

Australian Children's Rights News

Newsletter of the Australian Section of Defence for Children International

Issue Number 35, September 2003

ISSN 1320-7091

Children's participation in practice in the London Office

Moira Rayner

Moira was the founding Director of the Office of Children's Rights Commissioner for London. She is a member of DCI-Australia's Advisory panel and has been a strong and passionate advocate for children and young people and human rights for many



years. She was previously Commissioner/Chairman of the Western Australian Law Reform Commission and the Commissioner for Equal Opportunity in Victoria. She is currently Anti Corruption Commissioner (Western Australia) and Visiting Senior Fellow, Law Schools of Melbourne University and University of Western Australia.

In this article, Moira outlines the processes and principles involved in real participation for children drawing on her experience in establishing the London Office, where she has been very successful in modelling effective children's participation in management of the Office itself and in government decision-making as well as drafting the first Children's Strategy for the Greater London Authority.

'Children are not the people of tomorrow, but people today. They are entitled to be taken seriously. They have a right to be treated by adults with courtesy and respect, as equals.'¹

The Office of the Children's Rights Commissioner for London

In 1999 I went to London to be interviewed by a panel of children on the Advisory Board of the Office of the Children's Rights Commissioner

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President's comments:

The articles in this edition of ACRN follow three main themes: what children's participation means in practice, the effect of violence on children and children's right to be safe from violence, and the decisions of the Family Court in relation to children seeking asylum.

I am also delighted that these involve some very significant contributions from our advisory panel members. Moira Rayner has now returned to Australia and writes about her experience as the founding Director of the Office of Children's Rights Commissioner for London. This lead article provides a practical and thoughtful outline about the principles involved in getting children involved. It provides useful guidance on how to move beyond the often tokenistic approach to participation.

The article by our patron, Phillip Adams, on "Corporate Paedophilia, is reprinted from *The Australian*, and outlines his outrage against corporate paedophilia: "the abuse of children - involving sexual abuse, violent abuse and economic exploitation - by some of the mightiest corporations". Phillip is "talking about the billions of dollars of marketing aimed at kids whose childhoods are being cynically abbreviated, stolen for profit. I'm talking about the sexualisation of ever younger children through advertising and for what passes for entertainment - so that kids are encouraged to see themselves as sexual beings long, long before puberty". His comments are timely - in the last few weeks, research in at Westmead Children's Hospital in western Sydney has found that among the under-16s being treated for anorexia, the average age of anorexia sufferers has now dropped from just over 14 only 18 months ago to 12. The dramatic change means many children are now suffering from anorexia before they reach puberty, threatening their brain and bone development during adolescence.

The Guardian reported that researcher, Dr Cohen, said children were developing anorexia as a response to an uncertain social environment. "Children are

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Australian Children's Rights News is published by Defence for Children International Australia. The editors of this issue are Judy Cashmore and Andrew O'Brien. Electronic formatting of this issue is by Web Enter www.webenter.com.au. The views expressed in Australian Children's Rights News are not necessarily those of DCI. Articles, reports, information about meetings and conferences can be faxed to the Editor, (03) 9614 7088 or e-mailed to: info@dci-au.org

much more sophisticated at a younger age now, in terms of sexual experimentation and use of drugs, and they use eating disorders as coping strategies” (<http://www.guardian.co.uk/australia/story/0,12070,1016883,00.html>).

Continuing with the theme of violence to children, several research reports from the US and from New Zealand indicate the short-term and longer-term consequences of physical punishment, and children’s experience of such punishment. Further to the international theme, comes news from Iceland about the ban on spanking, and more locally, the outcome of a NSW case following the introduction of legislation limiting the form of physical punishment allowed in that state.

The third article by DCI’s Advisory panel members is **Look into the eyes of Ali Ismail Abbas: what do you see?** This article by Chris Goddard is reprinted by kind permission of *The Age*. Although it was written several months ago and the media attention for Ali has lapsed, the issues Chris Goddard raised then continue – outside the concerns about the lack of any evidence of weapons of mass destruction and the effects of the US-UK-Australian intervention on the lives of those in Iraq.

A continuing theme is Australia’s treatment of children seeking asylum either as unaccompanied minors or with their families. Some of the children in immigration detention get a voice via their drawings and words in a publication “*Ask the Children: Kids speak out about immigration detention experiences*”. This publication is one of very few accounts that enables us to hear about refugee children’s experiences in their own words. It was prepared as part of the submission process by the NSW Commission for Children and Young People to the Human Rights and Equal Opportunity Commission’s national inquiry into children living in immigration detention. This inquiry is due to report later this year.

