was touched by the simplicity of his needs and only hope we can make it together. He really is a wonderful young man.

Governments Need to Show Some Mettle

The Christmas holiday period of 2005 was marked by an inordinate number of alcohol-fuelled road accidents that resulted in more than 60 fatalities. The most popular suggestion to prevent this happening again has been teaching drivers to drive better and more defensively.

No one person has asked alcohol manufacturers to accept even partial blame. This is also the situation with FASD. The Minister for Fair Trading in Queensland issued warnings about giving unsafe toys to small children but still no mention of the dangers of drinking alcohol when pregnant.

Governments have to demonstrate leadership by legislating for alcohol manufacturers to show social responsibility and stewardship of their potentially dangerous products. Educating the public about the dangers of alcohol should not fall on taxpayers but be an essential role of those who produce any form of alcoholic beverage.

Given that FASD is a lifelong disability which critically impacts on life chances of individuals affected by the condition, Jack's situation cannot be addressed in isolation. Accordingly, in 2005, I made the following recommendations to Queensland's Minister for Disability Services.

Recommendations

1. Adopt a Human Rights approach and recognise Foetal Alcohol Spectrum Disorders as devastating lifelong organic brain disabilities.

2. Foetal Alcohol Spectrum Disorders are 100% preventable and therefore deserve an immediate state-wide multimedia strategy to raise awareness of the dangers of alcohol use in pregnancy. This can be done with or without, stewardship from alcohol manufacturers. Prevention does work (Astley, et al, 2004).

3. Appoint cross disciplinary teams to identify the incidence of Foetal Alcohol Spectrum Disorders. This should be a mandatory requirement for all youth who come into contact with the criminal justice system. The service should also be available on request by adults who repeatedly offend.

4. Do not re-invent the wheel. Collaborate with well-established international groups who have decades of highly reputable research knowledge and sound intervention practices behind them. As an example:

- Honourable Linda Reid, Minister of State for Early Child Development, Parliament of British Columbia.
- Canada Northwest FASD Partnership – Scientific Director and Paediatrician, Dr Sterling Clarren
- University of Washington Fetal Alcohol and Drug Unit – Director Professor Therese Grant
- University of Washington Child Health and Human Development – Professor Susan Astley
- FASCETS – Executive Director and FASD Educator, Diane Malbin.
- David Boulding, international legal advocate for people with FASD – dmboulding@shaw.ca

5. Set up an alliance of partners selected from key stakeholders from across disciplines; policy makers, health care providers, social services, justice, school personnel, law enforcement, parents, advocate groups, other relevant institutions and representatives from alcohol producers' associations.

Sponsor an international Foetal Alcohol Spectrum Disorders Conference to generate, promote and instigate collaborative awareness, research and initiatives.

Footnotes

[1] Aboriginal people refer to child rearing as "growing up" a child and sometimes by a carer other than a parent.

DCI-IS is pleased to announce the official launch of its new website!

Ther website can be accessed at the same address: www.dci-is.org For the moment, the text is only available in English; however,The sitewill be translated into French and Spanish as soon as possible.

NOFASARD: National Organisation for Foetal Alcohol Syndrome and Related Disorders - Australia

Since 1999 NOFASARD have been attempting to raise awareness at both a state and federal level of the lack of awareness and action relating to diagnosis intervention and management for individuals with Fetal Alcohol Spectrum Disorder.

Currently in Australia we have a situation where our medical and other health professionals have not received any training in diagnosing this disability so affected individuals are slipping through the system. These are individuals who are unable to learn from their mistakes and make changes in their behaviour or understand the consequences of their actions. They are impulsive, have impaired judgment are easily manipulated and often have far better expressive language skills than receptive language so they appear to understand more than they actually do. They also often have mental health and addiction concerns so these factors all amount to a recipe for disaster in terms of how easily they could come into contact with the law and become repeat offenders.

In Canada, FASD training is being implemented into their police service, corrections system and to lawyers and judges because hey have realized that prevention and appropriate intervention and management is a far less costly alternative than serving them in jails. In North America they have 70 specially trained diagnostic clinics for FASD - in South Australia and indeed Australia we have none.

FASD is a known root cause of many of the behaviour issues and societal problems that are currently being discussed in the media. Many of the children with FASD will be found in the foster care system and juvenile detention facilities. Many adults will be found amongst the unemployed, homeless, drug and alcohol treatment facilities and jails. Until affected individuals are recognized and managed appropriately there will be no solution.

People with FASD are not receiving the same level of care as those with other more familiar disabilities - this is a Human Rights Issue.

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India: Children, Contrasts and a Conference

by Margo Lanagan

I was invited to speak on 'Children's Rights and Literature in Australia' at a conference at the University of Madras in January this year. I'm not an expert on children's rights, but a fiction writer whose work has included novels for children and novels and short stories for young adults (people aged about 15 and older).

I was travelling with poet (and member of the Australia-India Council) Bruce Bennett and non-fiction author John Zubrzycki, and all three of us spoke at the Inaugural Session before travelling on to Kolkata for the Book Fair.

The Conference on Situating Literary Studies within the Discourses on Development Studies and Democracy was convened as part of the celebrations to mark the sesquicentenary of the University of Madras. It ranged broadly across issues affecting democracy, development and minority and disadvantaged groups. The papers relating to Australia were:

- 'Multiculturalism: Democracy and the Destitute: A Study of Immigrant Issues in Hazel Edwards' Australian Fictional Discourse' (Dr Meenakshi Hariharan)

- 'Narrativisation of Aboriginal Women's Autobiography with Reference to Sally Morgan' (Ms N. Jayasree)

- 'Nova Peris: Telling a Personal Story' (Ms Supala Pandiarajan) while other papers covered such topics as:

- 'Literacy and Democracy: Rethinking Genres in Multi-literacy' (Dr Pavanandi)

- 'Double Subjection of Woman: A Study of Wole Soyinka's *The Swamp Dwellers'* (Ms P. Tamilarasi)

- 'Changing Thinking on Gender and Development' (Ms Ranjini Krishnamoorthy)

- 'Intervention on Cultural Issues through Theatre' (Dr Mangai)

- 'Media and Dalits [formerly 'Untouchables']' (Dr S. Armstrong)

- 'Globalisation, English and Society' (Mr Varadharajan and Mr Gokul)

- 'Power Politics and Maternal Identity in African-American Women's Writing' (Ms M. Angkayarkan Vinayaka Selvi)

Schoolboy at wedding ceremony, Khanchipuram, Tamil Nadu.

My own talk dealt with Australian children's rights under the UN Convention on the Rights of the Child, and the issues presently facing children in our country. The most significant issue, the continued disadvantage faced by Indigenous children, also happened to be the issue that most interests Indian people, whose history is of continual invasion and adaptation by different powers and whose society is a rich and troublesome tapestry of tribal and immigrant cultures.

I also talked about the detention of immigrant children, the inadequacy of health, child care and education services, workplace relations reforms, health problems, youth suicide, abuse and the tokenism of recent youth consultation mechanisms. I finished with

some remarks on how these issues were dealt with in Australian literature for children and young adults:

A literature that is useful for growing people will admit that some problems cannot be solved and that we must find ways to live alongside them. It will point out that others, like those faced by that small indigenous child, *seem* intractable, yet there are people of all ages with the courage to tackle them at all levels, from helping one indigenous child with her reading skills to standing up and forcing family members, other powerful adults, government departments and the wider public to see the issues and to act systematically to resolve them. A useful young people's literature insists particularly on the existence of resources young people do not necessarily know they possess, on the peculiarity and power of each individual to apprehend, comprehend and to some extent take control of his or her circumstances. It does not offer hope where hope does not exist; it looks the dark stuff, the strong stuff, in the eye, and tries, like adult literature, to find ways in which it can be understood.

Dr Beatrix D'Souza, former MP and member of the Feminist Association for Social Action, responded to my paper with a question relating to the 'stolen generation', reflecting the general curiosity I encountered about white Australians' dealings with Indigenous people.

I only had a short taste of India (two weeks), but my general impression was of a society with a strong emphasis on stratification by birth, wealth and influence. In the Communist states of Kerala and Bengal, this was less marked, but certainly in Chennai (old Madras) there were a great many beggars and people sleeping on the streets, including many children. There, education was a privilege, not a right.

The State's [Tamil Nadu's] literacy rate increased from 62.66 per cent in 1991 to 73.47 per cent in 2001. The female literacy rate increased from 51.33 per cent in 1991 to 64.55 per cent in 2001, while the male literacy rate grew at a slower pace from 73.75 per cent in 1991 to 82.33 per cent in 2001. This is in line with trends elsewhere in the country, with female literacy growing more rapidly from a lower base level, but of course considerably behind male literacy levels. (*Frontline,* volume 18, April–May 2001, http://www.hinduonnet.com/fline/fl1809/18090930.htm, accessed 12 February 2007).

Such dry figures as these translate into busloads of cheerful, neatly uniformed schoolchildren bursting into smiles, waves and 'Hello's' at the sight of a Westerner, while less well-fed children follow you along the street at all hours of the day or night, persisting in their begging until you give them money or a definite signal that you are not going to pay.

This was my first visit to India, and the only place I have seen comparable poverty was in Aboriginal communities in outback Australian towns. It was ironic that on the one hand I was hearing stories of the Indian middle-class children being brought up to stare steadfastly past the beggars around them, while on the other I was talking to that very same middle-class about Australians' ability to not-see Indigenous and other children's rights issues.

Margo Lanagan travelled to India courtesy of the Asialink Literature Touring Program, which 'aims to raise the profile of Australian books, writing and publishing in the Asian region and to increase understanding of Asian markets for Australians'. See http://www.asialink.unimelb.edu.au/our_work/arts/literature/current_touring_program

BUDGET: INDIGENOUS SPENDING TO BENEFIT BUT STILL GAPS GALORE 9 May 2007

Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma welcomes some of the initiatives announced in the Budget in relation to education and employment, but was critical of the missed opportunity to close the gap in Indigenous health – including the 17-year gap in life expectancy between Indigenous and non-Indigenous people.

"It is a matter of great disappointment that there is no recognition of the enormous health challenges facing us for Indigenous peoples, who have barely shared in the gains of this past decade, nor any recognition that improving this situation amounts to one of the major challenges facing us into the coming decade.

Mr Calma also questioned the changes in Community Housing funding and the sustainability of programs to develop the Indigenous workforce and said any initiatives must see government willing to work with local communities.

Choose To Hug Not Hit

This is an edited version of the speech given by the Honourable Alastair Nicholson AO RFD QC, Honorary Professorial Fellow, Department of Criminology, University of Melbourne and Former Chief Justice, Family Court of Australia, and Patron, Children's Rights International and Epoch Tasmania to mark International 'No Smacking' Day.
Parliament House, Hobart
30 April 2007

> "The family has the greatest potential to protect children and provide for their physical and emotional safety. Human rights treaties recognize the right to a private and family life and home. But in recent years violence against children by parents and other family members has been documented. This can include physical, sexual and psychological violence as well as deliberate neglect. Frequently, children experience physical, cruel or humiliating punishment in the context of discipline. Insults, name-calling, isolation, rejection, threats, emotional indifference and belittling are all forms of violence that can damage a child's well-being."
> (United Nations Secretary General's Study on Violence against Children 2006)

> **"Men never do evil so completely and cheerfully as when they do it from religious conviction."** (Pascal, Pensees, 1670)

These quotations from the United Nations Secretary General's Violence Study of 2006 and from Pascal (1670) provide the context for the alleged justification for the physical discipline of children.

The reference to 'smacking' has a tendency to mask what I regard as a much more serious issue, namely the abuse of children and the disregard of their rights inherent in the law of this State and other States and Territories. While most of us are rightly concerned about child abuse, it troubles me that we are unable to characterise the hitting of children as falling squarely into this category. I suspect that the use of the word 'smacking' has something to do with it. To most, this raises connotations of a gentle correction to a toddler in order to protect or deter him or her from harm, administered by a gentle but loving parent. People advocating law reform in this area can thus be easily characterised as 'do-gooders' interfering with the legitimate role of parents and potentially criminalising their actions as part of the much reviled 'Nanny State'.

