

Australian Children's Rights News

Newsletter of the Australian Section of Defence for Children International

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Doin' it for the Kids.

Report on the KIDS submission to the Human Rights Commissioner.

In November 2001, the Human Rights Commissioner Sev Ozdovski, OAM, ordered an investigation into the incarceration of asylum seeker children under Australia's mandatory immigration detention regime. Six months later, KIDS¹ presented its submission.² DCI-A member Barbara Rogalla, who used to work at the Woomera detention centre, represented DCI at this working party. She also gave evidence to the working party and to HREOC,³ co-authored the KIDS' chapter on Health, and wrote a personal submission in which she claims that the detention of children breaches the Convention Against Torture.⁴

"It is to our great sadness and frustration that we need to make the case we are making. It is to our great sadness and frustration that children are being detained as they are, and that there is not already an overwhelming consensus in the community and inside our governments that this must be remedied tomorrow, if not later today. But that is how things stand as we complete this submission. It is our hope that in the not-too-distant future this submission, and the issues with which it deals, will be of historical record and interest only, not day-to-day urgency: In other words, that we, as a community, will have found our conscience and our reason."

This fervent plea comes from the preface of the submission.

HREOC received about 230 submissions from concerned Australians. All but one⁵ echo the sentiments of the KIDS submission. Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) stands alone in its defence of the incarceration of children.⁶

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President's comments:

Australia's obligations under various international treaties have been taking some battering recently especially in relation to asylum seekers and children in detention.

Significantly, the Australian government is now interested in UN sanctioned resolutions - in relation to any proposed attack on Iraq - but has consistently rejected UN criticism in relation to its own internal policies. In particular, the Howard government has rejected any criticism or claims that Australia is in breach of the Convention on the Rights of the Child (CROC) in relation to its treatment of children in immigration detention centres. In response to a request from the UN High Commissioner for Human Rights for an envoy to visit Australia's detention centres to investigate human rights violations, Prime Minister Howard said that he was "not particularly bowled over by a request from Mary Robinson" (The Age, 7 February 2002).

These concerns about breaches of Australia's human rights obligations are being tested by the Human Rights and Equal Opportunity Commission which is expected to bring down its report on the National Inquiry into Children in Immigration Detention by the end of the year. The submissions to the inquiry (available on HREOC's website) clearly indicate that Australia's treatment of children in detention centres lacks compassion and is in breach of its obligations under CROC and other international treaties. Barbara Rogalla's lead article provides a valuable summary of the issues and concerns.

Australia had an important role in the formulation of the Convention and was one

Defence for Children International - Australia

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

Patron : **Phillip Adams AO**

National President : **Judy Cashmore (NSW)**
Vice President : **Michael Beresford-Smith (Vic)**

National Secretary : **Danny Sandor (Vic)**
Treasurer : **Joe Bowler (SA)**

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Prof Chris Goddard
Ms Moira Rayner
Mr Sid Spindler

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of the first countries to become a party to it after it came into force. The Convention was ratified by the Australian government in December 1990. This means that Australia accepted its obligations to respect and ensure the rights outlined in the Convention for all children within Australia's jurisdiction without discrimination. By ratifying the Convention, Australia undertook to implement the articles by all appropriate legislative, administrative and other measures, to make sure that the rights are well known to adults and children, and to report regularly to the UN Committee on the Rights of the Child on the steps taken to ensure that children in Australia enjoy these rights in practice.

As an organisation with standing at the United Nations, DCI Australia – with a great deal of work by Helen Bayes, the 1999 HREOC Human Rights medal winner - prepared Australia's first non-government report. DCI and the National Children's and Youth Law Centre (NCYLC) have now agreed to co-ordinate the preparation of the next NGO report to the UN Committee. This report will consider Australia's performance under the Convention between 1996 and 2003 and include a consideration of Australia's response to the Committee's criticisms of Australia's performance. The two organisations intend to consult widely with relevant non-government organisations in preparing the NGO report. This will involve a substantial amount of work and both organizations will be seeking help from members across Australia to do this.

DCI and NCYLC are preparing an outline of the issues to be covered and will invite you to contribute to this process and to provide information from your knowledge of local developments. You will hear more about this as the proposal is developed. In the meantime, perhaps you can take some heart from the announcements from the Shadow Minister for Children & Youth, Nicola Roxon, calling for

a national plan for children and for the establishment of a federal Commissioner for Children, and from the Minister Larry Anthony on a national agenda for early childhood.

A start perhaps but real achievements for children in Australia require action, not just plans or agendas for action.

The UN has urged the British government to change the law which allows parents to smack their children. The Committee criticises the government for its continued failure to meet its obligations under the UN Convention on the Rights of the Child. The report expressed concern over high levels of teenage pregnancy, the high rates of children in secure accommodation and young offenders institutions and a lack of ban on physical punishment.

Source: BBC Online

http://news.bbc.co.uk/1/hi/uk_politics/2297821.stm

Further Information:

available online

<http://www.unhchr.ch/html/menu2/6/crc/doc/co/nited%20KingdomCO2.pdf>

Concluding Observations of the Committee on the Rights of the Child:
UK NSPCC Press Release
<http://www.nspcc.org.uk/html/home/informationresources/unreport.htm>

Continued from page 1 bought them if they could afford to.”

Experts in Health, Mental Health, Education, and Law wrote the 244-page document. Each chapter begins with a discussion of accepted national and international standards, and then explores how these standards relate to children in immigration detention. Each chapter identifies a large gap between these standards and day-to-day reality in detention centres.

But the KIDS submission not only contrasts what is with what ought to be. It also presents graphic personalised examples from within detention settings, and tells of how other countries respond to uninvited asylum seekers far more humanely than Australia does.

Health

Children need more than shelter and food if they are to grow and prosper. They also need an optimal cultural and social environment, and the wellbeing of their parents directly influences the wellbeing of children. Concerns are raised about impediments to normal development in the detention setting.

“After a baby is delivered no special advice is given regarding breastfeeding. Accessing infant formula is difficult due to bureaucratic processes.”

“Many mothers make their own napkins for their babies from old sheets or other material. Disposable nappies are not readily available all the time. Forms must be filled and submitted at the right time to the right person...”

“Young babies and toddlers seem not to be reaching key milestones in their development. Their social and communication skills are behind. They’re not talking, not engaging. There’s a definite lack of curiosity...”

“There are no proper nutrition or health services for children under one...Most of the children hated the food that was given at the detention centre. Because of this they lived on chips and sweets which were expensive, but the parents

Health clinics are staffed by nurses 24 hours per day, and doctors visit frequently. But getting to a clinic presents its own challenges.

“When any sort of problem arises, people are treated as prisoners. They make a request through one set of fencing. If the attendant on the other side feels it is reasonable the person is allowed to walk across and repeat the request to the authorities on the other side who then make the final decision on what needs to be done.”

“Replacement of names with numbers contributes significantly to dehumanization of individuals. This process will also have an impact on staff working with detainees. Many ex staff have reported the difficulties associated with maintaining their own ethical standards in an

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 2003. Contributions of between 700 and 1500 words are preferred and should be e-mailed with full author details to judycash@nsw.bigpond.net.au

Suggested graphics or photos to accompany the article are most welcome. The closing date for receipt of material is 15 December 2002 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 phone Judy Cashmore 02 9880 2286

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

environment where the highest priority was securing the asylum seekers.”

Education

Education in detention is not compulsory. Yet the greatest impediment to learning comes from detention itself, because of the harsh and intimidating conditions of a regime that has eloped normal accountability and transparency mechanisms.

“Teachers and families report that education programs in Australian immigration detention are erratic, fail to reach all children, and are designed neither to be culturally or linguistically sensitive, nor sensitive to individual needs.”

“It would appear that the centres are not required to adhere to state based children’s services regulations which establish requirements for staff numbers and qualifications, staff ratios, and the physical space in which learning is to take place.”