A number of prominent Australians have spoken out about the harsh treatment by the Howard government of asylum seekers – among them the former Governor-General, a former Australian of the Year, and a former cricket Test Captain.

The Family Court has also been involved in a number of cases brought to the Court for applications to release children (and in at least one case to date, their parents as well). The full Family Court ruled that it that it could order the release of children on welfare grounds, saying that its responsibility for their well-being overrode immigration law. The government’s appeal to the High Court has been set down for hearing on 30 September 2003.

The Howard government is continuing to run the line that the government is willing to release children from immigration detention if it is in their best interests. But the government, through the Minister for Immigration and the Treasurer, Peter Costello, is making it clear that in its view it is **better** for children not to be separated from their parents. And as the government has no intention of releasing the parents, releasing the children would mean separating them from their parents. It is a sad state of affairs when a government of a country that is a signatory to the UN Convention on the Rights of the Child can use this sort of logic to say that it is better for children to stay in detention behind razor wire. Hardly, in their BEST interests!

On behalf of DCI Australia, I would also like to convey our warmest congratulations and very best wishes to Dr Quentin Bryce on her appointment as Governor of Queensland. Dr Bryce has a distinguished record of service to the community and to DCI, and has been a member of our Advisory Panel for a number of years.

I would also like to welcome warmly the new members of the National Committee – Sara in the Northern Territory, Jennifer Harvey in SA, Sue Packer in the ACT, and Allison Tait in Queensland; and thank the outgoing members, Danny Sandor, currently in Argentina, Teresa O’Sullivan (Northern Territory) now living in NSW, Kate Fennessy (ACT), and Kerry Walker (Qld) now moved to Victoria. Your contributions are greatly appreciated.

Best wishes
Judy Cashmore
President, DCI Australia

Continues from page 1

for London and, having satisfied them that I was a fit and proper person, accepted their offer to be founding Director.

The office was set up to demonstrate what a children's rights commissioner could do for the quality of government decision making for the new regional government of London, the Greater London Authority. It was to be a non-government 'children's rights commissioner' and help make the case for a statutory one, that it makes government effective for children, created by a consortium of children's groups and funded by charities² and by the NSPCC, the Children's Society and Save the Children (UK).

It was, from the beginning, an Office driven by the priorities and concerns of children. It was not established by the GLA. We had to work to be accepted as a contractual partner by the Mayor.

We wanted children to be involved in decision-making about the Office from the beginning and to model children's participation in 'adult' decision-making. So, the Office was created when its Advisory Board of children and young people was appointed in October 1999. The Board members, aged between 8 and 17, were trained in human and children's rights, meeting procedures, the duties of an Advisory Board, and staff recruitment and selection processes. They helped develop the selection criteria and job descriptions for and to select the staff and to find and fit out the premises. They decided to meet at least monthly and to continue to be directly involved in all the Office's work. They also asked for and received training in public speaking, dealing with media, presentation skills, research techniques and mediation.

The Office's policies and programs and publications had to be child-friendly and approved by the Board. They came out of our consultations with children through questionnaires and surveys and meetings. Children helped develop the Greater London Authority's public transport, economic development, culture and children's strategies. Nursery school children, under the age of 5, told the Mayor what they wanted their new London to be like. It resulted in a comprehensive consultation program with children on the Mayor's strategies and, on 8th April

2003, the release of the first ever Children's Strategy for a major city based on the UN Convention on the Rights of the Child and the direct participation of children. It puts children's voices, and their rights to health, safety, inclusion and to be taken seriously at the heart of the Greater London Authority's decision making on housing, public transport, public safety, housing, environment, culture and spatial and economic development: the real decisions that affect children's real lives.³

I would sum up our underlying principles in these terms:

A child's belief that they can influence their own circumstances has been shown to be a key resilience factor, enabling them to survive horrific experiences, including neglect, violence and prolonged trauma.⁴ This confidence can be built up, layer by layer, as we saw happen with the members of our Advisory Board.