This stereotype has been used by the media, opponents of reform and many politicians to trivialise the significance of the issue of the punishment of children and as a means of avoiding it. Any discussion is almost immediately diverted to this issue, with which so many of the public identify, and it is suggested that any limitation on the right of parents to correct a toddler in this way represents a serious interference with their rights as parents to protect their children and leaves them open to potential prosecution.

The Defence of Reasonable Chastisement

However, whatever changes are made to the law they are not going to result in the loving parent of the stereotype described being subject to prosecution. The major law change that I advocate, namely the removal of 'reasonable chastisement' as a defence to a charge of assault would simply place children in the same position as all others in the community in relation to the law of assault.

In order to understand this, it is necessary to have some understanding of the law of assault. We are all subject to what could be characterised as assaults every day. Physical contact is not necessary for an assault which for example can be constituted by an attempted kiss or brushing against someone in a crowd. No prosecutions are ever launched for such assaults and the reality is that it is only more serious assaults that attract police attention, let alone prosecution. The law has a principle constituted by the Latin phrase ***de minimis,*** which means that it does not concern itself with trivialities. Therefore any attempt to prosecute for this type of trivial assault would certainly fail, as would a prosecution for the type of gentle correction of a toddler to which I have referred.[1] Sweden abolished the defence of

reasonable chastisement in 1979 and the incidence of prosecution for assaults on children did not rise as a result of it. A similar outcome could be expected here if the law was to be changed.

I can understand, however, that parents might fear that any change in the law would leave them open to prosecution for relatively mild acts of punishment of a child. I think it important that any change be made in such a way as to take these concerns into account. In New Zealand police and prosecution authorities have apparently indicated that if the law is changed, as appears likely, their approach would be not to prosecute such mild acts of punishment. Any change should also be accompanied by a significant public education campaign as to the negative effects of smacking and the availability of better alternative methods of disciplining children.

I do not approve of the smacking children of any age. The fact that the gentle correction by a light smack probably does no good and may carry within it the seeds of long term harm is all too readily overlooked, but I think it best eradicated or minimised by a process of education rather than prosecution.

The real point is that the defence of reasonable chastisement operates to protect parents from prosecution and conviction for much more serious assaults on children and in effect operates as a charter for child abuse. 'Smacking' in this context can and often does involve what many would regard as a brutal assault, simply because particular parents use it as a licence for such behaviour, either out of cruelty or a misguided belief that they are properly disciplining the child.

Recent case in Family Court of WA

In a recent case in the Family Court of Western Australia,[2] the father of a 10 year old boy J, had obtained an order for regular contact with the boy and his elder sibling (aged 12), both of whom lived with the mother.

The boy subsequently complained of being disciplined with a belt by his father during contact visits and the mother made an application for suspension of contact pending the obtaining of a report as to the children's wishes. On 21 February 2006 the Family Court made an interim injunction restraining the father from engaging in any physical discipline towards the children until further order.

The father then wrote to the mother indicating that he would not comply with that order. Correspondence followed during which the father re-iterated his position and the mother informed the father that J would not go to his home on contact visits because he was scared of him.

At trial the judge (Holden CJ) after outlining the background said:

> "At trial, the husband was totally unrepentant. In my opinion, he took the view that he was entitled to discipline [J] in any way he considered appropriate and that for the court to prevent him from doing so was an unwarranted interference with his parental rights.

That is a view that I do not share. As I indicated during the course of the trial, I doubt there would be a Judge in Australia who would condone the use of a belt or any other similar object to discipline a young child. The husband made it quite clear at trial that he would not change his view and if the injunction remained in force, then the current situation would continue, namely [J] could come to his father's home when he wanted but on his father's terms as to punishment."

His Honour went on to quote from a counsellor's report. This included statements by J that he was made to read passages from scriptures about telling the truth and told him that he had a right to punish him when he was naughty. The counsellor said:

> "[J] went on to report that his father hits him, sometimes "hard" and he "sometimes gets 6 smacks instead of 5 or 5 instead of 4". This physical discipline was explored further and [J] explained that the father "smacks" him with a belt on his bottom. [J] also claimed that his father would push him around whilst holding him strongly by the shoulders.
>
> ***[J] further reported that his father had put a piece of soap in his mouth and sent him to his bedroom for 10 minutes and he was not allowed to wash the soap out during this period."***

His Honour confirmed the injunction and varied the contact order to make it operative subject to the children's wishes.

This case is instructive from a number of points of view. First, there is no doubt that the boy was

subjected to what most people would describe as a series of brutal beatings. Secondly, he described what he received as “smacks”, no doubt following his father’s description. “Smacks” obviously mean different things to different people. Thirdly, the father not only saw nothing wrong with his treatment of the child but considered it his right to beat him in this fashion, to the point where he would not accept a court direction not to do so. Fourthly, the father was unable to understand or accept that the boy, who still loved him, was frightened of him to the point of not wishing to see him. Interestingly enough, J recorded having been hit with a wooden spoon by his mother, but not for a considerable time and did not have the same fear of her.

Another interesting aspect is that the case was in the family court and not the criminal court system, where I consider that it should have been. Mention is made in one of the mother’s letters to the father of contact with an official of the Department of Children’s Services, who offered to mediate between the parties, a suggestion that the father refused. Any allegation of this sort of treatment made by a person other than a parent would almost certainly have sparked a Departmental investigation and probably a prosecution, rather than a mediation. An insidious aspect of the defence of reasonable chastisement in cases involving a serious assault by a parent is that this option is often not taken by child protection authorities, no doubt because of the difficulty of obtaining a conviction.

In New Zealand, the defence has been successfully raised in cases where parents have been prosecuted for hitting their child with a bamboo stick, with a belt, with a hose pipe and with a piece of wood and in the latter case chaining the child in metal chains to prevent them from leaving the house. Each of these cases involved jury verdicts.

In Tasmania a 1992 case involving horrific attacks upon two children by their parents over an extensive period led to a conviction of one of them on one count, with the jury disagreeing on the remainder. The allegations included whippings using a cattle prodder, stock whip, dog lead, hearth brush, shearing belt, sticks and pieces of wood and the forcible ingestion of cigars and tying a child up in a shed with a dog chain. The defence of reasonable chastisement was relied upon by the parents.[3]

It can be seen that not only is the defence relied upon with a degree of success in the case of very serious assaults upon children, but it must also operate as a serious inhibitor on any prosecutions. It thus acts as a positive encouragement of child abuse by parents.

The Australian Childhood Foundation has described the key focus of the debate as follows:

> “..whether or not parents should have access to a defence under law that permits them to use physical force against their children. No other adult has access to this kind of legal defence. A parent is not allowed to hit/smack/slap someone else’s child. A teacher is not allowed to hit/smack/slap a student. An uncle or aunt cannot hit/smack/slap their niece or nephew – at least not without the consent of the child’s parents.
>
> *Parents are the only adults who have access to the defence if they hit their own children. It has its roots in common law. It has remained unchanged in crimes statutes in almost all state legislation in Australia dating back to the turn of the (last) century.”*[4]

The antiquity of this law is worthy of some reflection. It dates back to a time when a homosexual relationship between males was a criminal offence, there was a death penalty for murder and rape that was not infrequently carried out, and women and children were regarded as chattels of their husbands/fathers. There was no research available as to the ill effects of violence upon children and indeed child protection legislation was rudimentary if it existed at all. Physical punishment was commonplace. Indeed the very principle that chastisement of children must be reasonable was itself a primitive child protection measure, as was the principle that women should not be beaten with a stick thicker than the thumb.

Social Attitudes to the Physical Punishment of Children

There has been enormous social change in so many areas since this law was first introduced, not least being attitudes to the nurture and care of children. The question arises as to why we want to keep this relic as a part of our law.

In fact very few people with any expertise in the area of child development even advocate a gentle ‘smack’ as an effective method of discipline of children of any age and none appear to espouse more serious physical chastisement.

At the same time a belief in the efficacy of physical punishment as appropriate is widespread throughout the community. A 2006 survey revealed that 69% of Australians agreed that it is sometimes necessary to 'smack' naughty children and a further 8% were uncertain about it. The number agreeing was only slightly less than in a similar survey conducted in 2002.[5] Approximately 45% thought it acceptable to smack hard enough to leave a mark on the child. Confronted with figures like this, it is not surprising that our generally timorous politicians are reluctant to act upon what they must know is a serious problem.

Why should this be so?

Why are children now the only members of the community who are the victims of what amounts to little more than a licence to assault?

19th Century concerns about cruelty to animals eventually extended themselves to cruelty to children and it is an historical fact that the foundation of the first national society for the prevention of cruelty to animals preceded the setting up of the first national society for the prevention of cruelty to children.

Although its usage was heavily reduced, the law continued to permit flogging as part of criminal punishment until comparatively modern times. I still remember the revulsion that I felt as a young barrister when the Victorian Supreme Court ordered the flogging of a prisoner in the 1960s.

In schools, physical punishment was a common method of discipline until recently and still exists in some private schools as the following table shows:[66]

Province/territory	Prohibited in the home	Prohibited in schools	Prohibited in the penal system		Prohibited in alternative care settings
			As a sentence for crime	As a disciplinary measure in penal institutions	
Australian Capital Territory	✗	✓	✓	N/A !	SOME !
New South Wales	✗ !	✓	✓	✓	✓ !
Northern Territory	✗	✗	✓	✓	✗
Queensland	✗	✗ !	✓	✓ !	✓ !
South Australia	✗	✗ !	✓	✓	✓ !
Tasmania	✗ !	✓	✓	✓ !	SOME !
Victoria	✗	SOME !	✓	✓	SOME !
Western Australia	✗	✗ !	✓	✗	SOME !

I think that the problem is one that lies deep in our collective psyche. Flogging and physical punishment has played a significant role in the history of this country and in that of the UK, which provided our foundation.

It is not without significance in this context that that foundation was as a penal colony. The British brought flogging with them to this country. Early accounts record the horror of the Aborigines at the first floggings administered following the arrival of the First Fleet. The then discipline of the Army and the Navy was heavily dependent upon flogging and it was a common method of punishment for crime and for controlling prisoners. Beating was also considered as an acceptable means of disciplining women, at least until the end of the 19th century and contemporary literature records the merciless beating of children.

KEY:

✓ = Corporal punishment prohibited

✗ = Corporal punishment permitted

? = Corporal punishment status unknown

! = Click for additional information

See for further information:
http://www.endcorporalpunishment.org/pages/progress/reports/australia.html#key

It is of concern to note that corporal punishment is still permitted in some schools in the Northern Territory, Queensland, South Australia, Victoria and Western Australia and also in alternative care settings in a number of States and Territories. Worse still is the fact that it is permitted in the home in all States and Territories with some qualifications in NSW.

I think it is the fact that most adults have known and experienced corporal punishment as a normal part of growing up that produces this widespread feeling that it is an acceptable method of disciplining children – the " ***It didn't hurt me***" response. The Tasmanian Law Reform Institute Report cautions that reliance on views of this sort is an inappropriate reliance on anecdotal and unreliable evidence to guide important social policy decision making.[1]

We are I think, reluctant to criticise our parents for the methods of upbringing that they used and the passage of time also tends to soften some of the hurt that was experienced in childhood. The Tasmanian Report refers to a US study which found that 74% of those who recalled being punched, kicked or choked by their parents did not consider that this type of behaviour was abusive and neither did the 38% whose injuries as a result of their parents physical punishment required two types of medical intervention. It also makes the point that not everybody has a happy tale to tell about their experience of physical punishment.[2]

I can empathise with this. At the school that I attended corporal punishment was widespread and was administered by teachers and prefects, usually with a cane, upon a somewhat indiscriminate basis. I came from a home where it was not used and the same was the case at my first school, so that the effects were doubly shocking to me. What was even more shocking was the realisation that it was just part of the system and was widespread in all schools and in most homes. Until quite recently, this was the experience of many and to an extent it still continues. This does much to explain community attitudes but I do not believe that this is a justification for its continuation.