“Children unable to express themselves fluently in their first language may be cut off from the security of their family background and the support of family members.”

“The experience of children mandatorily detained in Australian immigration detention centres makes a mockery of the principles that underpin the provision of education in the rest of the country. We are loath to recommend models for education in immigration detention because of our findings that detention and education are essentially incompatible.”

Mental Health

The security driven detention environment harms children by depriving them of their freedom and confining them within in a monotonous environment for a long time. Detention also undermines the capacity of the family to nurture and protect children.

“... children have begun to identify themselves by numbers instead of by names and families.”

“Detainees often do not trust health staff whom they see as employees of management. The result is that mental health problems are minimised by detainees themselves and self referrals are less likely to occur.”

“What have I done to be kept in prison is a common plea ...”

“There have been frequent reports of behavioural disturbances in detained adolescents, manifesting as violent or self-harming acts.”

“Many asylum seekers, including children, suffer from sleep disturbance due to previous trauma or depressed mood.”

“The opinion of a worker who has observed detention officers, is that for some officers the tension associated with working with children in detention has an impact on themselves as parents. In order to minimise this impact, she believed that some officers tried to distance themselves from the children in detention by referring to the children by their numbers and through minimising direct contact with the children.”

Legal

Concerns are raised about violation of the Commonwealth Constitution and also of the Migration Act, because the conditions are so harsh and punitive that detention may contravene the lawful authority of these statutes.

Conventions and legislation that apply to prisons and to juvenile detention in Australia are generally not enforced within immigration detention.

“During searches, personal effects may be confiscated, without a right of review. Doors have been removed from rooms in Maribyrnong Immigration Detention Centre and WIDC⁷ to allow for spot searches. “Head counts” and other practices often entail intrusion into the family quarters at times when children are sleeping. The Migration Act allows strip searches of adults, and of children, in certain circumstances. Families, or other detainees, cannot meaningfully exercise the right to privacy.”

“The complaints mechanism is not effective to protect against the provision of inaccurate or incompetent advice because, in part, it rests on the individual asylum seeker’s ability to make judgments with respect to a system and, most likely, a language with which they are not familiar and in circumstances where they are unlikely to have any point of reference or comparison. The problem is greatest in the case of unaccompanied children, because they cannot be expected to have any of the knowledge or skills required to protect their own interests.”

“The Government has through legislation attempted to limit access by the Ombudsman’s Office and the Human Rights and Equal Opportunity Commission in accessing asylum seekers in detention when there is no direct approach by the asylum seekers themselves.”

“Because the policy of mandatory detention of children is arguably contrary to the obligations and minimum standards set down in international instruments, it is clear that the Commonwealth and ACM⁸ owe a very high duty of care to children simply by virtue of the fact of the policy being in place ... Where a policy is implemented that contravenes these Instruments the likelihood of human rights violations and negligent acts and injuries occurring is very high and very foreseeable.”

Conclusion

“The authors of this submission commenced their work in the expectation that they would research the issues, examine and document the evidence, and make recommendations about what should be done in the future. But the completion of the first two stages of that task has made the third implausible. There are no sensible recommendations that can be made other than the single, fundamental one: that children must not be held in immigration detention, save for the time strictly necessary for the conduct of health and identity checks.”

Footnotes

1 Kids in Detention Story. KIDS is the name of the working party that produced the submission.

2 Kids in Detention Story. *Submission to the Human Rights and Equal Opportunity Commission National Inquiry into children in Immigration Detention*. May 2002
<http://members.ozemail.com.au/%7Eburnside/hreoc-submission.htm>

3 Human Rights and Equal Opportunity Commission

4 Barbara Rogalla. *Submission to National Inquiry into Children in Immigration Detention by the Human Rights Commissioner*. April 2002
http://www.humanrights.gov.au/human_rights/children_detention/submissions/rogalla.html

5 Department of Immigration and Multicultural Affairs. *HREOC National Inquiry in Immigration Detention*. Undated
<http://www.dima.gov.au/illegals/hreoc/index.htm>

6 “Critics slam child detention” The Courier Mail. Newspaper. 30-5-02
http://www.couriermail.news.com.au/common/story_page/0,5936,4416282%25E421,00.html

7 Woomera Immigration Detention Centre

8 Australasian Correctional Management

The Human Rights and Equal Opportunity Commission has received more than 200 submissions for its *Inquiry into Children in Immigration Detention*, and expects to present its report to parliament at the end of 2002. The HREOC web-site is http://www.humanrights.gov.au/human_rights/children_detention/index.html

Universal Children’s Day: 20 November.

In 1954, the United Nations General Assembly recommended that all countries institute a Universal Children’s Day, to be observed as a day of worldwide fraternity and understanding among children and of activity devoted to promoting the welfare of the world’s children. The date of 20 November marks the day of adoption of the Declaration of the Rights of the Child by the General Assembly in 1959 and the adoption in 1989 of the Convention on the Rights of the Child.

For more information:
<http://www.un.org>

A Bit About Words

- Doublespeak

Julian Burnside

Outside the realm of high art, language is intended to convey meaning. Ideally, it should do so accurately. Some writers and speakers betray these ideals, and use language as a sham to mask an intellectual void; or worse, as a stalking horse for quite different ideas they dare not acknowledge.

The world is awash with examples of the first sort – empty rhetoric dressed up in the finery of Rococo elegance, or vacuous new-Age gush, or the yawning post-modern fashion of abstraction piled on abstraction – all devoid of real content. These are the empty calories, the fast food of modern discourse. They are the staple of cheap magazines, talk-back radio and art criticism.

More interesting is the second sort: speech which serves to disguise the thing described. Depending on circumstances, it may be called tact, or diplomacy or doublespeak or lying. The proper description depends on the speaker's purpose. Tact sets out to avoid giving offence. It suppresses or disguises an unhappy truth to spare the feelings of another. It is a down-payment on future favour. It is falsehood in the service of kindness. When tact is lifted from the personal to the national scale, it is called diplomacy.

Euphemism does not directly suppress the truth, but disguises it by substituting gentle words for harsher ones. Its success is limited in the long-term because the euphemism is readily identified with the underlying idea and takes on the colour of that idea. This process is readily seen in the progression of euphemisms regarding universal bodily functions, for example: water closet – WC – lavatory – toilet – loo – the Ladies/Gents room – restroom etc.

The intention of euphemism is benign, if somewhat fey. Its excesses of delicacy inspired Dr Bowdler to strip Shakespeare of any

questionable content. Bowdler's Shakespeare was published in 1818 – before the Victorian age, let it be noted – and was probably influenced by the attitudes which spawned Mrs Grundy. In Morton's play *Speed the Plough* (1798), Mrs Grundy was the neighbour whose narrow and rigid views about propriety were a tyranny for her neighbours.

Tact is kind; diplomacy is useful; euphemism is harmless and sometimes entertaining. By contrast, doublespeak is dishonest and dangerous.

In his closing address at Nuremberg, US prosecutor Robert Jackson said:

“Nor is the lie direct the only means of falsehood. They [the Defendants] all speak with a Nazi double talk with which to deceive the unwary. In the Nazi dictionary of sardonic euphemisms “final solution” of the Jewish problem was a phrase which meant extermination; “final solution” of the Jewish problem was a phrase which meant extermination; “special treatment” of prisoners of war meant killing; “protective custody” meant concentration camp; “duty labor” meant slave labor; and an order to “take a firm attitude” or “take positive measures” meant to act with unrestrained savagery.”

The war in Vietnam produced such doublespeak expressions as:

- Collateral damage (killing innocent civilians)
- Removal with extreme prejudice (assassination)
- Energetic disassembly (nuclear explosion)
- Limited duration protective reaction air strikes (bombing villages in Vietnam)
- Incontinent ordnance (bombs which hit schools and hospitals by mistake)
- Active defence (invasion).