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 third 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 30 September 2003 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/

Increasingly, the law acknowledges that children do have 'rights' and are not passive participants in society. This acknowledgement includes human rights treaty obligations such as the UN Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. Both guarantee participation as a keystone to rights protection. Children also have civil, criminal and administrative rights, including 'due process' – the right to be heard and, according to the House of Lords, the developing rights that come with age and experience: *Gillick v West Norfolk and Wisbech Area Health Authority*⁵ recognised an older child's developing 'right' to make decisions about their own medical treatment.

This has led to significant changes in professional practice. London is filled with 'participation' projects. Most health programs funded by government require the providers to demonstrate that service-users, including children, have evaluated their effectiveness. Far more lawyers are involved in formal decision-making affecting children now, and specialist professional training for lawyers representing children emphasises the duty to accept instructions from a client capable of expressing a view, whatever their age – and whatever the role of the lawyer.

What 'participation' means

Children have limited capacity to make decisions about their own lives.⁶ Yet as Janusz Korczak showed, children can do it effectively, if adults allow it. Korczak is not well known in Australia, though his heroic death, because he refused to leave the children in his Warsaw orphanage and went with them to Treblinka, captured the cinematic imagination.⁷ The UN established the International Year of the Child and began drafting the UN Convention on the Rights of the Child in Korczak's honour. His life's work as a paediatrician, author and broadcaster in his native Poland made him famous and beloved throughout Europe.

His true contribution to the rights of children was more fundamental than either his self-sacrifice or the Convention. Janusz Korczak established and ran the first democratic orphanages, in which adults and children were subject to the same rules and to the judgements of 'courts' administered by children. They worked.

Children have an acute sense of what is and is not just. They value the opinions of their peers. If we try to understand what they are frightened or concerned about they will trust us and we can give them what they need. Given responsibility, children learn how to exercise power responsibly. Children accustomed to being taken seriously understand the limits of freedom. Adults find it hard to share decision making with children. Perhaps that is why most of us are not clear about what children's 'participation' actually means.

As British academic Jane Fortin points out⁸ in reality children's 'participation' takes whatever limited form competent adults think convenient or proper in a particular context.

Key principles for children's participation in legal decision-making

I don't hold myself forward as a person children find easy to relax with or talk to. I'm an expert at getting the people with those skills to work for me! Many of the key points set out below came from the OCRCL Advisory Board's own review of the effectiveness of the London project, 18 months into the work. This fundamental principle was that the Board met and worked out its aims and identity before adults were employed. It was to be their office. I suggest that the key principles are the same no matter what the endeavour

1. If young people are to participate, it should be easy from the beginning to get and feel involved, and stay involved

This cannot be done by a chat. This requires an ongoing relationship with the persons supporting the child. In OCRCL two staff took two days a week to keep 15 young people informed, attached, and interested for three years.

2. Every process must be child-friendly

In OCRCL even the application to become a Board member was 'child tested' first by Article 12, a young people's self-advocacy group. It was decided to use the written application as the basis of selection for the Board so that children would not have to face a nerve-wracking interview: what might be

'normal' to an adult would not be acceptable to most children.

3. Successfully involving children means that they should not be asked to "fit in" to structures that are already in place.

In OCRCL the Advisory Board was set up before the staff were appointed meant that the children and young people who were to be involved in the project did not have to be bound by structures that were already created and we did not have to "fit in" with something that might not have been appropriate.

4. First impressions count

If you keep a child waiting they will assume that they are not important, become bored and alienated.

5. Let the child set some of their own ground rules for participating: they must feel some sense of control.

In OCRCL the children set out their own conduct code. This is what they worked out:

- Listen to each other and treat what they say seriously
- Respect others – their views and who they are. Don't be judgmental. Look for people's good points. Don't let age make a difference.
- Share all opportunities and co-operate with each other
- Try not to be shy, don't be put off by others, share your ideas and encourage each other
- Ask questions and raise things if you don't understand them
- Don't assume adults have all the answers – try to find them ourselves
- Have fun together as well as work
- No alcohol or swearing
- No criticizing writing or spelling
- If you need something (drinks, going to the toilet) do it, don't ask permission.

6. Preparation is essential

In OCRCL we realised there was a fine line between involving children, and accepting their experience as real and essential, and giving them our own adult and 'knowledgeable' agenda. In the same way children can be 'coached' to give someone else's story. If children are to be effectively involved, adults should not take away their voice and impose their own. However, children had to get the skills to make them effective, and to build their confidence up.