The United Nations Convention on the Rights of the Child (CRC)

There is a strong move in many other civilised countries to do away with the physical punishment of children, which is also inconsistent with the United Nations Convention on the Rights of the Child (CRC), to which Australia is a party.

CRC itself sets out the position in Article 19 as follows:

> 1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
>
> 2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Nicola Taylor, a Senior Research Fellow of the Children's Research Centre at the University of Otago, New Zealand, comments that this Article if read in conjunction with Articles 3(1), 6(2), 24(3), 28(2), 37(a) and 40 as well as the Preamble to the Convention, combine to reinforce the child's right to physical integrity and protection from physical punishment. The Preamble states (inter alia) that because of their physical and mental immaturity, children need special safeguards and care, including appropriate legal protection.[3]

Although the UK Joint Select Committee on Human Rights did not take the view that CRC directly banned the physical punishment of children in so many words, it thought that this was the clear intention of the Convention and concluded:

> "However, we find it impossible to avoid the conclusion that the interpretation of Article 19 by the Committee on the Rights of the Child is unequivocal: corporal punishment is a serious violation of both the dignity and the physical integrity of the child and the "appropriate" measures which States are required to take in order to protect children from all forms of physical or mental violence include both legislative measures prohibiting all corporal punishment within the family and public education programmes.
>
> …….. We do not think that the very clearly expressed views of the Committee on the Rights of the Child can be ignored. As the only body charged with monitoring compliance with the obligations undertaken by States in the CRC, its interpretations of the nature and extent of those obligations are authoritative. In our view, the Committee has consistently made clear that corporal punishment of children is a serious violation of the child's right to dignity and physical integrity, and that states must both introduce a legislative

prohibition of such punishment at the same time as measures for educating the public about the negative consequences of corporal punishment. In the light of this, we do not consider that there is any room for discretion as to the means of implementing Article 19 CRC as interpreted by the Committee on the Rights of the Child: it requires the reasonable chastisement defence to be abolished altogether. [4]"

CRC is the most widely adopted international treaty in history and has been ratified by every nation except the United States and Somalia. Australia played a major part in its drafting and is obliged by Article 2 of the Convention to respect and ensure the rights set out in the Convention to each child. Its wide acceptance means that is has now become part of international customary law.

On 2 June 2002, the UN Committee on the Rights of the Child, appointed pursuant to the Convention, adopted a new General Comment on the issue of corporal punishment of children.

It defined corporal punishment as follows:

> *"…any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting ('smacking', 'slapping', 'spanking') children, with the hand or with an implement – whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, burning, scalding or forced ingestion (for example, washing children's mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading..."*

The express purpose of the General Comment was:

> "….to highlight the obligation of all State parties to move quickly to prohibit and eliminate all corporal punishment and all other cruel or degrading forms of punishment of children and to outline the legislative and other awareness-raising and educational measures that States must take… (Paragraph 2)

I consider that there is no doubt that we are in clear breach of the Convention both at National and State and Territory level in preserving the defence of reasonable chastisement and indeed in not legally banning corporal punishment of children.

International Trends

There is a growing movement throughout the world and particularly in Europe to take such a course. Sweden prohibited corporal punishment in secondary schools as early as 1928. It then repealed the defence of reasonable correction from its Penal Code in 1957 and in 1979, legislated to prohibit all corporal punishment of children, becoming the first country in the world to do so. The legislation was amended in 1983 to state –

> "Children are entitled to care, security and a good upbringing. Children are to be treated with respect for their person and individuality and may not be subjected to physical punishment or other injurious or humiliating treatment (Parents Code)".

Nicola Taylor comments that the primary purpose of the ban was to alter public attitudes, acknowledge children as autonomous individuals, increase early identification of children at risk for abuse and promote earlier and more supportive intervention for families. As she points out, the *Parents Code* is part of Swedish civil law and makes no provision for legal sanctions when the physical punishment prohibition is violated and hence does not aim to criminalise parental conduct.

Prosecution of assaults on children remain within the Penal Code and occur only in rare cases. The Swedish emphasis has been firmly on the education of parents about the importance of good child rearing practices. She points out that the impact of Swedish reforms has been most extensively researched. Taylor states:

- Public support for corporal punishment has declined markedly over the past 30 years. In 1965, 53% of Swedes supported corporal punishment, while only 11% do now.

- The decline has been the most dramatic among the younger generation of parents (who benefited themselves from being reared without physical punishment) – only 6% of Swedes under the age of 35 currently support the use of physical punishment;

- Parental practice, as well as attitude, has changed. A 1994 survey of students (aged 13-15 years) revealed that only 3% reported harsh slaps from their parents, and only 1% said they had been hit with an implement;

- No Swedish child died during the 1980s as a result of physical abuse. Four subsequently died between 1990 and 1996, but only one at the hands of a parent;

- Reports of assaults against children have increased since 1981, as they have internationally with the discovery of child abuse. However, the proportion of suspects prosecuted who are in their twenties (and therefore raised in a no-smacking culture) has decreased since 1984. The majority of reported assaults are for petty offences, implying that most children are identified before serious injury occurs;

- There has been no increase in parents being drawn into the criminal justice system for minor assaults;

- The number of children coming into care has decreased by 26% since 1982. An increasing proportion of those children in care have short-term placements;

- Overall rates of youth crime have remained steady since 1983;

- Young people's alcohol and drug use, rape and suicide rates have all decreased.

- Most youth well-being measures demonstrate a substantial improvement.

Other Scandinavian countries have similarly legislated to outlaw corporal punishment of children – Finland (1983), Denmark (1986) and (1997) and Norway 1987. Similar laws were passed in Austria (1989), Cyprus (1994), Latvia (1998), Croatia (1999), Germany (2000), Iceland (2003), Ukraine (2004), Romania (2004) and Netherlands (2006).

The Israeli Parliament abolished the defence of reasonable chastisement in 2000 and in the same year the Supreme Court effectively banned parental corporal punishment.

Changes to UK law

In the UK, the defence of reasonable chastisement still operates, although its continued retention is the subject of strong criticism. Like Australia, what constitutes reasonable chastisement is not defined and the success of the defence depends upon the facts of the case. There have however been changes to the law.

The background to these changes arose in the context of a UK case in relation to a boy and his brother who had been on the child protection register during 1990-91 due to known physical abuse by their mother's de facto partner, whom she subsequently married. Police had cautioned him after he admitted hitting the 9 year old boy with a cane.

In February 1993, the boy's head teacher reported that he had been hit with a stick by his stepfather. Medical examinations revealed several fresh and older bruises consistent with blows from a garden cane which had been applied with considerable force. The stepfather successfully relied upon the common law defence of reasonable chastisement and was found not guilty by a jury.

Proceedings were then taken on behalf of the boy in the European Court of Human Rights (*A v United Kingdom*).[5] In 1998 that Court unanimously held that the beating of the boy by his stepfather constituted inhuman or degrading punishment and awarded damages against the UK Government.

In 2004 an attempt to amend the law to exclude the defence was unsuccessful. However the Act was amended to limit the types of assault to which the act applies and in particular to exclude assaults occasioning actual bodily harm and more serious assaults.

This was an important change because the definition of actual bodily harm would normally include assaults leaving bruising or other permanent marks on the body of the child.

The English legislation still receives considerable criticism, not only because it breaches human rights principles but because it is unworkable. Some of these criticisms were included in a joint statement by a large number of organisations interested in child welfare, a selection of which is set out below:

"IT SENDS THE WRONG MESSAGE
By retaining the defence of "reasonable punishment" in relation to common assault, clause 56 maintains the legality of hitting children and sends the message "carry on smacking". Clause 56 would prevent those working with parents and in child protection from delivering the only clear and safe message – that hitting children has no place in positive discipline.

IT DOES NOT DETER DANGEROUS FORMS OF PUNISHMENT
By removing the defence in relation to assaults which cause visible or provable injury, clause 56 would

effectively encourage parents who are committed to using corporal punishment to favour assaults which are unlikely to cause visible bruising or marks but which may risk causing serious injury – for example blows to the head, shaking, and so on. The clause could not be amended to ban 'risk of injury' because experts agree that all physical punishment of children carries some risk of injury.

IT IS LIKELY TO RESULT IN UNFAIR AND UNNECESSARY PROSECUTIONS
The proposed change in the Charging Standard, suggesting that minor injuries – minor bruising – should in future be charged as "Actual Bodily Harm" (ABH) could lead to a substantial increase in prosecutions which is most unlikely to be in children's interests. While the vulnerability of the victim is plainly a factor to be considered in prosecution and sentencing decisions, this proposal seems inappropriately punitive (the maximum sentence for ABH is five years imprisonment) and discriminatory. Some children bruise easily while others – for example black children – do not show marks from hard blows.

If the Standard is to be that minor bruising justifies an ABH charge, there will be no possibility of the police and others being able to avoid formal investigation and intervention in such cases. Evidence will have to be collected on the precise degree of injury, even though this may be inappropriate treatment of a family in difficulties.

IT HAS NO CLARITY OR LEGAL CERTAINTY
As the Joint Committee on Human Rights notes in its nineteenth report published on 21 September 2004: "There is general agreement that the present law is unsatisfactory because it leads to too much uncertainty about what exactly constitutes 'reasonable chastisement'. In our view the new clause perpetuates this uncertainty, because it requires proof of harm and there is a great deal of uncertainty about what degree of harm is required. For example, will hitting resulting in a reddening of the skin be charged as common assault or actual bodily harm, and for how long need it subsist in order for it to cross the necessary threshold?"[6]
Joint Statement by :

These are valid criticisms and in my view strongly support the view of the Tasmania Law Reform Institute that clarification of the law is insufficient to address the problem. In the face of continuing criticism from the UN Committee on the Rights of the Child and in the shadow of the European Court of Human Rights and public pressure, it seems that the current UK position is untenable.

New Zealand

New Zealand currently has a bill before its Parliament to abolish the defence of reasonable chastisement. Although it has given rise to considerable public agitation and opposition, it has the support of both the Prime Minister and the Leader of the Opposition and is expected to pass in the near future.

As in the UK, the continued application of the defence of reasonable chastisement contained in s.59 of the New Zealand Crimes Act 1961 has resulted in numerous inconsistencies in its application to court cases relating to parental violence against children and particularly, a number of acquittals in cases involving serious abuse of children. These successful acquittals have all occurred in jury trials whereas similar instances have been found unreasonable by Court of Appeal, High Court and Family Court Judges. However, different Judges in the Family Court have ruled that a slap in the face and legs is reasonable discipline in one case and unreasonable in another. This sort of inconsistency is inevitable with legislation of this type, which provides little guidance as to what it really means.

The Barnardos organisation, one of the largest child service providers in New Zealand, has commented that consideration of the defence is almost inexorably intertwined with the decision-maker's individual moral position on the issue of corporal punishment of children.

It expressed concern at any proposal that would legitimate certain acts of violence while criminalising other more injurious acts. It thought that such a move was inherently dangerous and would perpetuate what is a discriminatory law.[7]

The weight of expert opinion in New Zealand and elsewhere has been strongly opposed to the retention of the defence of reasonable chastisement. The New Zealand Psychological Society in a submission to the Justice and Electoral Select Committee of the New Zealand Parliament said –

> "Although we are aware that parents routinely hit and hurt their children far less now than in previous years, public opinion might still not support the repeal of s.59. This is an issue in which we believe Parliament needs to take the lead in

changing, rather than simply reflecting popular views about discipline."