When Jimmy Carter's attempt to rescue American hostages in Iran ended a catastrophic strategic

blunder, he described it as “an incomplete success”. When Soviet tanks invaded Prague in 1968, the manoeuvre was described as “fraternal internationalist assistance to the Czechoslovak people”.

Doublespeak uses language to smuggle uncomfortable ideas into comfortable minds. The Nazi regime were masters at it. The Howard Government is an enthusiastic apprentice.

The victims of protective reaction air strikes, or incontinent ordnance, or active defence, or fraternal internationalist assistance often flee for safety. A small number of them arrive in Australia asking for help. They commit no offence under Australian or international law by arriving here, without invitation and without papers, in order to seek protection. Nonetheless the Australian Government refers to them as “illegals”. This piece of doublespeak is not just for tabloid consumption: it is official. When the Human Rights and Equal Opportunity Commission held an inquiry into children in detention in Australia, the Department of Immigration and Multicultural and Indigenous Affairs made a submission. That submission was stored on the Department’s web site. The full web address of the submission showed that it was held in a sub-directory called “illegals”.

Like all doublespeak, “illegals” is used for a purpose: these people are immediately locked up without trial. No doubt it seems less offensive to lock up “illegals” than to lock up innocent, traumatised human beings.

They are also disparaged as “queue jumpers”: a neat device which falsely suggests 2 things. First that there is a queue, and second that it is in some way appropriate to stand in line when your life is at risk.

When the “illegals/queue jumpers” arrive, they are “detained” in “Immigration Reception and Processing Centres”. This description is false in every detail. They are locked up without trial, for an indefinite period - typically months or years - in desert camps which are as remote from civilisation as it is possible to be. They are held behind razor wire, they are addressed not by name

but by number, and they slowly sink into hopelessness and despair.

When the new prison for asylum seekers at Port Augusta is completed it will have, in addition to the usual layers of razor wire, an electrified fence. But in the doublespeak of the Department of Immigration, these are officially called “energised fences”. Wait for the energised cattle prods. When a “detainee” (doublespeak for prisoner) is removed from a detention centre for deportation, the process is generally done in the dead of night and may involve forcibly tranquillising the person; it is generally done by a squad of ACM guards in costumes reminiscent of Darth Vader. This alarming procedure is sanitized as “an extraction”.

In the desert camps, dormitories are regularly checked during the night: at 8.00 p.m., midnight and 4.00 a.m., by shining a torch in the face of each detainee and demanding to see their identification. This is a “security check”. It also fits within one of the standard definitions of torture.

If detainees are driven to the desperate extreme of suicide or self-harm, Minister Ruddock disparages this as “inappropriate behaviour” designed to “manipulate the Government”. By that doublespeak, the victim becomes the offender.

On the last sitting day in June, the Parliament passed the Migration Legislation Amendment (Procedural Fairness) Bill 2002. The title is one of the most audacious pieces of doublespeak ever to blight the pages of Hansard. The measures affect the grounds on which courts may review decisions of the Refugee Review Tribunal. The Tribunal does not afford a right of legal representation, its members are short-term appointees, its decision-making processes are often unfathomable except by reference to government policy. Its proceedings are frequently not fair, nor are they calculated to be. The requirements of natural justice have been driven out by repeated amendment.

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Urgent Health Warning: What is the “Ruddocks”

The “Ruddocks” is a highly contagious social virus recently identified by medical researchers. This virulent virus is most contagious if incubated in a climate of fear. It causes a mental condition typified by the attitude of “refusing to do anything that could assist asylum seekers and refugees.” The Medical Alliance is working around the clock to develop a vaccine in an effort to prevent the next generation of Australians (especially the politicians), from being struck down by the “Ruddocks.”

Symptoms: Primary symptoms include apathy, indifference, a lack of concern for people who have suffered persecution in their home countries and a gullibility to government propaganda. More serious cases can involve raging fevers, paranoia, and hallucinations about asylum seekers being terrorists.

In chronic cases, psychopathic behaviours can develop like detaining and causing psychological and physical harm to anyone different from oneself.

How does the “Ruddocks” affect the nation’s health?

Although many Australian citizens are carriers of the “Ruddocks” virus, they seem to survive the infection, without serious damage to their sense of well being. However, further symptoms such as irritability, minor forgetfulness leading to historical amnesia, and even moral irresponsibility can develop. Medical tests have also recorded atrophy of the nerve pathways linking the heart to the brain and a hardening of the conscience artery in some long-term carriers of the virus.

Unfortunately the fact that so many Australians have progressed to the chronic stage of the illness is proving life threatening to asylum seekers. Most

asylum seekers have not had the opportunity to develop immunity to this particular strain of persecution virus and many contract a secondary, more serious form of the “Ruddocks.”

Secondary Symptoms: Secondary symptoms can include depression, anxiety, chronic sense of hopelessness and feelings of impotent rage. The most vulnerable appear to be children, pregnant women and adults who have suffered trauma prior to their arrival in Australia. The psychological coping mechanisms of many asylum seekers are unable to withstand the harsh treatments prescribed under the auspices of Australian Migration Law - ie: isolation and indefinite, punitive detention .

Unfortunately many Australians carrying the disease are in denial of its dangers to asylum seekers and are refusing to practise harm-minimisation techniques when symptoms do appear. Indeed, some Australian politicians seem to have the deliberate intention of infecting all those around them.

For example, despite the excision of much of Northern Australia from our migration zone, the disease has continued to spread into the Pacific Area. Manus Island and Nauru are now reporting an epidemic of the secondary form of the disease. The human costs of such high infection rates are causing concern amongst medical and human rights experts globally. The World Health Organisation and the United Nations are working on a comprehensive educational strategy to combat the effects of the “Ruddocks”. They consider that Australia is failing in its duty of care to asylum seekers and especially, it is failing in its role of guardian to unaccompanied children.

Medical research has proved both children and adults are being exposed to harmful levels of physical and psychological abuse in Immigration

Prisons. It is now understood that Australian Migration law was developed by people who were chronic "Ruddocks" sufferers and it is believed their moral judgement had been affected by the illness. Legal experts are now examining whether the Mandatory Detention laws still have legal jurisdiction. Also, State Governments hosting the Immigration Prison camps are examining whether they are still legally bound to uphold the Mandatory Detention laws.

Unfortunately even when asylum seekers are released or when they relinquish their legal rights of appeal and are sent back to their countries of origin, they are unlikely to make a full recovery. Longitudinal follow-up studies indicate that those who are not arrested, persecuted or executed upon their return home, continue to suffer long-term damage from the "Ruddocks."

Prevention: The PHA is suggesting two major prevention strategies. Firstly, all uninfected Australians need to contact advocacy groups immediately and inoculate themselves through making personal contact with asylum seekers both in detention and in the community.

Secondly, the Association suggests everyone acquaint themselves with the vast body of medical evidence now available. Australians are asked to work together to combat this modern day plague - by sharing facts and information gained by personal experience with asylum seekers with their fellow Australians.

The "Ruddocks" has done tremendous damage to the body politic of the Australian nation. Political analysts assert that if the nation continues to succumb to the viral assault of the "Ruddocks", our national resistance will plummet to such a level that we will be more susceptible to other politically constructed diseases.

Researchers have just discovered serious cases of the "Abbotts" amongst some industrial workers and since May 2002, people with disabilities have begun to exhibit a previously undocumented form of anxiety called the "Costello Condition." For further information - contact your local Human Rights Centre. Or ring

your local doctor for tests and treatment. Preliminary health advice recommends compassion and human solidarity.

Refugee Action Collective News at
www.angelfire.com/linux/racsa/news.html
- **Urgent Health Warning** - the Ruddocks.txt
21.9.02

Continued from page 8

The Migration Act now practically guarantees procedural unfairness in decisions which have life and death consequences. The Procedural Fairness Bill reduces to vanishing point the scope for judicial review of Tribunal decisions.