7. Keeping children involved takes planning and forethought

The original OCRCL Board members did stay, remarkably, involved and loyal. Keeping them involved was a key responsibility for all staff. To make sure that they really got involved the children:

- Knew well ahead of time what was to be discussed
- Had the opportunity of being briefed on the meeting business ahead of time, knowing what to expect
- Had meeting rules that, among other things, permitted them to speak first
- Having plenty of food and drink and breaks
- Met in a comfortable, friendly environment
- Started their meetings with games and fun
- Were not inflicted with jargon and long words or boring stuff during meetings
- Broke regularly – i.e. no business went on for more than an hour
- Wherever possible, either chaired or managed the meetings themselves with adults taking the notes
- Were given ways to make it clear when the conversation wasn't making sense to them, without feeling silly
- Received materials that were easy to understand, with lots of pictures, diagrams and clear explanations
- All minutes and papers were written in a child-friendly way – easy to read, large print, illustrated if appropriate, and very

plain about who was expected to do or say what and when

We found, for example, that it was perfectly possible to translate large formal policy documents, such as the GLA's 250 page draft transport strategy and economic development strategy, into a simple 8-page consultation document, which had the space for comment on the key questions or issues.

Lessons from London

The Office of London Children's Rights Commissioner was my only experience of a successful project focused directly on the experience of children and giving children a direct management role and a voice of their own, with government and in the management of the office. We learned a lot from this process.

Lesson 1. Understand and establish the participation principle before you start

The children themselves said that this was fundamental to their being involved in this kind of work. Without such a principle, it would be easy to drift into a fuzzy view of 'consultation' that satisfies adults but alienates children and does not really draw on their experience.

Lesson 2. A focus on children's own voices and experiences affected the way the adult staff's work was achieved.

For example, because of the work done through the survey with 3000 children, our research report, The State of London's Children Report emphasised the 'nowness' of children's lives and the need for a different policy approach. The children's rules about effective communication and dispute resolution were applied to adult behaviour too.

Lesson 3. We get more out of listening to children than they get out of it.

One serious ongoing issue came to the fore through the project: how much can be reasonably expected of volunteer children? Some of our young people worked very hard, coming in to the office frequently during the week, advising on our work in progress, meeting with visitors and giving presentations. We needed their input, more than, perhaps, they benefited from it personally.

Lesson 4. Establishing a clear values framework was very helpful when decisions had to be made in particular cases. The OCRCL values statement said in part:

Our values are:

- *Children are born with and entitled to enjoy the same human rights as adults*
- *Children are also entitled to extra help to claim and extra protection of their human rights*
- *We will always respect children's rights and expect others to*
- *We will treat everyone inside and outside the project with respect and dignity*
- *Children are entitled to learn about democracy by being involved in it as early and actively as possible*
- *It is important that children actively participate in the daily work of our project*
- *Children and adults have the right to play and rest*
- *We like diversity and value different kinds of people*
- *We like to...cooperate, share, trust, be open, consult, be generous*
- *We like exciting and bold ideas*
- *The voice of London's children must be heard*

Our Mission Statement is:

The Office of Children's Rights Commissioner for London works jointly with children to promote children's rights and participation in all areas of London life and London government, to link children with their city's government; and to make the case

for a permanent, statutory Children's Rights Commissioner for all children.

Lesson 5. Give the task realistic time and resources. Children's time frames are different from our own and cannot always be 'managed'. This can be really challenging but it is critical to accept it. Children cannot fit into adult expectations. Maintaining their active participation is demanding work and essential. It cannot be skimmed, and it takes resources as well as time.

Lesson 6. Everything about the task must be child-friendly. It is helpful to the adults as well. We found that to assume that adults would benefit as much as children from child-friendly language was absolutely true: communicating a message requires clarity of vision and imagery.

Lesson 7 Preparation and training are crucial. It is essential that children have the skills and the confidence to participate in adult-partnered work. We also found it was important to keep parents and other caring or responsible adults informed, so that their children could be involved and grow through the process without pressure or negativity.

The two most important lessons were:

Lesson 8. Children must feel that they can influence their own circumstances. In our case, a child-centred office, it was crucial to our success that the Advisory Board be appointed first, and given the job, skills, confidence and resources to shape 'their' Office. How else can it be shown that children can contribute to 'adult' activities? How else, prove to government that listening to children's experience makes better decisions?