They further commented that –

"Whilst punishing a child for inappropriate behaviour may temporally suppress that behaviour, it does not bring about lasting change and importantly does not result in the acquisition of new or alternative behaviours. It is more likely to result in the child avoiding detection, avoiding the punishing parent and learning to respond to inter-personal problems with violence."

The submission went on to express the view that childhood experience of corporal punishment is a clear risk factor in the development of mental illnesses and anti-social behaviour. It concluded by stating that the last and possibly most powerful argument related to the effect on the parent of being the punishing agent. It commented that because physical punishment may be seen to work in the short term, parents are likely to resort to it more often. It suggested that this greatly increased the likelihood that corporal punishment will escalate into more serious forms of child abuse and that most child abuse, including assaults which result in child deaths, arises in the context of parents administering physical punishment.[8]

Australia

Against this background, it is surprising how insulated Australia has been from the debate on this issue. It perhaps stems in part from a failure by Australian Governments and particularly the Federal Government to pay regard to human rights issues, coupled with indifference by the media to such issues. However, these are not just human rights issues, important though they are, but are issues relating to child abuse and the need to protect children. I am concerned that we will have to wait for some particularly brutal attack upon a child to occur and be publicised before the current torpor of our politicians and media can be overcome.

There has been very little legislative change in Australia, the only significant change having occurred in New South Wales with the passage of the *Crimes Amendment (Child Protection Physical Mistreatment) Act* in 2001. The Act now provides –

"The application of physical force, unless that force could reasonably be considered trivial or negligible in all the circumstances, is not reasonable if the force is applied –

(a) to any part of the head or neck of the child, or

(b) to any other part of the body of the child in such a way as to be likely to cause harm to the child that lasts for more than a short period."

While on one view the NSW position is preferable to the rest of the Australian States and Territories, in my view it represents a weak compromise that does not face up to the real issues and sends the wrong message, just as the UK legislation does.

The Tasmanian situation is arguably worse than that of other States and Territories in that s.50 of the Tasmanian Criminal Code provides that –

"It is lawful for a parent, or person in the place of a parent to use, by way of correction, any force towards a child in his or her care that is reasonable in the circumstances."

In Tasmania, there is not only a defence of reasonable chastisement available to a punishing parent but they have a positive lawful right to use reasonable force towards a child by way of correction. In my view this is a disgraceful piece of legislation which should be removed along with the common law defence of reasonable chastisement as soon as is practicable.

The then Commissioner for Children in Tasmania, Ms Patmalar Ambikapathy, proposed physical punishment of children as a topic for a project by the Tasmania Law Reform Institute in 2001.

In its 2003 Report, the Institute said that there were two options for reform, the first being to prohibit physical punishment of children and the second being to clarify the law relating to physical punishment by further defining what type and/or degree of punishment is reasonable or unreasonable.

After canvassing the arguments for and against the respective propositions the Institute, by a majority, considered that clarifying the law was not a preferred option for reform for a number of reasons:

- Clarifying the law does not respect the human rights of children;

- Clarifying the law is less likely to be effective;

• Education is less likely to be effective without a prohibition;

• Public support for prohibition can be achieved through education and the use of a time delay;

• There does not appear to be community consensus on the types or levels of physical punishment that are acceptable.

The Report made a number of significant points. These included:

• The fact that the current criminal and civil law relating to the physical punishment of children is unclear and the law offers no guide to parents on what level of physical punishment of their children is acceptable; and prosecutions against parents are difficult, even for serious assaults.

• The fact that research indicates that physical punishment is not effective:

• Physical punishment has negative effects for individuals and the community which may include physical injuries, increased risk of physical abuse, anti-social behaviour, aggression, crime and drug involvement, suicide and a more violent society. While acknowledging that the evidence was not totally conclusive it considered that when dealing with the welfare of children, a cautious approach should be taken and "We should not sit back and ignore the strong evidence that physical punishment is harming our children".

• The fact that physical punishment is not used or supported by professionals. It is pointed out that the use of physical punishment is not permitted by law or policy in institutions that deal with children in Tasmania and non Government bodies such as the Parenting Centre and Good Beginnings discourage the use of physical punishment when giving advice to parents.

The majority recommended as follows:

1. That the defence of reasonable correction be abolished. The following steps should be taken as part of this process:

(a) Remove the defence of reasonable correction from the *Criminal Code*;

(b) Include a clear statement in the *Children, Young Persons and their Families Act* that physical punishment and any form of cruel, degrading or terrifying punishment is prohibited;

(c) Introduce a statute relating to civil proceedings stating that the defence of reasonable chastisement has been abolished;

(d) Impose a time delay of 12 months on the coming into force of all amending legislation;

(e) Undertake a widespread education campaign to inform the community of the changes to the laws and provide information and resources to assist them in the use of alternative discipline techniques; and

(f) Conduct a detailed analysis of current public opinion of this topic, to be repeated after a number of years to ascertain changes in the community's views. Such research would be particularly beneficial to other States and countries considering changing their laws.[9]

2. If the Parliament does not implement the first recommendation, in the alternative, a staged approach is recommended. The first stage involving the clarification of s 50, the second stage, 2 years later – the abolition of the defence (repeal of s 50).

3. Thirdly, if the Parliament does not implement the first or second recommendations, it is recommended that s 50 be clarified, and that in 2 years the appropriateness of the availability of the defence be reviewed.[10]

Unfortunately, none of these recommendations have been implemented, nor does it appear that they are likely to be. According to a report that appeared in the Hobart Mercury of 11 September 2006:

> "*The Tasmanian Government yesterday distanced itself from a ban, insisting parents should have the right to deal with their children in their own way. Education Minister David Bartlett said he never smacked his children, but he could not dictate to others. "Parenting is an extremely complex job and I would not presume to tell parents how to do their job." Mr Bartlett said. "I think you should hug your children every day and tell them you love them every day. "But I don't believe that we as a State Government should be telling parents how they should do what is a very complex job."*

The report also indicates that the Shadow Attorney-General, Mr Michael Hodgman, took a similar approach, as did the Premiers of Queensland and NSW.

This is a disappointing but unfortunately highly predictable political reaction. In a speech that I delivered in another context in 2005 I remarked as follows:

> "***The reality is that we have witnessed a complete and abject failure by Australia's politicians to provide much needed leadership to this country and they have sacrificed our freedoms in the process."***

Regrettably, I consider this to be yet another example of the same process. There is little doubt that a majority of Tasmanians and Australians probably think that it is appropriate to physically punish children to varying degrees. It is also beyond argument that the weight of expert opinion is to the effect that physical punishment of children is harmful. Perhaps we would be better to avoid the euphemism of 'physical punishment'. What the public apparently approves of is assaults on children.

Surely any political leader worth their salt would attempt to lead the public on an issue such as this rather than follow such misguided and outdated attitudes. There is nothing so complex about parenting that it requires parents and only parents to have discretion as to whether they assault children or not. We should be protecting children and acting in their best interests and so should parents. The evidence is overwhelming that it is not in their best interests to hit children in any circumstances. The fact that it has been done in the past provides no more justification for it than did past violence against women justify that. By their failure to act, our political leaders are sacrificing the rights and freedoms of our children.

I believe that if our political leaders were to take on a leadership role on this issue, coupled with a public education programme, attitudes would change, as they did in Sweden. There are numerous examples of such changes e.g. attitudes to the wearing of seat belts, driving while under the influence of alchohol, smoking and awareness of the dangers of exposure to the sun. These are essentially public health and safety provisions as this one is.

One heartening development in this somewhat gloomy scene is an initiative by the Federal Government to authorise an agency to conduct a $2.5M campaign warning parents not to smack children and setting out guidelines in 16 languages.[11] This is a welcome, albeit long overdue initiative for which the Government is to be commended. Unfortunately the primary responsibility for taking action of legislative nature lies with the States and Territories, which have so far showed no interest in such an initiative.

There are of course some members of the community whose attitudes will never change and particularly those associated with the fundamentalist religious beliefs. An interesting discussion of this approach by Dr Giles Fraser appeared in an English newspaper last year[12]. It is based upon passages in the Christian Bible such as:

> "***He that spareth the rod hateth his son; but he that loveth him chasteneth him betimes"***.

It appears that some advocates of this approach preach a philosophy of chastising children under 12 months of age with a stick and continuing the process to adulthood using implements such as quarter inch plastic tubing.
Others whose opposition to change is on religious grounds do not adopt this extreme position, but nevertheless look to the Bible as a justification for hitting children. I think that the answer to such persons was well expressed in the Tasmania Law Reform Institute Report:

> ***"On the assumption that some religious beliefs encourage physical punishment of children, it is argued that while respecting religious beliefs is important, what is in the best interests of children must be the overriding principle. In addition, 'while everybody has freedom of religious belief, practice of religion cannot justify breaches of others' human rights."***

Religious opponents of this type of reform tend to oppose it in strident terms, as has been the case in New Zealand, but these views, while entitled to consideration, clearly should not prevail over the need to protect our children.

At least New Zealand's political leaders have had the courage to act on this issue and it is to be hoped that it will not be too long before the leaders of at least one Australian State or Territory find the courage to act similarly.

I am convinced that with such leadership it is possible to influence the obviously rational and otherwise decent people who comprise the majority that still

believe in physical punishment of children of one sort or another. Many of these people are not satisfied that what they describe as mild physical punishment does any harm and in effect challenge advocates of abolition such as me to prove that it does so.

A Child Centred and Evidence Based Approach

I would like to examine the issue of physical punishment of children from a different perspective.

I think that all would agree that we have serious problems with crime and violence in our community. What I suggest that we need to do is to address the various factors that might be a cause of these problems. If violence towards children is one of them, then we should be very cautious about the retention of provisions which have the effect of encouraging it, like the defence of reasonable chastisement.

It is often said by those who support physical punishment of children that there is no evidence to suggest that it does any positive harm and they assert that it does some good. What I would like to suggest is that there is a very real probability that such punishment is a contributor to such problems.

It is unnecessary to totally prove such a connection, because if, as I believe and the Tasmania Law Reform Institute believed, there is evidence of a connection, then the onus shifts to those who would support the use of physical punishment to show that it is of any benefit and that the benefit outweighs the possible harm caused by the continuation of the practice.

I think it important to examine the evidence as to the long term effects of physical punishment on children. A useful discussion is to be found in the Tasmania Law Reform Institute Report.[13] Another is contained in an article ***"Is physical punishment a mental health risk for children?"*** by Anne B Smith of the Children's Issues Centre of the University of Otago, New Zealand.[14]

The consensus view seems to be that corporal punishment is only associated with one desirable behaviour, and this is immediate compliance. It is otherwise associated with children's aggression and other antisocial behaviour towards peers, siblings and adults and may legitimise violence for children in interpersonal relationships.

There also appears to be a consistent link between the use of corporal punishment and delinquent and anti social behaviour.

> *"Ironically, the behaviour which parents are most likely to intend to prevent when they physically punish children, is exactly the behaviour that they are likely to be strengthening".*[15]

Some studies suggest that even low and common levels of spanking are associated with increases in anti social behaviour. A number of studies have shown an association between harsh discipline and poor academic achievement and social adjustment at school. There can also be an adverse effect upon parent-child relationships. Even more worrying is the development of internalising behaviours such as depression, anxiety, suicidal ideation and other mental health problems.

Smith concludes after reviewing the literature that:

> "Research on the long-term effects of punishment are consistent, and overwhelmingly negative over a wide variety of child development outcomes."

A landmark Canadian study came to similar conclusions, particularly as to the long term effects of physical punishment.[16]

Bullying

One common and extremely troublesome form of anti social behaviour in our society involves bullying, both in our schools and workplaces.