The truth of our treatment of refugees is deeply shocking. Innocent people are locked up in dreadful conditions and for an indefinite period; they are deprived of sleep and isolated from the outside world; they are forcibly removed as circumstances require. They live behind razor wire and (soon) electric fences. Their powerful will to live is gradually eroded until - all hope lost - they are driven to self-harm. The truth is uncomfortable for the major political parties: they conceal it in doublespeak in the hope that it will be alright.

See how we have emulated pre-war Germany, in both action and language. In Nazi Germany (before the concentration camps became death camps) "undesirables" were "placed in protective custody" or "resettled". In Australia "illegals" are held in "Immigration Reception and Processing Centres" behind "energised fences", receiving regular "security checks" and occasional "extractions". Their "inappropriate behaviours" are not allowed to "manipulate public policy".

In 1946, George Orwell wrote *Politics and Language*, in which he exposed the deceits and devices of doublespeak. He might have thought that it would lose its power once its workings were revealed. But he would be disappointed. Language is as powerful now as in 1933: it can hide shocking truth, it can deceive a nation, it can hand electoral victory to the morally bankrupt.

Julian Burnside
<http://www.users.bigpond.com/burnside/doublespeak.htm>

Children and Young People - The Law and Human Rights

The Chief Justice of the Family Court of Australia, the Honourable Alastair Nicholson AO RFD, delivered this year's Sir Richard Blackburn Lecture. This is an edited extract from the address. The full version is available at: www.familycourt.gov.au/papers/html/blackburn.html

I think it fair to say that however well-intentioned we may be, our legal system in Australia does not protect the rights of children adequately. We can also say that not much effort has been made to address this problem. Defects operate in the system at a number of levels. One of the most serious defects relates to structure. The protection of children and young people from violation and maltreatment - a subject of intense community concern - is a salient illustration.

We have no less than eight sets of child protection laws with fundamental differences in such critical matters as:

- how abuse or maltreatment is defined,
- the systems through which abuse notifications are investigated,
- the level and availability of primary, secondary and tertiary services, and
- the relative emphasis placed on forensic investigation as contrasted with measures of service and assistance to children, young people and their families.¹

They are administered by different agencies and adjudicated by different courts. All of this occurs against a background of an increasingly mobile community.

At the same time we have the Family Court and now the Federal Magistrates Service, operating in the area of private law, that is, dealing with

disputes between individuals (usually parents) about children. However, the federal courts have no power to make protective orders other than in the context of and as between the parties before them. Yet research has highlighted that dealing with child abuse allegations is part of the core business of the Family Court and the Federal Magistrates Service.² On occasions we have the spectacle of both federal and State courts dealing with the same people and the same issues.

The federal courts may be, and often are, faced with a situation where genuine child protection issues emerge, such as the realisation that the children are likely to be at risk from both parents. Yet these courts have no means or jurisdiction to protect the child, save for requesting the relevant child welfare authority to investigate and intervene. There is no power to compel the authority to be joined as a party.

For a while the cross vesting scheme offered some possibility of correcting this situation but the High Court's decision in *Wakim's* case put an end to that.³

[*Editorial note:* That case concerned what is known as the "cross-vesting" scheme of legislation. The scheme purported to permit superior courts such as State supreme courts and the Family Court of Australia to exercise each other's jurisdiction. In *Wakim* a majority of the High Court decided that the scheme was incompatible with the Australian Constitution and therefore invalid to the extent that it authorised federal courts to exercise state jurisdiction.]

The case of *Re Karen and Rita*,⁴ decided when that scheme was in force, provided a classic example both of the sort of dilemma that I am describing and a solution that the cross vesting scheme offered. There, I was not confined to the

jurisdiction conferred by the *Family Law Act* and I was able to make orders in favour of the Child Protection Authority under the Queensland child protection legislation. This happened because the Supreme Court of Queensland made an order under cross vesting legislation transferring the child protection matter to the Family Court in circumstances where the latter was already dealing with a dispute between the children's parents.

It is disturbing that following *Re Wakim*, there was quick legislative action to ensure that commerce was not particularly inconvenienced by that decision, but no action was taken in the area of children's law. This is despite the fact that the Family Law Council had already urged that advantage should be taken of the cross vesting scheme to address the issue to which I have adverted.

The Australian attitude to these issues is to be contrasted with that in the United States, where there has been active interest for some years in the context of what is there described as a "Unified Family Court".⁵ The concept is that one Court will deal with all of the problems of families and children and young people, which are so often interlocked. These will include traditional family law disputes, domestic violence, child protection and juvenile crime.⁶ Some more radical suggestions involve such Courts dealing with criminal offences against children.

In jurisdictions such as the UK and New Zealand, which do not experience the same constitutional difficulties as are present in Australia, the move is in the same direction.

In Australia we find a deafening silence or denial that there is a problem. However, I can assure you that experienced professionals in the field are quick to say that there is a very real one.

The question is what can be done about it, given the limitation prescribed by the Constitution? I do not, in the course of an address such as this, pretend that I have instant answers to the problem. I do propose to suggest a number of ways that might be explored to do so.

The most obvious would be for the States and Territories to refer the power to make child protection laws to the Commonwealth. This would enable a uniform child protection law to be passed, applicable to the whole country. Such an approach would complement the current community concerns about the need for an effective national approach to protect children from abuse and violence.

This need not and arguably should not, mean that the Commonwealth should take over the enforcement of that law, which could continue to be the province of State and Territory Child Welfare Departments and State Children's Courts. As a Commonwealth law, protection orders made by those Courts would have the benefit of automatic national application.

A less satisfactory method would be for the States and Territories to agree upon uniform legislation, with an extra-territorial effect to Court orders.

This still leaves the problem of the two federal courts, exercising jurisdiction only in private law. The decision in *Re Wakim* prevents the States from conferring child protection jurisdiction on them. However, if power was referred to the Commonwealth as I have suggested, then the Commonwealth could confer this jurisdiction on them in the same way as it has done in the case of children of unmarried parents.

I should stress that I do not see the Family Court and the Federal Magistrates Service as necessarily exercising primary jurisdiction in the child protection area. What I would see happening is that they would do so in appropriate cases. In others they could no doubt transfer matters to the Children's Courts. Similarly the latter could, in circumstances such as those in *Re Karen and Rita*, transfer those matters to the federal courts.

In the absence of a reference of powers, there is still a minimalist suggestion that might have some appeal.

The *Family Law Act* has always envisaged the possibility of setting up State Family Courts. Only

Western Australia took up this offer. Judges of the Family Court of Western Australia hold dual commissions both as judges of that Court and of the Family Court of Australia. The Commonwealth remains responsible for the funding of the Western Australian Court.

If the other States and Territories were to enact similar legislation and confer State and Territory Commissions upon those federal Judges normally residing in the relevant State and Territory and confer State or Territory child protection jurisdiction on those Courts, the problem would be largely solved. Similarly the appointment of Federal Magistrates as State Magistrates could also be made and care jurisdiction conferred upon them.

...

Even under what I have described as a minimalist approach there would be a significant benefit for the development of the law concerning the protection of children and young people. One of the visionary features of Australia's private family law system is that we have a specialist intermediate appellate division that enables consistency across Australia. This advantage does not extend to public child protection law as appeals fall within the general appellate structure of each State or Territory. As a result, Australia lacks a cohesive body of appellate guidance save for the rare occasion when matters arising under child protection law are considered by the High Court.

There are no doubt other matters that would need attention, but I do not believe any of them to be insuperable. One would be the different evidentiary regime that operates in Children's Courts than in the federal courts. The admission of hearsay evidence is much more liberal in protection matters before the Children's Courts. I think that there are strong grounds for the adoption of similar evidentiary provisions in the federal courts, particularly in children's matters. If this were to be done, this problem would disappear.