Lesson 9. "The child is honest. When he does not answer, he answers. For he doesn't want to lie and he cannot say the truth. To my surprise I have stumbled on a new thought. Silence is sometimes the highest expression of honesty."⁹

Footnotes

1 Korczak quotes from Joseph, S. (Ed.) *A Voice for the Child: the inspirational words of Janusz Korczak*. Thorsons (Harper Collins) London. 1999

2 National Lottery Charities Board, the Calouste Gulbenkian Foundation, Bridge House Estates Trust Fund.

3 This can be downloaded from the website of the Greater London Authority, www.london.gov.uk

4 For a summary of that evidence see Rayner M and Montague, *Resilient Children and Young People – a review of the international literature*. Deakin University 1998/CWAV 2001.

5 *Gillick v Wisbech Area Health Authority* [1986] AC 112

6 Rayner, M. *Taking Seriously the Child's Right to be Heard*, in Alston P. and Brennan G (ed.s) *The UN Children's Convention and Australia*. Human Rights and Equal Opportunity Commission, Sydney, 1991.

7 Lifton BJ. *The King of Children. The Life and Death of Janusz Korczak*. St. Martin's Griffin, New York. 1988

8 Fortin, Jane. *Children's Rights and the Developing Law*. Butterworths, London 1998, P.21-32

9 Janusz Korczak. Op cit footnote 1.

Listening to Young Children: A Participatory Approach

<http://www.earlychildhood.org.uk/articles/article.asp?id=14&Subject=1>

Coram Family's *Listening to Young Children* project was established in 2000, when listening to children was increasingly being recognised as important and valid. The UN Convention on the Rights of the Child and the 1989 Children Act require that developments across children's services in education, health and social welfare have reflected the importance that government and service providers place on this basic human right.

Listening to Young Children is an integrated resource using visual arts to enable young children under the age of eight to articulate their experiences and express their views feelings and concerns. It also supports parents and practitioners to relate more effectively with children.

Further Information:

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What do Young New Zealand Children think about Physical Punishment

Beth Wood and Terry Dobbs presented a paper at the recent Children's Issues Centre conference in Dunedin, *The Missing Voice: What are children's views of physical discipline?*

The Missing Voice: What are Children's Views of Physical Discipline? (Dobbs, 2002) was a small-scale qualitative study to look at children's views on smacking. The study involved interviewing 10 children aged between 5 and 7 years of age. The children were interviewed in two groups of five children at their local school. The children were read a storybook that asked them to assist an alien creature called *Splodge*. Splodge was interested in smacking and thought that children would be able to answer his questions. The questions were put to the children by way of the storybook. This was so that the children had an option to talk about their own views on smacking or talk about children's views generally. This is an adaptation of the study carried out with 76 children by Carolyne Willow and Tina Hyder in 1998 in the United Kingdom (Willow and Hyder, 1998).

The major findings from the 10 children in the New Zealand study were:

- The children had considerable understanding and insight into their own and others behaviour and feelings and were able to express themselves clearly and articulately.
- They described a smack as a hard or very hard hit, which hurt both physically and emotionally and they associated smacking with angry parents.

*"It stings when your parents smack you."
"It makes you cry."
"Smacking makes you feel sad and grumpy."*

- They reported feelings of sadness, anger and fear after being hit which affected their relationship with the person who hit them.

When you are big do you think you will smack children?

"No 'cause we'll be big and they'll be little."

" 'Cause it's not nice to hurt little children."

- They reported that they were most often smacked for being violent themselves by parents and people in authority or perceived authority.
- Interestingly the children believed that smacking was wrong because it hurt both physically and emotionally. However, the children expressed some levels of confusion in assimilating their own beliefs that smacking was wrong with the fact that their parents smacked.

All of the children were adamant that it was not okay to smack.

"It's not OK but mothers and fathers do it."

"They might be allowed too, but I don't know."

- The children provided a wide range of alternatives to smacking as a punishment when they misbehaved. The children believed that these alternatives would be better than smacking.

Beth Wood once asked children for their advice on how adults should behave if they want children to behave well (Office of the Commissioner for Children, 1994). Among other things they said:

Be fair, don't hit us, listen to us, don't yell at us, talk things over with us, keep your promises, understand us, show us you like us, give us help when we need it, don't expect us to do things we can't do, be sure we understand and when we are angry let us cool down.

Where to from here?