In our Australian schools surveys show that approximately 19% of children between the ages of 7 and 17 are bullied at least weekly and a further 27% are bullied less often.[17] This means that nearly half of all our children are victims of bullying and one in five is bullied on a weekly basis. Bullying takes many forms, but a significant part of those forms is physical violence. It is estimated that some 8.1% of boys and 3.4% of girls are frequently bullied in this way, and a further 20% of students are sometimes hit or kicked by their peers at school.

These are figures that should give rise to great concern. They mean that far too many of our children live through a form of hell in their schools on a regular basis. The recent extension of bullying to cyberspace has added a new and frightening dimension to the problem, as recent events in Australia have shown.

Longitudinal studies strongly suggest that repeated bullying impacts upon a child's physical and mental health, which some research suggests can produce persistent negative effects on mental health in adult years.[18] There is significant evidence that bullying can lead to low self esteem, depression, mistrust of others, psychosomatic symptoms and school refusal.[19] In extreme cases, suicide is a possibility. We also have similar problems with adult bullying, particularly in the home and in the workplace.

Again expert studies of the cause of bullying in schools indicate that students who consistently bully suffer from more family problems than other children. They are more likely to be raised by families in which parents show them and others less love and affection. They are more likely to have authoritarian father models and to be on the receiving end of abusive parental responses and harsh punishment.[20] This appears to be particularly so where the parent/s is/are over controlling as well as cold and uncaring. School bullies are also predisposed to increased risks of becoming involved in violence and abuse of others in later life"[21]

The question must be asked as to why bullying is considered as acceptable behaviour by some children. There are no doubt many causes. I suggest that at least part of the problem may stem from the fact that many parents still use physical punishment as a means of dominating and controlling children, as do some schools. Children learn from the example of their parents and teachers and if they see that parents and teachers use physical force and violence to dominate them or as a method of disciplining them, then it is not surprising that children use the same methods towards their fellows, thus perpetuating them. They in turn when they become parents are likely to believe that this is an acceptable approach, which does much to explain the prevalence of the belief in the community that 'smacking' of children is acceptable.

In their 2006 publication "Crossing the Line" the authors comment:

> "Children learn from watching adult behaviour. Physical punishment, at best, communicates a confused message to the child about who and in what circumstances it is acceptable to hit someone else. For example, a parent who "smacks" a child because they have hit a sibling is unlikely to prevent further episodes of hitting between siblings. Young children have limited cognitive capacities to decipher such a complex and seemingly incongruent position. Further illustrating this question one adult pondered.
>
> '*Are we punishing them or are we demonstrating to them that violence is an acceptable way of solving a dispute? If we, as adults, tell children we love them and then resort to violence when there is a strong disagreement, what message does that give the child?'"*[22]

The relationship between physical punishment of children and bullying is a subject that needs further research. A 1994 US study obtained estimates of smacking behaviour from interviews with parents of young children. Subsequently, the level of aggression at school of those children who were frequently smacked or slapped was compared with others. A significant relationship was found suggesting that frequent smacking was associated with more aggressive behaviour of children at kindergarten and children who had been subjected to violent punishment were more aggressive than the others.[23]

A subsequent US study by a group that included some of the original authors tended to confirm this view. [24]

A sample of 578 children was assessed in kindergarten through the 8th grade using growth modeling to determine the basic developmental trajectories of mother-reported and teacher-reported externalizing and internalizing behaviors for three physical maltreatment groups of children-early-harmed (prior to age 5 years), later-harmed (age 5 years and over), and non-harmed children.

Results demonstrated that the earlier children experienced harsh physical treatment by significant adults, the more likely they were to experience adjustment problems in early adolescence. Over multiple domains, early physical maltreatment was related to more negative sequelae than the same type of maltreatment occurring at later periods. In addition, the fitted growth models revealed that the early-harmed group exhibited somewhat higher initial levels of teacher-reported externalizing problems in kindergarten and significantly different rates of change in these problem behaviors than other children, as reported by mothers over the 9 years of this study. The early-harmed children were also seen by teachers, in kindergarten, as exhibiting higher levels of internalizing behaviors. The later-harmed children were seen by their teachers as increasing their externalizing problem behaviors more rapidly over the 9 yrs than did the early- or non-harmed children. These findings indicate that the timing of maltreatment is a salient factor in examining the developmental effects of physical harm. They also indicate however that the

children who are not subjected to this treatment are significantly better off than the others.

It could of course be argued that such results can be explained by reason of the child's temperament, i.e. a disposition which might lead to physical punishment and also to bullying. Further research would be helpful in this regard, but my major point is that if there is evidence, as there appears to be, that there is a connection between physical punishment of children and subsequent bullying, it provides a strong reason to call into question the desirability of physical punishment, particularly when other methods of controlling children are thought to be more effective.

Family Violence

The extent of family violence in our community is at a high level, particularly violence against women and all too often, against children.

It is perhaps useful to first define family violence. In its policy framework for the Women's Safety Strategy, the Victorian Law Reform Commission adopted the following definition:

> "Violent, threatening, coercive or controlling behaviour that occurs in current or past family, domestic or intimate relationships is called family violence. This encompasses not only physical injury but direct or indirect threats, sexual assault, emotional and psychological torment, economic control, property damage, social isolation and behaviour which causes a person to live in fear".[25]

The Australian Government adopted a similar definition for what it then called 'domestic violence' in its Framework for Developing Approaches to Domestic Violence 2001-2003. It also stated that "Children and young people are profoundly affected by domestic violence, both as witnesses and as victims".[26]

As an aside, a striking fact that occurred to me when writing this section of the paper is as to how physical punishment of children fits squarely into these definitions and how the effects of physical punishment of children can be said to profoundly affect children as the Australian Government definition suggests.

Australian studies indicate that between 23% and 34% of women experience intimate partner violence during their lives. Men also experience family violence, with a South Australian survey indicating that 12.1% of men reported experiencing family violence at the hands of their partner.

It is thought that family violence figures understate the extent of the problem by a considerable degree in that approximately 40% of women subjected to violence by their current partner do not disclose their experience to anyone and women subject to physical assault are even less likely to report their experience to the police.[27]

This violence is significant, not only for its effects upon the participants, but also upon their children, who are often aware of it and witness it.

The principal thrust of my argument is to ask the question, as I did of bullying, as to why we have such a high level of family violence in our community and what are its causes? Why is violence thought to be a solution to family problems?

It seems to me that there is an obvious relationship between family violence and bullying behaviour and it is one that I have observed on many occasions during my judicial career.

I also consider it to be highly probable that there is a connection between the perpetration of such violence and prior abuse of the perpetrators, including physical punishment as children. Again this is not surprising. These attitudes to the use of violence are learned attitudes. If a child's parents treat him/her abusively and violently, then it is not surprising that the child will also see this conduct as appropriate. In my view the only way in which we are likely to break this cycle is to stress from the earliest possible stage that violence is not a solution to anything.

Conclusion

I think that if we were to approach the question of eliminating the physical punishment of children from the point of view that it is a probable or even a possible, contributor to the enormous social problems of bullying and family violence, then we place the practice in its correct perspective. Of course bullying and family violence are multi-faceted problems with a number of causes. This should not obscure the fact that we have the power and capacity to reduce one contributing factor, if only we have the will to do so. I firmly believe that the majority of the public and parents, if they were aware of the full facts surrounding this issue, would not want to perpetuate a situation where children suffer serious harm. The following passage puts the issue well:

The vast majority of parents do not want to expose their children to health risks, so when they receive

clear messages arising from research, such as that if infants are put to sleep on their back they are less at risk for cot death, many will take notice. In New Zealand there has been a pleasing flow-on drop in cot deaths probably as a result of parent education and professional support. Yet we have been so far reluctant to disseminate messages about the effects of punishment on children."[28]

Organisations like EPOCH and the Australian Children's Foundation and Children's Commissioners like Tasmania's former Children's Commissioner, Patmalar Ambikapathy, and law reform bodies like the Tasmania Law Reform Institute can and have played their part in bringing about change. Similarly international bodies continue to place pressure on Australia, and countries like it, to comply with international norms and treaties. Sadly, a country that formerly prided itself upon being a good international citizen no longer is one and pays little heed to human rights.

The remedy lies very much in the hands of our political leaders, who surely can bring more intelligence to bear upon this issue than was demonstrated in their quoted responses that I referred to previously. We are dealing with a serious ethical and public health problem that needs to be taken far more seriously than it has been to date. Our responses to issues of violence and particularly bullying and family violence have tended to be reactive rather than proactive and it is more than time that we acted to eliminate possible causes of the problem rather than merely trying to cope with the results.

It is I think appropriate to conclude as I began from the conclusion of the United Nations Secretary-General's Study of Violence against children of 2006:

> "The study concludes that violence against children happens everywhere, in every country and society and across all social groups. Extreme violence against children may hit the headlines but children say that daily, repeated small acts of violence and abuse also hurt them. While some violence is unexpected and isolated, most violent acts against children are carried out by people they know and should be able to trust: parents, boyfriends or girlfriends, spouses and partners, schoolmates, teachers and employers. Violence against children includes physical violence, psychological violence such as insults and humiliation, discrimination, neglect and maltreatment. Although the consequences may vary according to the nature and severity of the violence inflicted, the short- and long-term repercussions for children are very often grave and damaging." [29]

Note

The views expressed in this paper are mine alone. However, I would like to acknowledge the assistance of Professor Kenneth Rigby of the University of South Australia in checking the accuracy of my references in the section on bullying and for the helpful comments and criticisms that he made. I would also like to thank my former Senior Legal Adviser at the Family Court of Australia, Margaret Harrison and my wife Lauris Nicholson, for checking the work and for their comments and suggestions.

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The full text of the study can be accessed at the same website.

Parliamentary Inquiry into the impact of illicit drugs on families

The House of Representatives Families Committee is currently undertaking a public Inquiry into the impact of illicit drugs on families. The Committee will report on how the Australian Government can better address the impact on families of the importation, production, sale, use and prevention of illicit drugs. The Committee is calling for people to have their say. Issues being considered include:

- the financial, social and personal costs to families who have a member using illicit drugs, including the impact of drug-induced psychoses or other mental disorders
- the impact of harm-minimisation programs on families
- ways to strengthen families who are coping with a member using illicit drugs.

For more information or to make a submission please visit the website of The House of Representatives Families Committee or phone (02) 6277 4566.

Australia Signs Landmark Treaty on Human Rights and Disability

30 March 2007

The Human Rights and Equal Opportunity Commission has welcomed the Australian Government's announcement that it will sign the Convention on the Rights of Persons with Disabilities in New York today.

"I'm very proud and happy that Australia will be among the first nations to sign this Convention," Human Rights Commissioner and Commissioner responsible for Disability Discrimination, Graeme Innes AM, said.

Commissioner Innes served as part of the Australian Government delegation which negotiated the Convention.

"Australia played a very constructive role in producing this Convention and it is pleasing to see that commitment continuing," Commissioner Innes said.

The Convention adds to existing human rights laws by confirming once and for all that people with disability are entitled to the full range of human rights. It also provides clearer goals for governments throughout the world to work towards ensuring human rights in practice for people with disability.

Signing the Convention allows governments to show commitment to the purposes of the Convention. The next step is to ratify, or formally become party to, the Convention.

Nations which ratify the Convention commit themselves to taking measures to implement in practice the rights which are recognised by the Convention, including through reviewing laws and government programs.

"We now look forward to the Australian Government working positively towards ratifying and implementing the Convention in consultation with state and territory governments and with the disability community," Commissioner Innes said.

State of the World's Mothers 2007: The Best and Worst Countries to be a Mother

Save the Children USA global humanitarian organization, has released its 8th Annual Mothers' Index that ranks the best - and worst - places to be a mother and a child and compares the well-being of mothers and children in 140 countries, more than in any previous year.

Sweden, Iceland and Norway top the rankings this year. Niger ranks last among countries surveyed. The top 10 countries, in general, attain very high scores for mothers' and children's health, educational and economic status. The 10 bottom-ranked countries - nine from sub-Saharan Africa - are a reverse image of the top 10, performing poorly on all indicators. The United States places 26th this year, tied with Hungary.