I conclude on this point by quoting from a 1998 article by my colleague Justice John Faulks:

*"In summary, my prediction for the future of the different courts' involvement in the care and protection of children is one of enthusiasm and hope. My hope stems from the extraordinary dedication and commitment I have experienced among judicial officers from whatever court they may have come about the need to look after our future the children of Australia. Perhaps we can do more than all the king's horses and all the king's men. Maybe we can put Humpty Dumpty back together again."*⁷

I admire his Honour's enthusiasm. I also agree with his remarks about the judicial officers working in this field. I am not sure that I share his hope. I think that legislative rather than judicial action is needed to overcome these problems.

Apart from these serious structural difficulties there are very ambivalent Australian attitudes towards treating children as people. If evidence is needed, it is only necessary to consider the debate about the ratification of the UN Convention on the Rights of the Child ("UNCROC") and the extreme conservative attitudes expressed by many of its opponents.

Basically, the conservative right appears to assume that it is "anti-family" and in some way derogates from the "rights" of parents. Like all international instruments, its language is such as to lend itself to such strained interpretations. If it is read without such preconceived notions however, its meaning is plain and non-threatening.

It has often surprised me how nervous Australians across the political spectrum now are compared to their predecessors about treaties of this kind. UNCROC is the successor of the 1924 Declaration of Geneva and the 1959 UN Declaration on the Rights of the Child. Australia supported both and played an active part in the drafting of UNCROC.

Citizens of Europe do not appear to suffer from the same reservations about human rights treaties. Even the conservative legal system of the UK now embraces the fact that its laws must comply with European recognised human rights norms such as the European Convention on Human Rights.

Much the same can be said of Canada, albeit for different reasons. This is because of the Charter of Fundamental Rights and Freedoms, which has been of enormous direct and indirect benefit.

It is now quite clear that as a result of ratifying UNCROC, the Commonwealth has the power, for instance, to legislate to correct the structural anomalies in children's law such as those to which I have referred. Looking more broadly, it could clearly pass a Charter like Canada, or a Bill Of Rights and do so regardless of the attitude of the States.

It is not the law that stands in the way of such initiatives. The prime obstacle seems to me to be a reluctance by the Commonwealth to give domestic effect to human rights treaties that we have voluntarily ratified and in the case of UNCROC, vigorously advocated in the international community.

...

Australia has not escaped significant international criticism in relation to UNCROC by the UN Committee on the Rights of the Child. As the due date draws near for lodgement of our second report on compliance, it is perhaps timely to recall what was said of our first account submitted in December 1995. In its 1997 Concluding Observations, the Committee noted...:

“The Committee is also concerned that there is no right of citizens to launch complaints in the local courts on the basis of the Convention on the Rights of the Child.”

*As noted by the Full Court of the Family Court in B and B: Family Law Reform Act 1995,*⁸ Australia's First Report informed the Committee that:

“Australia does not propose to implement the Convention on the Rights of the Child by enacting the Convention as domestic law. The general approach taken in Australia to human rights and other conventions is to ensure that domestic legislation, policies and practice comply with the Convention prior to ratification.”

Local audits and the UNCROC Committee's Concluding Observations run counter to the suggestion that compliance was achieved prior to or even subsequent to ratification of UNCROC.⁹ Leaving aside concerns about particular segments of children in Australia, some of the Committee's other principal concerns included:

- the absence of a comprehensive policy for children at the federal level;
- the disparities between the different States' legislation and practices, including budgetary allocations;

Continued on page 18

Human Rights Watch denounces exploitation of children in farms and agriculture in the United States.

Children work in dangerous conditions exposed to hazardous substances and for long hours.

One of the causes is the limited legal protection, which is hardly enforced. It is against the lack of this protective and preventive measure the HRW urges action.

Please, take action by undertaking the initiatives proposed in:

<http://www.hrw.org/campaigns/crp/farmchild/index.htm>

Labor's Plan for a Children's Commissioner

Nicola Roxon MP, Shadow Minister for Children and Youth, gave a speech during Child Protection week to the Child and Family Welfare Association of Australia. The speech outlined the Labor Party's plan to establish a federal Commissioner for Children and Young People. Full details of the plan are available at the Shadow Minister's website – www.nicolaroxonmp.com

Ms Roxon stated in her speech that a national plan is needed for children's services. This includes child care, family and income support, more innovative family services, children's health, early childhood development, welfare and family support. As Ms Roxon pointed out, "The lack of a National plan is an obvious gap. The Federal Government has national plans for a whole range of issues like:

- a National Car Industry Plan
- a National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances
- a National Mental Health Action Plan
- and even a National Plan for Space Re-Entry Debris!

So if it's important to have national plans for these topics, then surely it's important enough that we have a national plan for our children."

Labor proposes that the Commissioner be set up as an independent statutory officer with powers and authority through an act of parliament and adequately resourced. However, the Commissioner would not act as an individual advocate or handle individual complaints. Labor's plan is for the commission to take on a broader advocacy and leadership role on children's issues. This also involves providing leadership within and between governments and looking at the

development of a National Code on relevant children's issues with the states and territories.

Another feature of the Labor's proposal is to have the Commission co-ordinate a national working with children check. This will mean that any person who intends working with children will have to undergo a national check to determine whether they are suitable to work with children.

While the proposal is welcomed, there appears to be very little in the proposal that outlines the powers of the Commission. For instance, it is unknown if the Commission will have any inquiry powers and powers to receive information from federal, state and territory governments. There also appears to be no statement about the Convention on the Rights of the Child being central to the operation of the Commission. DCI considers this to be central to the establishment of the Commission. DCI (Australia) will continue to push for the establishment of a federal Commission for Children and Young People with appropriate powers to promote and support children's rights across Australia and look forward to working with all political parties to achieve this goal.

Andrew O'Brien

The International Secretariat of DCI is keen to adorn its office spaces with children's drawings that reflect the principles of the United Nations Convention on the Rights of the Child.

Pictures of A4 size are invited and should be sent:

By email to dcj-is@tiscali.net.ch

By post to: 1 rue de Varembe, Case Postale 88, 1211 Geneva 20.

National Children's and Youth Law Centre (NCYLC) and DCI Australia to co-ordinate the Australian NGO report under CROC

Australia is seriously in default of its reporting obligations under the Convention on the Rights of the Child. On ratification of the Convention in 1990 the Australian government committed itself to filing an Initial Report by January 1993 and subsequent Periodical Reports at five yearly intervals.

Australia's First Report was filed in December 1995 (nearly three years late). The second report was due in January 1998 but Australia has decided to file a combined second and third report (covering ten years). The third report is due in January 2003 but it is quite clear that this deadline also will not be met.

The consequence of Australia's dilatory approach to its international obligations under CROC is that its laws, policies and practices have not come under scrutiny because the Committee on the Rights of the Child can only comment on a country's performance if the country has submitted a report.

An important element in the consideration by the Committee on the Rights of the Child on a country's report is the independent information and comment it receives from non-government organisations in that country by means of an NGO report. There is a tendency on the part of governments to highlight the good news stories for children and remain silent about the bad news: laws, policies and practices which breach the Convention. One commentator has described this as a process of 'diplomatic obfuscation', couching reports in language which conceal rather than reveal the true position. Without a robust NGO report, the Committee on the Rights of the Child is not able to make a balanced determination of progress made by the country in question in achieving full compliance with CROC.

Because of Australia's failure to meet its timelines, it has been difficult for the non-government sector to embark on the process of developing an NGO report to coincide with Australia's next report to the Committee on the Rights of the Child. A comprehensive and informed NGO report requires a huge amount of research, consultation and co-ordination. Defence for Children International Australia prepared an alternative report in 1996 to coincide with Australia's belated first report (thanks in great measure to the commitment and organisational ability of Helen Bayes and a small group of dedicated workers). The next NGO report will cover a period of ten years or more and will involve an analysis of laws, policies and practices at Federal, State and Territory and local authority level.

NCYLC and DCI Australia have agreed to jointly undertake the preparation of an NGO report. This will involve consulting and liaising with NGOs throughout Australia. A request will be made to the Commonwealth Attorney-General's office for funding to assist with the task of researching, co-ordinating and developing an NGO report. A request will also be made for special funding to ensure that children and young people are fully involved in putting their views forward for inclusion in the report.