There is still speculation in New Zealand about the government's likely action in relation to banning physical punishment and removing the defence of lawful correction. In December 2002 the Minister Mr Maharey issued a press release in response to media speculation that a decision had been made by Government not to repeal section 59 of the Crimes Act (www.beehive.govt.nz (2)). In this release Mr Maharey said:

The assumption at large in the media that the government has "backed off" the repeal of Section 59 of the Crimes Act that gives parents the right to physically discipline their children is wrong. The truth is that the government is working through the issue and has not yet arrived at a conclusion... In March next year Cabinet will again discuss what action might be taken in regard to Section 59. There are many options ranging from a legal ban on physical discipline (including smacking) to, defining exactly what force can be used on children and repeal of Section 59 of the Crimes Act. I favour the repeal of Section 59.

However in May this year the Minister, in another media release (www.beehive.govt.nz (2)) informed us that further consideration of section 59 would not take place until after the public education campaign planned to start in 2004 had taken place. The Government announced this campaign late last year and officials reported to Cabinet at the end of April with advice about the shape of the campaign. In the May 2003 Budget the Government announced that \$10.8m over the next four years had been allocated to the public education campaign. There has as yet only been limited consultation with non-governmental-organisations and the government has not opened up a full public discussion on this issue.

The limited consultation that has taken place with children indicates that children experience smacking and hitting as painful, frightening, unfair, ineffective, damaging of relationships, serving adult needs and sadly, something they sometimes deserve because they are "bad".

Adults are apparently finding it difficult not only to seek and listen to the voices of children, a radical shift in itself, but also in making a radical shift in thinking and behaviour in regard to hitting and smacking children.

Terry Dobbs, Specialist Interviewer, CYF, Private Practice

Beth Wood, Advocacy Manager, UNICEF New Zealand

Corporal Punishment Update in NSW

The last issue of ACRN reported on the limits on the force that can be used by parents in NSW to punish their children physically as a result of the the *Crimes Amendment (Child Protection - Physical Mistreatment) Act 2001*.

The amendment, which came into effect in December 2002, also clarifies the legal defence of 'lawful correction' and what is deemed "reasonable chastisement". It aims to reduce the harm caused to children through excessive physical punishment.

In the first indication that NSW police and the courts are taking this new legislation seriously, a parent was recently sentenced to a 12 month good behaviour bond for hitting his child with a belt that left sustained bruising on the child's thighs and buttocks.

The man is the first person to be charged under the new legislation. Under this legislation, parents who use physical punishment can be prosecuted if they use physical force on a child above the shoulders or use force that causes harm that lasts for more than a short time below the shoulders.

According to Detective Superintendent John Heslop, manager of the NSW Police Child Protection Enforcement Agency at the time of the legislation's passage through Parliament, the penalty awarded by the court validates the steps taken by police to protect children from harm.

“This successful prosecution is the first indication that the new legislation is being used by officers in NSW Police and that the courts are supporting police efforts in such cases”, said Detective Superintendent John Heslop.

“The new laws are being taken seriously by police officers who regard child protection as part of their role and the outcome serves as a warning for other parents that the law will not condone the use of inappropriately harsh physical punishment of children”, he said.

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In March 2003, the Icelandic government passed a new *Children's Act* which completes the process of total abolition of corporal punishment of children in Iceland by making it unlawful in the home. Article 28 of the new Act states:

Iceland Bans Spanking

It is the parents' obligation to protect their child against any physical or mental violence and other degrading or humiliating behaviour. This is interpreted by government and by the Ombudsman for Children as explicitly prohibiting corporal punishment by parents, and is supported by provisions in the 2002 Child Protection Act which had already placed an obligation on parents to treat their children with care and consideration, and to safeguard their welfare at all times.

The new law will enter into effect on 1 November 2003.

There is no legal defence available to parents who use corporal punishment, although there is a right to use physical restraint as an emergency measure when an individual is in danger of injuring himself or others. Cases of corporal punishment may come within the scope of the *Child Protection Act (2002)*, which

orders imprisonment (If those who have a child in their care mistreat the child mentally or physically, abuse him/her sexually or otherwise, or neglect the child mentally or physically, so that the child's life or health is at risk (Article 98) and for any person who inflicts punishments, threats or menaces upon a child, that may be expected to harm the child physically or mentally (Article 99), and imprisonment or fines for any person who subjects a child to aggressive, abusive or indecent behaviour or hurts or insults him/her (Article 99)).