Conditions for mothers and their children in countries at the bottom of the Index are grim. On average, one in 13 mothers will die in her lifetime from pregnancy-related causes. Nearly one in five children dies before his or her fifth birthday, and more than one in three children suffers from malnutrition. About 50 per cent of the population lacks access to safe water, and only three girls for every four boys are enrolled in primary school.

The worst ten:	The best ten:
131. Djibouti	1. Sweden
132. Burkina Faso	2. Iceland
133. Ethiopia	3. Norway
134. Eritrea	4. New Zealand
135. Angola	5. Australia
136. Guinea-Bissau	6. Denmark
137. Chad	7. Finland
138. Yemen	8. Belgium
139. Sierra Leone	9. Spain
140. Niger	10. Germany

The clear finding is that the quality of children's lives depends on the health, security and well-being of their mothers. By providing mothers access to education, economic opportunities, and maternal and child health care, we ensure that mothers and their children will have the best chance to survive and thrive.

The gap in availability of maternal and child health services is especially striking when comparing Sweden, at the top of the list, and Niger, at the bottom. Skilled health personnel are present at virtually every birth in Sweden, while only 16 per cent of births are attended in Niger. A typical Swedish woman has almost 17 years of formal education and will live to be 83. Meanwhile, 72 per cent of Swedish women use some modern method of contraception, and only one in 150 will lose a child before he or she has a fifth birthday. In Niger, a typical woman has less than three years of education and the life expectancy of a girl born today is only 45. Only four per cent of women use modern contraception, and one child in four never sees a fifth birthday. At this rate, every mother is likely to suffer the loss of two children.

Zeroing in on the children's well-being portion of the *Mothers' Index*, Italy finishes first and Afghanistan ties with Niger for last. While nearly every Italian child - girls and boys alike - enjoys good health and education, children in Afghanistan face a one in four risk of dying before age five. In Afghanistan and Niger, 40 per cent of children are malnourished. In Niger, less than 50 per cent of children are enrolled in primary school, and only one Afghan girl for every two boys is in school. More than half of all children in both countries lack access to safe water.

> "Investing in the health of mothers everywhere is not just the right thing to do - it is the smart thing to do," urged MacCormack. "When we take care of mothers by ensuring that they have the basic tools they need to improve the quality of life for themselves and their children, we also improve prospects for generations to come. When mothers thrive, their children grow up healthy and, ultimately, all of society benefits," he added.

COUNTRY COMPARISONS:

The *Mothers' Index* presents individual country comparisons for poor countries that are especially startling when one considers the human suffering behind the statistics:

- Over the course of her lifetime, 1 woman in 7 will die in pregnancy or childbirth in Angola, Malawi and Niger; the risk is 1 in 6 in Afghanistan and Sierra Leone.

- A girl born in Angola, Central African Republic, Chad, Equatorial Guinea, Liberia, Malawi, Mozambique, Nigeria, Sierra Leone, Zambia and Zimbabwe on average will live 45 years. Life expectancy for women is only 35 in Lesotho, 33 in Botswana, and for a girl born in Swaziland, only 30 years due to the sheer proportions of children who die before age 5 and the additional scourge of AIDS which is killing many women in their prime.

- 1 child in 4 does not reach his or her fifth birthday in Afghanistan, Angola, Niger and Sierra Leone.

• Fewer than 15 per cent of births are attended by skilled health personnel in Afghanistan, Bangladesh, Chad, Ethiopia and Nepal.

• In Djibuti and Niger, a typical female has less than 3.5 years of schooling and fewer than half of all children are enrolled in primary school.

• More than 60 per cent of the population of Afghanistan and Papua New Guinea lacks access to safe drinking water, and more than 70 per cent lack access to safe water in Ethiopia and Somalia.

Further information

State of the World's Mothers 2006: Saving the Lives of Mothers and Newborns (Save the Children USA, May 2006) http://www.savethechildren.org/publications/mothers/2006/SOWM_2006_final.pdf

THE NATIONAL YOUTH COMMISSION [NYC] INQUIRY

The National Youth Commission [NYC] inquiry is the first independent inquiry into youth homelessness since the Human Rights and Equal Opportunity Commission [HREOC] inquiry completed by Commissioner Brian Burdekin in 1989. With some 33,000 homeless young people in Australia without a safe place to call home each night, the current inquiry is examining why youth homelessness continues to be a major problem in Australia. It will gather evidence on the issue of youth homelessness and seek input from all stakeholders including service providers, government agencies, community organizations and homeless young people.

The members of the NYC are:

- Major David Eldridge form The Salvation Army (Chair of the NYC);
- Ms Narelle Clay AM, CEO of Southern Youth and Family Services in Wollongong;
- Associate Professor David MacKenzie from The Institute for Social Research, Swinburne University of Technology; and
- Father Wally Dethlefs who was one of the three Commissioners of the HREOC inquiry in 1989 ("The Burdekin Inquiry").

The inquiry is underway with first round hearings already held in Hobart, Townsville, Adelaide, Melbourne, Sydney, Brisbane, Canberra, Darwin, Geelong, Warrnambool and Wagga Wagga. If you missed the hearings, you can still participate by sending in a written submission (closing date: 15 June 2007) or by doing an on-line submission via the NYC website. Further information about the inquiry and ways to participate can be found on the NYC website: www.nyc.net.au

The Netherlands has become the 17th European State to Ban Corporal Punishment by Parents and Carers

Source: CRINmail http://www.crin.org/resources/infoDetail.asp?ID=12712

On 6 March 2007, a new law prohibiting all corporal punishment by parents and carers was passed in the Senate. The law amends the provisions in the Civil Code on parental authority so that article 1:247 now states (unofficial translation):

> "(1) Parental authority includes the duty and the right of the parent to care for and raise his or her minor child. (2) Caring for and raising one's child includes the care and the responsibility for the emotional and physical wellbeing of the child and for his or her safety as well as for the promotion of the development of his or her personality. In the care and upbringing of the child the parents will not use emotional or physical violence or any other humiliating treatment."

Article 1:248 of the Code applies article 1:247 to all other persons acting in loco parentis.

The Cabinet agreed to proceed with prohibition in February 2005, following a government-commissioned study on the experiences of abolition in other European countries. Department of Justice press releases at the time the "Bill to contribute to the prevention of emotional and physical abuse of children or any other humiliating treatment of children in care and upbringing" was introduced to the Cabinet stressed that the primary purpose of the new law is "to set a standard". It emphasised that the law would bring the Netherlands into compliance with the UN Convention on the Rights of the Child and article 17 of the European Social Charter, and address the recommendations made to the Netherlands government by the Committee on the Rights of the Child and the European Committee of Social Rights.

Now that the law has been passed, a government Communication Plan to inform parents and the general public about the ban is being prepared. The law is expected to come into force by the summer.

At least 16 countries in Europe have enacted bans on corporal punishment by parents and all other carers: Sweden (1979); Finland (1983); Norway (1987); Austria (1989); Cyprus (1994); Denmark (1997);

Latvia (1998); Croatia (1999); Germany (2000); Bulgaria (2000), Iceland (2003); Romania (2004); Ukraine (2004), Hungary (2004), Greece (2006); Netherlands (2007). In addition, a Supreme Court judgment in Italy (1996) declared all corporal punishment to be unlawful, but this has not yet been confirmed in legislation. At least six more states have committed themselves to full law reform in the near future: Lithuania, Luxembourg, Portugal, Slovakia, Slovenia, Spain.

The pace of reform is gathering momentum in light of the UN Secretary General's Study on Violence against Children, which recommended in its final report prohibition in law of all corporal punishment of children by 2009. Many more governments across the world have committed themselves to full prohibition, including at least a further six in Europe.

Global Initiative to End All Corporal Punishment of Children, 94, White Lion Street, London, N1 9PF
Tel: +44 20 7713 0569
Email: info@endcorporalpunishment.org
Website: www.endcorporalpunishment.org

NEW ZEALAND: Anti-smacking bill becomes law. May 16, 2007

[16 May 2007] - A controversial law effectively banning parents from smacking their children has been passed by New Zealand's parliament. The *Crimes (Substituted Section 59) Amendment Bill* was passed overwhelmingly by a vote of 113 to seven.

The legislation amends the New Zealand's Crimes Act, to remove the provision that allowed parents to use "reasonable force" to discipline their child. But the changes - first proposed in 2005 - stirred huge concern from conservative groups worried that it would make criminals of parents. To allay fears, a clause was added giving police the power "not to prosecute complaints.. where the offence is considered so inconsequential there is no public interest in proceeding with a prosecution." The amendment brokered by Prime Minister Helen Clark and National's leader John Key that ended the battle over the bill to amend the law on smacking was passed by Parliament on May 3 on a vote of 117-3.

The bill's promoter, Green MP Sue Bradford, said she could happily back Mr Dunne's amendment as it did not define the nature and level of force people could legitimately use against their children. Parliament also accepted, by 116 votes to four, an amendment that commits the Government to reviewing the law two years after it comes into force. Smacking is banned in some European countries, but is not in most parts of the world. New Zealand is the first English-speaking common law country to ban physical punishment.

Defence for Children International Annual Report 2006

Executive Summary

The year 2006 marks an important period of growth and consolidation within the Defence for Children International (DCI) movement. Earlier in the year, DCI welcomed three new DCI sections, DCI Italy, DCI Niger, and DCI Mauritius (formerly an associated member) to the movement. DCI's 46 national sections and associated members continued to be active at the national and regional level, in the areas of child labour, juvenile justice, education in children'srights, street children, and violence against children, among others. At the International Secretariat (IS), this period has been characterised, most specifically, by the launch of a Strategic Plan of Action for the coming three years with a special focus on juvenile justice.

DCI was able to develop and implement a significant part of its Strategic Plan of Action (2006-2008). This included for example: preparing and disseminating reports on the 42nd and 43rd Sessions of the Committee on the Rights of the Child, focussing on juvenile justice related issues; providing input to and planning the follow-up of the Committee's General Comment No.10 on Children's Rights in Juvenile Justice; participating actively in key networks including the Inter-Agency Panel on Juvenile Justice and the NGO Advisory Panel to the UN Study on Violence Against Children, and producing a bi-monthly newsletter on juvenile justice.

One of the most significant events of year was DCI's Regional Consultation on Juvenile Justice in Africa which took place October 30 – November 3 2006, in Nairobi, Kenya. Key outcomes of the meeting included the training of African DCI sections on advocacy and lobby strategies, on international juvenile justice standards, and on the preparation of alternative reports to the UN Committee on the Rights of the Child. DCI also developed a Regional Action Plan on juvenile justice, as well as the mechanisms for intra-regional cooperation and communication.

DCI ends the year with a more united movement, particularly at regional level, led by a stronger and more stable Secretariat. Whilst challenges remain, particularly in the areas of fundraising and visibility of the movement, DCI faces 2007 with several interesting opportunities for further growth and development

Day of General Discussion 2007: Resources for the Rights of the Child

The Committee on the Rights of the Child has decided to devote its next day of general discussion to the theme of **resources for the rights of the child - responsibility of States** which will focus on investments for the implementation of economic, social and cultural rights of children (CRC article 4). The meeting will take place at the Palais Wilson in Geneva, Switzerland, on Friday, 21 September 2007 from 10:00-18:00.

The meeting is open to representatives of non-governmental organisations, children and their organisations/networks, UN programmes and agencies, governments and other interested individuals, experts and organisations. An outline of the issues to be discussed is available here .

NGO contributions

NGOs and children are invited to submit written contributions on the themes mentioned above to the Office of the High Commissioner for Human Rights (OHCHR) as soon as possible. The Committee requests that written contributions be limited to a maximum of seven pages. Although documents may be submitted in English, French or Spanish, they will not be translated into the other languages. Oral contributions from NGOs are also welcome during the day itself but should be limited to interventions in the debate rather than formal statements. Guidelines and additional information will be available shortly on the OHCHR website at http://www.ohchr.org/english/bodies/crc/discussion.htm.