The UK Government is to appear before the UN Committee on the Rights of the Child to answer questions on its failure to meet its obligations under the UN Convention on the Rights of the Child, particularly by locking up offenders from the age of 10 and failing to ban corporal punishment.

Source: Telegraph
<http://www.telegraph.co.uk/news/main.jhtml?xml=%2Fnews%2F2002%2F09%2F18%2Fnkids18.xml>

18 September 2002

Children's Lessons in Compassion

Year 6 and 7 section of the Australia IS Refugees! Competition The Years 6 and 7 section of the competition ran from February to June 2002. High Schools students submitted their essays for judging by Tom Shapcott, Phillip Adams and Helen Garner on 30th September. Dr Eva Sallis from the University of Adelaide reports.

In the midst of what has become a human rights crisis for Australia, this project has been extraordinarily uplifting. It has had a very creative, inventive and enterprising response from children, who sought out, interviewed and wrote the stories of refugees from more than 30 different countries. Their harrowing stories are told through the words and imaginative recreation of the young authors. What inspired those who read the entries was the clarity of the children's sense of justice and their embracing warmth for their subjects.

The winning stories and the names for the shortlist of 65 will be published in the event booklet, together with the list of those who donated time and gifts to make the project possible. The prize giving event will be on Monday December 2nd in Melbourne. The judges' report on the winning story, *For the Love of a Child, Mai's Story* by Khazmira Bashah (Perth College Primary, WA) states that the -writer displays great empathy with her subject and insight into the refugee situation.

"The opening image of Mai's arrival in Perth, Valentine's Day, 1982, is startling as are many other references to the details of the family's escape. The narrative deals with tragedy, bravery, determination and chance until resettlement in Australia. Mai's words may be a fitting comment for so many in this project:

'A person who becomes a refugee does not always come with the hope of a better life, they come for survival, because they cannot continue to live and be alive in the country

they are fleeing from.

It takes desperate steps to leave in small boats to set off for a place that may never let you stay, but none of that matters because you leave your country for Freedom.'"

Schoolgirl Tells PM: Time For Us to Say Sorry

By: Jemma Chapman
The Advertiser (27 August 2002)
<http://www.theadvertiser.news.com.au/printpage/0,5942,4977701,00.html>

AT the age of 12, Lauren Clark won the state secondary section of the 2002 Dorothea Mackellar Poetry Awards, putting her ahead of students up to five years her senior. Her poem, *How did it get so bad?*, focuses on the need for reconciliation between Aboriginal and non-Aboriginal Australians.

*How did it get so bad we can't say sorry
Sorry for the way we worked you
Sorry for the way we hurt you
For the hatred we grew
For the way we ignored you.*

Lauren said she was inspired by media debate on reconciliation and refugee issues. "I don't know anybody who is Aboriginal but there's been a lot of coverage in the media of Aboriginal issues and also the treatment of refugees," Lauren said. Lauren said she thought it was imperative Prime Minister John Howard issue a formal apology to Aboriginal people.

*"I think that everybody should be treated fairly and given a chance.
"We need to accept the differences of other cultures and learn from them.
"We all live in Australia and should get along."*

Continued from page 14

- the lack of public knowledge of UNCROC (a view later echoed by the Parliamentary Joint Select Committee on Treaties);¹⁰ and
- “that the general principles of the Convention, in particular those related to non-discrimination (art. 2) and the respect for the views of the child (art. 12) are not being fully applied”;

Again, confining myself to the most overarching recommendations of the Committee, it urged:

- awareness raising campaigns on UNCROC, particularly “the right of the child to participate and express his/her views, in line with article 12 of the Convention”; and
- “that there be a federal body responsible for drawing up programmes and policies for the implementation of the Convention on the Rights of the Child, and monitoring their implementation.”

The advent of a Federal Minister for Children and Youth Affairs in the present Executive structure may presage some activity on these recommendations and I note with interest that the Minister led the Australian delegation to the United Nations Special Session on Children held [in May 2002].

Notwithstanding this development, I maintain my longstanding view that as well as a Minister responsible for children, Australia needs a truly independent statutory body that is charged with the responsibility to monitor and promote domestic compliance and implementation of UNCROC, and is properly resourced to do so. Such a body should report directly to Parliament and should have the tasks such as scrutinising every piece of legislation that might have implications for children.

The person with ultimate responsibility for the body should have the same independence of the Executive as does a member of the judiciary.

I consider that this independence is necessary because it does not always suit government policy to be child focused. With the best will in the world, the responsible Minister may not be in a position to direct public attention to a particular problem because of the principle of cabinet solidarity. Similar considerations apply in respect of a Children’s Commissioner who holds a Public Service type appointment.

Such officials have functioned effectively in Scandinavian countries for many years. Unfortunately, when attempts have been made in this direction in Australian States, these Offices have been the subject of criticism for a lack of independence in the sense that I have described.¹¹

Footnotes

1 M. Rayner, (1994) *The Commonwealth’s Role in Preventing Child Abuse : A Report to the Minister for Family Services*, Australian Institute of Family Studies, Melbourne.

2 see T.Brown with R. Sheehan, M. Frederico and L. Hewitt (2002) *Resolving family violence to children*, the evaluation of Project Magellan, a pilot project for managing Family Court residence and contact disputes when allegations of child abuse have been made, and the references therein, available at:

<http://www.familycourt.gov.au/papers/html/magellan.html>

3 (1999) 198 CLR 511.

4 (1995) 19 Fam LR 528.

5 See A. Nicholson “Future directions in family law”, A paper presented to Family Law : Processes, practices and pressures, International Society of Family Law, 10th World Conference, 10 July 2000, Brisbane, Australia available at

<http://www.familycourt.gov.au/papers/html/nicholson10.html>

6 As to the inclusion of jurisdiction concerning young offenders, The Honourable Justice Linda Dessau has noted:

“... a unified family court must also include juvenile crime. Otherwise, those children charged with offences would be dealt with as the junior part of an adult criminal justice system. To follow that course would be to marginalise those children, who in reality are mostly indistinguishable from the children who are in need of care and protection or suffering family breakdown, family violence or other family problems.” ‘Children and Family

Violence Laws in Australia' Paper presented to the conference In the Mainstream: Contemporary Perspectives on Family Violence, September 1999, Belfast.

7 'The care and protection of children : the interaction of the Magistrates and Family Courts : More than all the King's Horses and all the King's Men' a paper delivered at the 11th Annual AIJA Magistrates Course, Monday 23 November, 1998 available at <http://www.familycourt.gov.au/papers/html/faulks2.html>

8 (1997) FLC ¶92-755 at par 10.12

9 See for example: Australian Law Reform Commission/ Human Rights and Equal Opportunity Commission (1997) *Seen and Heard : priority for children in the legal process*, Report No 84, ALRC, Sydney. The Australian Section of Defence for Children International (1996) *Australia's Promises to Children - The Alternative Report*; G. Brewer and P. Swain (1993) *Where Rights are Wronged - A Critique of Australia's Compliance with the United Nations Convention on the Rights of the Child*, National Children's Bureau of Australia, Melbourne; J. Harvey, U. Dolgopol and S. Castell-McGregor (Eds) (1993) *Implementing the U.N. Convention on the Rights of the Child*, Children's Interests Bureau, Adelaide.

10 Joint Standing Committee on Treaties *United Nations Convention on the Rights of the Child - 17th Report*, tabled 28 August 1998 available at <http://www.aph.gov.au/house/committee/jsct/REPORTS/Report17/Rept17Contents.htm>. See Executive Summary under the heading "Publicising the Convention". It appears there has been no Government response to the Joint Standing Committee's Report.