The eleven states that have already banned corporal punishment of children are: Sweden (1979), Finland (1983), Norway (1987), Austria (1989), Cyprus (1994), Denmark (1995), Italy (1996), Lithuania (1998), Croatia (1999), Israel (2000) and Germany (2000).

By Peter Newell
Co-ordinator, EPOCH WORLDWIDE
peter@endcorporalpunishment.org

The UK Government has rejected calls for a ban on smacking from the Commons Health Select Committee and the Joint Committee on Human Rights.

The committee reports say that physical punishment is incompatible with the UN Convention on the Rights of the Child, and that it is too often used as an excuse for violence.

An NSPCC/MORI poll of 100 MPs has found that 83% believe that physical punishment can tip over into physical abuse, and 55% of Labour MPs support a change in the law.

Source: Guardian
<http://www.guardian.co.uk/guardianpolitics/story/0,3605,984396,00.html>
25 June 2003 p8

Exposure to Violence between Parents and Harsh Punishment during Childhood significantly increases the Risk for Adult Partner Violence

Findings Suggest Partner Violence Prevention Programs Should Begin Before Adolescence.

Recent research indicates that children who witness their parents using violence against each other and who regularly receive excessive punishment are at increased risk of being involved in an abusive relationship as an adult. The 20-year study, published in the August issue of the *Journal of Consulting and Clinical Psychology*, published by the American Psychological Association (APA) followed children into adult romantic relationships. In partner violence cases that result in injury, the study finds that being the victim of physical abuse and conduct disorders as a child are also important risk factors.

Research shows that violent behavior toward a romantic partner is difficult to change and that more needs to be done to develop prevention programs that identify major risk factors for partner violence before adult relationships develop. Miriam K. Ehrensaft, Ph.D., and other researchers from Columbia University College of Physicians and Surgeons and the New York State Psychiatric Institute studied 543 randomly selected children who were first contacted in 1975. The youths and their mothers were assessed separately in three follow-up interviews (1983, 1985-86, and 1991-93) regarding demographic, psychiatric and other psychosocial factors. In 1999, a questionnaire on recent life changes, work history, aggressive behavior, intimate partner history, and partner violence was mailed to the participants.

Results indicate that child behavior problems (conduct disorder, or CD) are important predictors of adult partner violence and that exposure to violence between parents and harsh punishment are also risk factors that seem to predict later relationship violence.

“It appears that it is not necessary to develop conduct disorder in order for early family

lessons of coercive, aggressive conflict resolution within intimate relationships to generalize to youth’s own intimate relationships,” say the researchers. “Punishment from mothers may serve as a model for physical expression of anger. This acceptance of coercive, power-based norms as ways of regulating conflict may have direct implications for young adults’ means of conflict resolution with partners, independent of a disruptive behavior disorder.”

The study also finds that a history of physical abuse by a caretaker appears to directly increase the odds of using similar tactics of conflict resolution in adult close relationships. In looking at factors that may predict being on the receiving end of partner violence, however, the researchers found that being the victim of child abuse was not a significant risk factor once exposure to violence between parents and harsh punishment were included. “Exposure to violence between parents, which probably begins when a child is young seems to pose the greatest independent risk for being the victim of any act of partner violence,” say the authors.

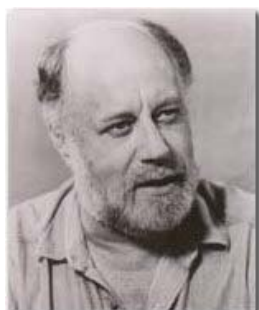
The findings have important implications for prevention programs, including targeting families before children reach adolescence. “If families are targeted before children reach late childhood, patterns of excessive punishment may be prevented from becoming entrenched and later reproduced in adolescents’ fledgling romantic relationships.”

Prevention programs should not, however, just target boys, since no sex differences were found in predictors of partner violence. Both males and females who were abused as children or displayed conduct disorders as adolescents were found to be at risk for partner violence. “Preventing women’s partner violence as well as men’s may be necessary to prevent adverse consequences of partner violence for women.” And finally, the researchers say preventing and treating child disruptive behavior disorders may be a major factor in preventing partner violence.

Article: Ehrensaft, M., Cohen, P., Brown, J., Smailes, E., Chen, H. & Johnson, J.G. (2003). Intergenerational Transmission of Partner Violence: A 20-Year Prospective Study. *Journal of Consulting and Clinical Psychology*, 71, No. 4.