Written contributions should be sent electronically to CRCgeneraldiscussion@ohchr.org.
Submission deadline: **25 June 2007**.

NGO submissions to the 2007 Day of General Discussion will be posted on CRIN's website as they become available.

Registration

As the meeting is open to the public, written invitations will not be issued by the United Nations or the NGO Group for the Convention on the Rights of the Child. For security reasons and due to limited space, attendance at the meeting requires advance registration. Please note that there is no funding available for travel expenses either from the United Nations or the NGO Group for the Convention on the Rights of the Child and no assistance can be given for visas, travel or accommodation arrangements.

Registration deadline: **15 August 2007**. To register, please complete the registration form before this date. Registration forms will be available soon at http://www.ohchr.org/english/bodies/crc/docs/day-register.doc

Visit: http://www.crin.org/resources/infoDetail.asp?ID=12603

More information

For registration and to submit written contributions, please contact:

Secretariat, Committee on the Rights of the Child
Office of the High Commissioner for Human Rights
Email: CRCgeneraldiscussion@ohchr.org

If you have any questions regarding NGO contributions, please contact:

Laura Theytaz-Bergman
NGO Group for the Convention on the Rights of the Child Email: ngocrc-lup@bluewin.ch

Report from the Youth Drug Summit - the Queensland Premier's forum on young people, alcohol and drugs.

The forum included a great presentation by 5 groups of young people. Also, David Murray the Executive Director of Youth Substance Abuse Services Victoria presented the model which has successfully been implemented in Victoria.

The model has a strong Youth Work component.

Who is Looking After Our Children?

By Cheryl Cassidy-Vernon
Manager, Youth Legal Service Inc, Western Australia

At a recent forum in Western Australia this critical question was raised - Who is looking after our children? The reality being that adequate provision for the care and protection of vulnerable children has not been evident in Western Australia for many years.

A significant review of the agency with statutory authority for child protection has finally made public many of the startling deficiencies that have been obvious to practitioners for a long time, including

- The under-resourcing of care and protection staffing ,
- the inadequacies of complaints mechanisms for those caught up in care and protection proceedings,
- the inability of the system to respond to cases of chronic neglect,
- and, the lack of alternative care options for children needing to be looked after (Ford, 2007)

Following the Review the agency has been divided into two new departments – the Department for Child Protection and the Department for Communities. These new departments came into being on 1 May 2007 and are expected to be fully operational by 1 July 2007.

Hopefully, these changes along with the pending appointment of a new Commissioner for Children and Young People will herald some much needed changes to the processes that children, needing to be looked after, endure. My hope is that finally the children will have the right to be heard.

I believe that child protection in this state could benefit from an examination of other jurisdictions such as the Scottish Kilbrandon System or the Scandinavian approach of the Children's Welfare Boards which have continued to be successfully utilised since the 1970s.

In May 1961 the Kilbrandon Committee was charged with the task of developing at strategy for dealing with children in trouble. The Committee defined children in trouble as:

- Those with delinquent behaviour.
- Those in need of care and protection.
- Those beyond parental control. And
- Those who persistently truant.

(The Kilbrandon Report, 1995,ix)

The Scottish Kilbrandon Committee delivered a report in the late 60's/early 70's that recommended a number of principles, including; removing children under 16 years of age from criminal sanction (except in the most serious of cases), and the development of the Children's Hearing System which would hear matters relating to children in trouble. The Committee chose not to differentiate between children with welfare needs and children with a history of offending because it had concluded that a child in trouble was a child who's upbringing had failed and who had a history of failure in education and training. Furthermore, the Committee concluded that when a child was in trouble working with the parent(s) was vitally important and that all interventions should be educative and focus of the needs of the child rather than his/her actions/deeds.

The Children's Hearing System was to be a lay staffed, relaxed and informal process for ensuring that children in trouble were assessed for measures of care. Measures of care included protection, control, guidance and treatment along with consideration for the developmental factors of the child relating to his/her understanding of the situation, his/her social awareness and his/her responsibility for actions relating to the situation.

Many of the recommendations of the Kilbrandon Report were enacted in 1971 through the Children's Hearing System, thus, Scotland provides a model for the administration of child welfare and youth justice that has been in continuous operation since 1971,

although the model has undergo mutations and refinements over more than thirty years of operation.

In the current format of the System, participants do not have legal representation as the System is viewed as a social service rather than an extension of the criminal jurisdiction. Moves to formalise the Hearings and to have lawyers involved have been strongly resisted on the basis that this would change the fundamental nature of the Hearings from a problem solving welfare orientation to an adversarial system with a pre-occupation on due process and legal procedures.

Nonetheless, the basic principles underpinning the work of the Children's Hearing System have remained. That is, intervening at the source of the child's trouble – the family. (Bala et al,2002,108) Such interventions involve an emphasis on parental responsibility, the provision of services to the family and strengthening the family. The introduction of the Children Act 1995 sought to shore up the Kilbrandon principles by; enshrining in legislation that the welfare of the child was to be the paramount concern, that no orders were to be made by a Court or Children's Hearing unless such an order was in the best interests of the child and that the child's views were to be taken into account when determining courses of action. (Bala et al,2002,108)

Given recent media comments and difficulties evidenced in practice with respect to care and protection issues in Western Australia there are some valuable lessons to be learnt from Scotland. On a recent study tour I had occasion to enter a discussion comparing Western Australian's child welfare and Scotland's child welfare, one thing was clearly evident, that the lack of external complaints mechanisms within Western Australia is not conducive to a child's rights based approach to welfare nor does it provide the level of transparency that is evident within the Scottish system.

Children's Hearing System (CHS)

Each Local Authority Area in Scotland has a Children's Reporter (CR). The CR is responsible for investigating matters referred from schools, the police, and Local Authority Social Work and for organising the Children's Hearing System with the Local Authority area. Approximately 70% of referrals come from the police, 25% from Social Work or Schools and 5% via the National Health System. (Personal Communication, David Jones, Children's Reporter South Lanarkshire, September 13, 2006) The CR is either an experienced Social Worker or is legally trained.

The Children's Reporter can, after investigation of a matter, refer the matter to the Sheriff's Court to hear evidence or may refer a matter to the Children's Hearing System. On referring a matter to the Children's Hearing System a panel will be convened and a representative of the Children's Reporter will attend a hearing to ensure that the legalities and processes used in each hearing are correct, however, the CR has no power to influence the outcomes of the hearing.

A panel is comprised of three specially trained lay personnel/community members. One will act as the Chair. I was invited to attend three hearings, all of which had the same panel. This panel comprised of Alison Hall (a School Teacher), John Latta (a retired plumber), and John Pate (a Manager within the manufacturing industry). I had the opportunity to speak with John Latta and John Pate prior to the commencement of the hearings and they responded to my question of what would motivate some-one to be involved in the Children's Hearing System? As follows-

I had recently retired from an active work life where I was self employed and had a number of staff to supervise, I was bored and looking for something to do that would benefit the community and would use my brain. (Personal Communication, John Latta, 13 September 2006)

I had a very difficult childhood but managed to survive and to be successful, I needed to give something back to the organisations that had helped me. (Personal Communication, John Pate, 13 September 2006)

- The Children's Hearing System can hear matters in relation to child abuse, truancy, school exclusion, offending, and care and protection.

- Every decision of the CHS can be appealed to the Sheriff's Court. Family members are encouraged to participate in the hearing and are provided with all the relevant papers as are the panellists.

- Local Authority Social Workers are present and in cases of offending so are the police.

- If there is a history of violence within the family, a police presence is ordered for the hearing, and

indeed this occurred during one of the hearings I attended.

- Any orders made by the CHS are mandatorily reviewed every 12 months.

- When making judgements, each panellist must present his/her decisions to the hearing.

- The Children's Reporter collects all the documentation at the end of the hearing to ensure that confidentiality is maintained.

- Foster carers, extended family members, youth workers, personal support people can all participate in the hearing.

- The CHS has the power to issue warrants compelling attendance at hearings.

My impression of the hearings that I observed was that it was a useful process for ensuring that everyone present has the opportunity to voice their opinions and to be listened to, and more importantly it provides an external accountability for the Local Authority Social Workers (who acts as the statutory authority) by providing an opportunity for their action plans to be examined and scrutinised (this is something that is sadly lacking in Western Australia), and monitored. If there are doubts the CHS can order a case review and if there are matters where evidence should be heard in a court of law (eg. in cases of child abuse) then matters can be referred to the Sheriff's Court.

I believe that child protection in this state could benefit from an examination of other jurisdictions such as the Scottish Kilbrandon System or the Scandinavian approach of the Children's Welfare Boards which have continued to be successfully utilised since the 1970s.

In May 1961 the Kilbrandon Committee was charged with the task of developing at strategy for dealing with children in trouble. The Committee defined children in trouble as:

- Those with delinquent behaviour.

- Those in need of care and protection.

- Those beyond parental control. And

- Those who persistently truant.

(The Kilbrandon Report, 1995,ix)

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Violence Against Children: New NGO Advisory Council for Follow-up to the UN Study

A new NGO council is being formed specifically to support strong and effective follow-up to the UN Secretary-General's Study on Violence against Children. Its primary purpose is to encourage and maintain NGO involvement at national, regional and international levels in follow-up advocacy with governments, UN agencies and others for full implementation of the Study's recommendations. The new NGO Advisory Council will have 18 members: 9 representatives from international NGOs, and 9 representatives selected at regional level from national and regional NGOs.

The nine international representatives have already been selected based on nominations invited from INGOs around the world. Each representative was selected based on the representative's/organization's commitment to the study, expertise on violence against children, ability to relate to broader networks during the follow-up, past history of participation in the study process, and potential contribution to the follow-up process. Paulo Pinheiro and Jaap Doek were each consulted for the final selection process.

The selected organisations and their representatives are: CRIN (Veronica Yates), Defense for Children International (Virginia Murillo), ECPAT (Theo Noten), Global Initiative to End All Corporal Punishment of Children (Peter Newell), Human Rights Watch (Jo Becker), OMCT/World Organization Against Torture (Cecile Trochu Grasso), Plan International (Ann-Kristin Vervik), Save the Children Alliance (Roberta Cecchetti) and World Vision (Sara Austin). Brief bios of each of the members appear below.

The process of selecting the 9 regional representatives is still underway, but will be announced shortly.

The mandate of the NGO Advisory Council is:

- To encourage and maintain NGO involvement at national, regional and international levels in follow-up advocacy with governments, UN agencies and others for full implementation of the UNSG's Study recommendations;
- In particular to advocate for a Special Representative to the SG on violence against children and to work with a SR when appointed;
- To work with the Independent Expert and the

Inter-Agency Working Group, particularly in identifying key priorities for the working group and its members and developing follow-up activities and strategies to ensure effective implementation of the Study's recommendations;

• To identify and transmit important information regarding VAC from the field level to the SRSG and other appropriate UN bodies;

• To use and strengthen existing information channels/mechanisms (e.g. CRIN, NGO Group mailing lists, etc.) to inform the child rights NGO community regarding the follow-up of the UNSG's Study on VAC and its implementation;

• To be strongly and systematically connected to the proposed Youth Council in order to support continued and increased participation of children in follow-up;

• To participate in monitoring the implementation of the Study's recommendations by member states.