11 See Defence for Children International (Australia) (1998) *Taking Children Seriously: A Commission for Children and Young People*. The concrete proposal arising from the analysis is available at <http://www.dci-au.org/html/section6.html>. [Editorial Note: See also Youth Affairs Council of Victoria (2001) *Are You Listening to Us - The case for a Victorian Children's and Young People's Commission*].

Detention Evidence To Be Public

On 9 October 2002, Dr Sev Ozdowski, the Human Rights Commissioner, handed down his decision regarding the proposed public hearing involving the Department of Immigration Multicultural and Indigenous Affairs (DIMIA) and Australasian Correctional Management

(ACM). He decided that the public hearing for DIMIA and ACM will be held from 2-5 December 2002. It is not yet known whether DIMIA and/or ACM will appeal. This is an edited extract from the summary issued by the Commission. The full text of the Commissioner's reasons is at: http://www.humanrights.gov.au/human_rights/children_detention/dimia/reasons.html

The National Inquiry into Children in Immigration Detention ("the Inquiry") has been holding public hearings throughout the year to hear submissions and take evidence. I had intended to hold a public hearing from 9-12 September 2002 at which officers from the Department of Immigration and Multicultural and Indigenous Affairs ("DIMIA") and Australasian Correctional Management ("ACM") were to attend to make submissions and answer questions in relation to the Inquiry. However, an application was made by DIMIA and ACM for directions to maintain the confidentiality of documents that had been produced to the Commission by DIMIA and ACM in response to Notices that I had issued under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth) and I decided to suspend the public hearings to resolve the issue.

On 12 September 2002, DIMIA and ACM appeared before me and made submissions in support of their application for directions. Section 10(1)(b) of the Act requires the Commission to ensure its functions are performed for the greatest possible benefit to the people of Australia. This aim is promoted by maintaining a transparent and open process. I have carefully considered all of the submissions made by DIMIA and ACM. However, I have decided in the majority of cases not to make a direction for confidentiality. In many cases I have rejected the claims made by DIMIA and ACM altogether. Where I have accepted the concerns raised by DIMIA and ACM I have balanced them with the interests of the public in being informed of the results of the Inquiry and other relevant factors.

I have decided that the public hearing for DIMIA and ACM will be held from 2-5 December 2002. These are dates suitable to the Commission and will give the Commission, DIMIA and ACM time to prepare for the hearings on the basis of the present decision.

Psychological Well Being of Child and Adolescent Refugee and Asylum Seekers

The HREOC website contains a literature review on the Psychological Well Being of Child and Adolescent Refugee and Asylum Seekers: Overview of Major Research Findings of the Past Ten Years



Prepared by Trang Thomas and Winnie Lau
http://www.humanrights.gov.au/human_rights/children_detention/psy_review.html#abstract

An edited version of the abstract appears below:

This paper outlines major international research findings of the past ten years reflecting knowledge gathered about the psychological health of child and adolescent refugee/asylum seekers. In doing so, several key areas of consistency are identified. First, with the majority of research in this area centered on the prevalence of psychopathology, and particularly post-traumatic stress symptoms, it has been clearly demonstrated that refugee children and adolescents are vulnerable to the effects of pre-migration, most notably exposure to trauma. Second, particular groups in this population constitute higher psychological risk than others, namely those with extended trauma experience, unaccompanied or separated children and adolescents, and those engaged in the uncertain process of sought asylum. Third, certain risk and protective factors appear to exist that temper or aggravate poor psychological health. These include family cohesion, parental psychological health, individual dispositional factors such as adaptability, temperament and positive self-esteem, and environmental factors such as peer and community support.

The research is less clear however in a number

of areas. These include the mechanisms by which risk and protective factors exacerbate and temper the effects of trauma and migration experience, as well as the role of culture as a mediator in the experience of trauma and migration.

Despite being a perennial issue, circumstances of irregular migration across the world have only recently impelled psychological interest into the mental health of refugee and asylum seekers. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that there are 22.3 million refugees worldwide. A refugee is someone who “owing to well founded fear of being persecuted for reasons of race, religion, nationality or membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside that country of his former habitual residence as a result of such events, owing to such fear, is unwilling to return to it” (Article 1A(2), *Convention relating to the Status of Refugees* (1951)). This definition is contrasted with that of an asylum seeker, whose status as a refugee is yet to be formally determined by the host society (Human Rights and Equal Opportunity Commission, 2001). More importantly, these definitions are to be differentiated from that of an economic migrant whose mobilisation is voluntary and primarily motivated by improved material circumstances as opposed to human rights and safety (Morrow, 1994).

While there is considerable and growing literature in the mental health of adult refugee/asylum seekers, current research acknowledges a lack of understanding in the mental health of child and adolescent refugee/asylum seekers (Dybdahl, 2001; Hicks, Lalonde & Pepler, 1993; Hyman, Vu & Beiser, 2000). This is particularly the case regarding the mental health of child and adolescent refugee/asylum seekers in detention.

This is surprising given that as many as half the world’s refugee population is comprised of children and adolescents (Cole, 1998). Such limited investigation however, may in part be due

to the difficulties associated with population access, systematic sampling, cultural and language barriers, limited cross culturally validated measurement techniques, and wariness of parents and participants to trust researchers (Richman, 1993; Silove, Sinnerbrink, Field, Manicavasagar & Steel, 1997).

Though not all refugee and asylum seeking children and adolescents are subjected to these circumstances, experiences often claimed to be encountered by them include the violent death of a parent, injury/torture towards a family member(s), witness of murder/massacre, terrorist attack(s), child-soldier activity, bombardments and shelling, detention, beatings and/or physical injury, disability inflicted by violence, sexual assault, disappearance of family members/friends, witness of parental fear and panic, famine, forcible eviction, separation and forced migration (Burnett & Peel, 2001; Davies & Webb, 2000).

Other forms of trauma might include the endurance of political oppression, harassment and deprivation of human rights and education (Burnett & Peel, 2001). Such experiences not only make refugee/asylum seeking populations heterogeneous, they also create vulnerability in children and adolescents due to their incomplete biopsychosocial development, dependency, inability to understand certain life events (Kocijan-Hercigonja, Rijavec & Hercigonja, 1998) and underdevelopment of coping skills (Ajdukovic & Ajdukovic, 1993).

This summary outlines major international research findings of the past ten years reflecting knowledge gathered about the psychological health and well-being of child and adolescent refugee/asylum seekers. It incorporates a search of literature from the psychINFO, Medline, BioMedNet, Academic Research Library, EBSCO, Proquest, Science Direct and Wiley-Interscience databases using criteria restricted to articles from 1990 to date and in the English language. Search terms included single and combined forms of the following descriptors: refugee camp, refugee detention, imprisonment, child and/or adolescent refugee, asylum seeker, displacement, Australia, development, long term effects, long term stress, post-traumatic stress,

stress, psychopathology, mental health, psychiatric effects and psychological well being.

The review is divided into major sections of studied areas in the literature, namely post-traumatic stress disorder (PTSD), co-existence of several symptoms and disorders (a term that broadly means serious problems), and risk (vulnerability) and protective (resilience) factors at both pre- and post- migration phases. It should be noted that this paper does not aim to provide an exhaustive discussion of theoretical issues, methodological considerations (e.g., problems in retrospective data collection) or treatment issues, but rather to highlight major findings and conclusions of this research. It should also be noted that the paucity of research in child and adolescent refugee/asylum seekers necessitates at times reference to knowledge from adult populations. Where such reference is made, caution should be taken to avoid overgeneralisation of these findings to this new risk population of children and adolescents.

CRC Discussion Day

In the last edition of ACRN we foreshadowed that the Committee on the Rights of the Child had decided to devote its day of discussion in 2002 to the theme "The private sector as service provider and its role in implementing Child Rights". Twenty-five recommendations issued from the meeting. You can find the Full Report at <http://www.unhchr.ch/html/menu2/6/crc/doc/days/service.htm>.

Several organisations and individual experts submitted documentary contributions and these are posted on the website of the Child Rights Information Network (CRIN) at: <http://www.crin.org/docs/resources/treaties/crc.31/discussion.htm>.

Next year's discussion day, to be held during the September – October session, will examine the rights of indigenous children. The Committee intends to adopt an outline with more details at its next session in January.

Publications

The NSW Government recently hosted a childhood obesity summit in Parliament House, Sydney

A number of resolutions relating to early childhood were adopted. You can visit the website on

<http://www.health.nsw.gov.au/obesitysummit/>
Similar summits may be held in Melbourne and Adelaide later in the year.

Launch of the Child and Family Welfare Association of Australia (CAFWAA) report

‘A time to invest in Australia’s most disadvantaged children, young people and families. You can download a pdf of the report (52 page) from this site: <http://www.acwa.asn.au/CAFWAA/TimetoInvest.html>

UNICEF (2002) Harnessing Globalisation for Children.

Florence: UNICEF/Innocenti. Publication analysing the impact of the latest forms of globalisation on children. Available in pdf format at: <http://www.unicef-icdc.org/research/ESP/globalization/index.html>

Honourable Landon Pearson (2002) Summary and Analysis of the Country Statements Presented at the Special Session.

Report prepared by a Canadian Senator providing summaries of the country statements presented at the Session. Available at: www.sen.parl.gc.ca/lpearson/htmlfiles/hill/17_htm_files/Committee-e/1-Country%20statements.pdf

NGO Group for the Convention on the Rights of the Child (2002)

The impact of discrimination on working children and on the phenomenon of child labour. Document on discrimination and child labour developed by the Subgroup on Child Labour of the NGO Group for the Convention on the Rights of the Child. Now available in pdf format in the Antislavery Int, website: www.antislavery.org

The Children’s Rights Alliance for England CRAE - has launched a new service - the U What? website - which translates government documents into language that is understandable and accessible to young people so they can get more involved in the political process.

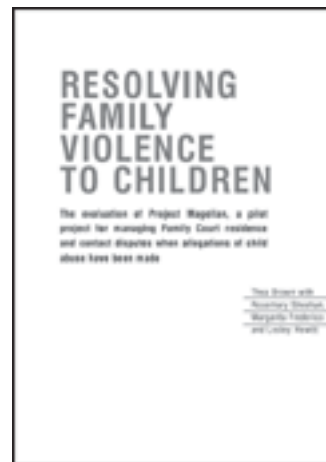
Source: Press Release <http://www.crights.org.uk/uwhat/press.html> 17 September 2002

A new web-site on the prevention of violence and injury:

www.who.int/violence_injury_prevention

The report RESOLVING FAMILY VIOLENCE TO CHILDREN :

The evaluation of Project Magellan, a pilot project for managing Family Court residence and contact disputes when allegations of child abuse have been made by Thea Brown with Rosemary Sheehan, Margarita Frederico and Lesley Hewitt on the evaluation of the Magellan project available at: <http://www.familycourt.gov.au/papers/html/magellan.html>



Copies of the Refugee Sunday Education Kit have run out, but it is available in word and pdf for download at:

<http://www.ncca.org.au/rdp/refugee-sunday/index.asp>

Included in the Kit is:

- * A Report on “The Pacific Solution”
- * What happened to those on board the Tampa?
- * An Education sheet, which includes:
- * Myths & Facts about refugees

- * Comparisons of Rights and Entitlements
- * Information on TPVs & Asylum Seekers
- * An Action and Resource Guide
- * All contacts and links you need to get started

Source: BNYSN News online #4
<http://www.mc2.vicnet.net.au>

Feedback would be greatly appreciated.
 James D. Thomson, National Advocacy Officer
 National Program on Refugees and Displaced
 People National Council of Churches in Australia
 Locked Bag 199, Sydney 1230
 Tel: 9299 2215, Fax: 9262 4514
 Email: jthomson@ncca.org.au
 Website: <http://www.ncca.org.au>

UPCOMING EVENTS

16 SEPTEMBER - 04 OCTOBER 2002
 Committee on the Rights of the Child, 31st session
 Location: Palais Wilson, Geneva, Switzerland
 Organiser: UN Office of the High Commissioner
 for the Human Rights Event: the Committee will
 study the reports submitted by:
 Moldavia, Seychelles, Israel, Sudan, Argentina,
 Ukraine, United Kingdom, Burkina Faso and
 Poland. Information: www.unhchr.org

Conferences

More Websites !

**VET FOR YOUNG PEOPLE IN SCHOOLS
 AND TAFE: WORKING TOGETHER OR
 PULLING APART?** Date: 25 November 2002
 Time: 8:30 AM - 4:30 AM

This one-day conference will be of particular interest to policy makers, TAFE personnel, school principals, careers advisers and VET coordinators. Its aim is to facilitate dialogue between all groups concerned with the delivery of VET to young people. Participants will have the opportunity to pool their experience and tackle crucial issues at the interface between TAFE and schools.

Keynote speakers from the TAFE and school sector will present the view of their respective sector, followed by a parallel series of shorter presentations and workshops by school and TAFE personnel. Cost: \$99 (includes lunch, refreshments and GST)

Where: The University of Melbourne, 1888 Building, Grattan Street, Carlton. For more info: See <http://www.edfac.unimelb.edu.au/EPM/EORU/VETconf.shtml> or contact Genevieve Bunyan ph (03) 8344 8227, email: gpbunyan@unimelb.edu.au. If you are interested in making a short (15-20 min) presentation on an aspect of VET provision at your workplace contact Sue Helme on (03) 8344 8338 or by e-mail sueh@unimelb.edu.au to discuss your ideas. Registration is free for presenters.

The Scottish Central Research Unit have just published their latest 'Health and Community Research Findings' Brief info below - the research findings are freely available at:

<http://www.scotland.gov.uk/cru/resfinds/hcc23-00.asp>

The full 77 page report can be accessed at: <http://www.scotland.gov.uk/cru/kd01/maroon/%20ycas-00.asp>

SITE BACKED BY INTERNATIONAL LAW ENFORCEMENT LAUNCHED [web site]
 An attempt to fight the crisis of child prostitution and trafficking is the web site .

www.youwillbecaught.com.

It provides content to visitors in 8 languages, accepts tips about suspected offenders and publicises cases of convicted criminals. Submissions are forwarded to local and international law enforcement agencies for investigation.

Within hours of launching in June 2002, the site has already received several tips.

Visit www.youwillbecaught.com for details.

The Scottish Executive has set out the role and remit of the independent commissioner to champion the rights of children and young people. Source: Scottish Executive Press Release

<http://www.scotland.gov.uk/pages/news/2002/08/SEED091.aspx>

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	Govt	\$60	pa

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Level 6 Number 1, Elizabeth Street
Melbourne VIC 3001

Websites

Just published on the Joseph Rowntree Foundation website is 'A school-based programme to prepare underachieving young men for work'. Targeting 14- and 15-year-old young men in school, this practical project aimed to prepare them for the workplace. Read it at <http://www.jrf.org.uk/knowledge/findings/socialpolicy/932.asp>

Just published on the Joseph Rowntree Foundation website is 'Promoting change through research: the impact of research on local government'. This study looks at how local authorities are using evidence-based research and what kind of changes it influences. Read it at <http://www.jrf.org.uk/knowledge/findings/government/922.asp>

Defence for Children International (Australia) signed the online petition: "Call for a Royal Commission into the Australian Government's Treatment of Asylum Seekers". Details of the petition can be found at: <http://www.PetitionOnline.com/ausrefug/> Pip Hinman, refugeeroyalcommission@yahoo.com.au

The Hon Larry Anthony, Minister for Children and Youth Affairs, launched the CAFWAA's (Child and Family Welfare Association of Australia) report: A Time to Invest in Australia's Most Disadvantaged Children, Young People and Families. This report can be downloaded from the CAFWAA website at: <http://www.acwa.asn.au/CAFWAA/TimetoInvest.html>