Cristina Barbaglia will be working part-time, based in New York, to support the work of the Advisory Council during the lead-up to the 2007 UN General Assembly session. The Advisory Council can be contacted through Cristina at barbagliac@gmail.com

**Visit CRIN's page on the new NGO advisory council, formed specifically to support strong and effective follow-up to the UN Secretary-General's Study on Violence against Children

**For more information, contact: NGO Advisory Council for the UN Study on Violence Against Children Cristina at barbagliac@gmail.com

Visit: http://www.crin.org/resources/infoDetail.asp?ID=13320

**VIOLENCE AGAINST CHILDREN:
A toolkit on positive discipline**

[15 May 2007] - Physical and humiliating punishments are recognised by the UN Study on Violence against Children as the most common form of violence affecting children the world over. It has a high degree of acceptability in South and Central Asia, as a method of instilling discipline and exercising control over children by adults within the home, schools, work place and in institutions. Physical and humiliating punishment can be replaced by techniques of positive discipline. To order a hard copy of the report, write to:
Prajwol Malekoo (prajwolm@sca.savethechildren.se) with a cc to Neha Bhandari (nehab@sca.savethechildren.se) Regional Communications Officer.

Youth Advocacy Program: Workshops for 14-17 yr olds (Brisbane)

YANQ has been supporting a group of individuals and organisations (including Just Rights QLD and the YWCA) to organise workshops for people aged 14-17 years at various locations in Brisbane and the Sunshine Coast to foster the advocacy skills of young people.

If you would like to find out more about these workshops or the program you can visit the program webpage, ring David at YANQ on 3844 7713 or
email youth.program@justrightsqld.org.

You can catch all the latest news directly from the upgraded JRQ website at
http://www.justrightsqld.org.

Young Indigenous Leaders Forum (Brisbane) The Young Indigenous Leaders' Forum brings together 20 young Indigenous people from across Queensland.

The forum will be held from 28 May to 31 May 2007. Forum participants will:

• learn about leadership and how to connect to resources
• develop networks with other young leaders and potential mentors
• discuss specific community issues • gain knowledge of business within the private, public and community sector.

The Young Indigenous Leaders' Forum will be organised by the Office for Youth, Department of Communities. The theme of the program is "Across Two Worlds", recognising the additional challenges faced by Aboriginal and Torres Strait Islander young people working within their own communities and the broader Queensland community. If you are interested in participating in the forum, you will need to complete an application form.

For more information phone 1300 555 954 or visit http://www.reconciliation.qld.gov.au/events/leaders.html.

Conferences

21-24 May 2007: World Conference on Children without Parental Care

The Hague, The Netherlands
World Initiative for Orphans (WIO), a worldwide independent, non-profit human rights organisation for orphaned and abandoned children, is organising this international conference. Aimed at Government Decision-makers, relevant NGO's and Researchers, the conference will provide an open forum for communication and will identify new approaches and model practical solutions. A wide range of distinguished speakers, children's advocates and experts in various fields will discuss the long needed reforms in Child Welfare Policies.
Further information: WIO website - www.wiorphans.org

11-13 July 2007: Australian Social Policy Conference - Building Community Capacity and Social Resilience, Sydney, NSW

The theme for the 2007 conference presented by the Social Policy Research Centre is 'Social Policy through the Life Course: Building Community Capacity and Social Resilience'. This theme encapsulates two interrelated issues in social policy. The first concerns life-course transitions, including the diverse challenges and opportunities which people experience within their age, gender, social, economic and cultural contexts. The second focuses on identifying the interconnections between social investment policies, services and programs which build both community capacity and social resilience for individuals situated within their social networks.
Further information: Social Policy Research Centre website: www.sprc.unsw.edu.au/ASPC2007;
Phone: (02) 9385 7802

8-10 July 2007: International Family Violence and Child Victimization Research Conference, Portsmouth, New Hampshire, USA

The theme of this conference is "Nurturing parenting and the prevention of child maltreatment and multigenerational family violence". It will examine both domestic violence and child abuse, in recognition of the fact that victimizations often overlap within families. The conference provides the opportunity for researchers and scientist/practitioners from a broad array of disciplines to come together for the purpose of sharing, integrating and critiquing knowledge on family violence.

Further information: Family Research Laboratory website - www.unh.edu/frl/conferences/2007

Body Matters: Children and Young People's Physical Wellbeing and Rights – Dunedin, NZ – 28-29 June – $150-475

This conference, hosted by the University of Otago's Children's Issues Centre, will examine issues and disseminate current research, policy and practice around issues affecting children and young people's physical wellbeing and rights. It is a valuable forum for researchers, policy makers and practitioners across a range of sectors, including health, education, social work, law, and anyone with an interest in children and young people's wellbeing. Nationally & internationally renowned. It will feature national & international keynote speakers with expertise in law, physical education, disability, culture, sport and government policy … and papers from a diverse group of people and disciplines – covering topics such as: sexuality, mental health, sport and physical education, physical punishment, disability, hospitalisation, medical/dental treatment issues, research with children and young people,

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 first edition of 2007. Contributions of between 700 and 2000 words are preferred and should be e-mailed with full author details to judycash@.bigpond.net.au

DCI-A is particularly interested in articles on juvenile justice, our special theme for 2007. Suggested graphics or photos to accompany the article are most welcome. The closing date for receipt of material is 31 July 2007 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 Articles published in Australian Children's Rights News may also be placed on the DCI-Australia Website: www.dci-au.org/

parenting, internet safety, resilience and injury prevention.
Call for abstracts: Closed.
Further Info: http://www.otago.ac.nz/cic/events/BodyMattersRegistrationBrochure.pdf

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Call for abstracts: Closes February.
Further information: www.unh.edu/frl/conferences/2007

23-25 July 2007: Children and Young People are Key Stakeholders, Perth, WA

This inaugural, international conference addresses the area of children and young people as key stakeholders in their world experience - now and in the future. It aims to contribute significantly to our understanding of children, young people and their families in the community, and factors which impact on their wellbeing as stakeholders in policy, programmes and service delivery. It will also highlight issues and challenges facing vulnerable children and young people today and explore preventative and strengths-based strategies for improving positive outcomes for them at a local, national and international level. The conference will be of interest to children and young people; parents/carers/family and community members; practitioners from all fields who support, work with and advocate on behalf of children, young people and families; policy makers and managers; and researchers and educators.
Call for papers: Presentations are invited on case studies, practice, research, knowledge and experiences - from adults and young people. Register your interest to present by 15 December 2006 (adult presenters) or 31 March 2007 (young presenters).
Further information: Website - www.caypaks.com

28-30 August 2007: Face 2 Face Forum: Connections - Family and Community: Planning for Permanency and Stability, Swan Valley, WA

Presented by CREATE Foundation, Face 2 Face is a national partnership forum of young people, governments, carers, indigenous organisations and community service providers, involved in the out-of-home care sector for children and young people. This three day event will be of interest to: foster carers, including kinship carers; community service providers; government departments; indigenous children, young people, families and communities; and young people who are in care or who have left care.
Further information: Face 2 Face website: www.face2face.org.au/first.html; Phone: (02) 9267 1999
Email: face2face2007enquiry@create.org.au

Sociology of Children and Childhood – Glasgow, UK – 3-6 September

This 8th European Sociological Association Conference will be the first to formally focus on the Sociology of Children and Childhood – around the theme of Conflict, Citizenship and Civil Society. It aims to bring together scholars engaged in theoretical and empirical work on Children and Childhood across Europe – with various sessions exploring how these topics specifically impact on the lives and everyday worlds of children and their childhoods.
Call for abstracts: Closed.
Further information: http://www.esa8thconference.com/show.php?contentid=116

7th ISPCAN Asian Regional Conference, Manila, Philippines, September 23 to 26, 2007.

This conference entitled "I am for the Child!" is organized by the Child Protection Unit Network (Philippines) and ISPCAN. The conference has the following themes and general objectives:

1. Child sexual and physical abuse: to identify issues addressed, resources established and lessons learned by Asian countries in setting up their national child protection systems;
2. Children in conflict with the law: to introduce new perspectives on children in conflict with the law;
3. Children in natural disasters: to discuss ways to ensure that rights of children are protected in situations of natural disasters and humanitarian emergencies; and,
4. Child sex trafficking and tourism: to share perspectives of different Asian countries in the fight against child sex trafficking and tourism.

Online abstract submission deadlin: 31 May 2007
30 October - 2 November 2007

11th Australasian Conference on Child Abuse and Neglect (ACCAN 2007) - Voices Calling for Action, Gold Coast, Qld

The *Voices Calling for Action* conference will bring together professionals, service providers, community representatives and youth participants from across the Australasian and Pacific regions human service sector to review and reflect on research, innovative policy and

practice in order to identify key actions to prevent child abuse and neglect.

The conference program, Chaired by media identity and NAPCAN ambassador Julie McCrossin, will feature leading international and Australasian presenters from health, education, child welfare and social policy and planning sectors. An important aim of the conference organising committee is to ensure the participation of Youth delegates in this national event.
Further information: Conference website: www.accan2007.com; Email: ACCAN2007@ccm.com.au. Phone: (07) 3368 2644

Asian Youth and Childhoods Across the World, India – 22-24 November – US$80-150

This 8th International Conference, hosted by the International Sociological Association, aims to play a significant role in informing professionals on the future shape and boundaries of Asian youth and childhoods – to locate their place, not only in Asia, but throughout the world. Topics will include: New trends in youth and childhood research; Asian youth and new trajectories; Youth, international migration and globalization; Inequalities in child and youth population; Young people and new technology; Young people and media; Child and youth rights in Asia; Youth and child policies in Asia; Childhood and gender; Participation of young people in community life; and Youth and children's life world in a globalised world.
Call for abstracts: Closes 31 March.
Further information:
http://ayc2007.com

22-24 November 2007: VIIIth International Conference on Asian Youth and Childhoods 2007, Lucknow, India

The theme of this conference is "Asian Youth and Childhoods across the World". The aim is for the conference to play a significant role in informing professionals on the future shape and boundaries of Asian youth and childhoods to locate their place not only in Asia but throughout the world. Topics will include:

- New trends in youth and childhood research
- Asian youth and new trajectories
- Youth, international migration and globalization
- Inequalities in child and youth population
- Young people and new technology
- Young people and media
- Child and youth rights in Asia
- Youth and child policies in Asia
- Childhood and gender
- Participation of young people in community life
- Youth and children's life world in globalized world

Further information: Website - http://ayc2007.com

Assessing the "Evidence-Base" of Intervention for Vulnerable Children and Their Families: Cross National Perspectives and Challenges for Research, Practice and Policy, March 26-29, 2008, The University of Padova, Italy

A joint conference of EUSARF (European Scientific Association for Residential & Foster Care for Children & Adolescents and IAOBER (International Association for Outcome-Based Evaluation and Research on Family and Children's Services) The overarching purpose of the 2008 conference will be to bring research-based perspectives to bear on matters of youth policy, service intervention and evaluation methodology directed toward high resource-using children and youth viewed in cross-national perspective.
Official languages of the conference are Italian and English.
www.outcome-evaluation.org/eusarf2008

Re-Presenting Childhood And Youth – Sheffield, UK – 8-10 July

This 2nd international conference hosted by the Centre for the Study of Childhood & Youth, will explore the ways in which childhood and youth are represented as life course categories and how, in changing cultural and historical contexts, these categories are beginning to be questioned and often re-presented. This process of reflection and reviews can be seen taking place in a variety of different ways, which are addressed by the conference strands – Theory, Methods, Discourses and Policy.
Call for abstracts: Coming soon.
Further information:
http://www.cscy.group.shef.ac.uk/conferences/index.htm

International Seminar: 'Ethics and childcare: a collective engagement' 20-21 November, UNESCO Paris

The Association Enfance et Partage fights against all kinds of mistreatments and for the acknowledgement of the Rights of the Child. For the occasion if its 30th birthday, Enfance et Partage is organizing, in partnership with the International Juvenile Justice Observatory, the International Seminar: 'Ethics and childcare: a collective engagement'.

The seminar will focus on: Media and Endangered childhood; Interdisciplinary communication and Professional secret; Minor offender yet victim as well and Accompanying the minor when parents fail.

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