Paedophilia Inc.

**REPRODUCED WITH
KIND PERMISSION
OF PHILLIP ADAMS,
PATRON OF DCI**



In the past decade or so, the paedophilia panic has become an epidemic of anxiety and anger. You'll recall the issue consuming Belgian society, leading to mass demonstrations and political instability. It has shaken the Roman Catholic and Anglican Churches to what's left of their foundations.

The dubious phenomenon of "repressed memory" has led to infamous court cases where innocent parents have been maligned as monsters and Satanists. Schoolteachers may no longer comfort a kid who gets a grazed knee in the playground - and the proscriptions are having a major impact on recruiting, particularly of men. More and more celebrities seem intent on destroying their careers by downloading kiddie porn from paedophile networks. One of Australia's most respected judges committed suicide over accusations, and a governor-general has lost his job because of a clumsy attempt at a cover-up.

Yes, paedophilia is of profound concern but so, surely, is the response. Civil libertarians are right to point out that a rational discussion on the issue has become a virtual impossibility. A royal commission into paedophilia? Tell me how you'd write the terms of reference - when the overwhelming majority of cases occur within the home, within the family?

Hysteria on the one hand. Hypocrisy on the other. For it seems to me that our entire culture is complicit in the issue - in ways it chooses not to see. Indeed, it is obscured and eclipsed by the media frenzy. In some of its manifestations, the media are not only involved in the sexual abuse of children but undoubtedly

instigate it. The mass of pornography in the unmediated world of the Internet is bad enough. But the images that are projected in the mainstream media are equally ominous.

I'm talking about what I've been calling, for years, corporate paedophilia: the abuse of children - involving sexual abuse, violent abuse and economic exploitation - by some of the mightiest corporations.

I'm talking about the billions of dollars of marketing aimed at kids whose childhoods are being cynically abbreviated, stolen for profit. I'm talking about the sexualisation of ever younger children through advertising and for what passes for entertainment - so that kids are encouraged to see themselves as sexual beings long, long before puberty. Yes, the age of puberty is decreasing - and it will all but vanish if companies continue to employ their teams of child psychologists and ad agencies to turn ever younger children not simply into consumers, but into mini-adults.

And that's before you factor in the pornographies of violence - the escalations in mass murder that fill the public space of cinema screens and, more dangerously, the private fantasies on the computer screen. Media violence doesn't matter? The savageries of the video game aren't harmful? Bullshit.

There is a legal age of consent that makes having sexual relations with a child a criminal offence. But there's no age of consent when it comes to turning kids into consumers or attempting to brutalise or sexualise them. Or both. And corporations are upping the ante with new campaigns aimed at the demographic described as "tweenagers". This is molestation on a massive scale.

What's the moral and ethical distinction between sex tours to the Philippines and Thailand where paedophiles can rent young bodies, and the use of 13- and 14-year-old girls as high-fashion models in

glossy magazines? Then there's the increasingly eroticised music video. Isn't there something kiddie pornographic about the eternally infantile Kylie? Let alone the umpteen clones of Brittany Spears?

We accept all this as perfectly normal. Well, it isn't. Or it shouldn't be. A child should be allowed to be a child for as long as possible. It is a child's right not to know about many of the ideas and issues and activities of the adult world. But, of course, kids know everything. They know about oral sex, anal sex and the genocide in Rwanda. And every kid hears, every night, on the news, more stories about paedophilic adults until they must get the impression that the entire planet is populated by sexual predators.

Until loving parents begin to fear embracing their own kids lest it be misunderstood or disapproved of by others. The age of innocence? Long gone. And the corporate paedophiles move in on our kids so that they'll wear, eat, drink and play their mass-marketed products. And if the parents don't comply with the child's implanted desires, created by squillion-dollar budgets, then fracture lines can appear within the family. Parents who resist or who simply cannot afford to comply with these hammered, hypnotic demands are, all too often, seen as failing their children.

Censorship remains undesirable and is now technologically impossible, anyway. While cinemas might turn the very young away, they get to see the films on video or DVD. In any case, as well as watching the nightmares on the television news, the very young are among the most enthusiastic viewers of such voyeuristic sludge as Big Brother.

But I've nothing but contempt for the parents who fail their children - and for the corporations that molest our kids. While recognising that this column is an exercise in total and utter futility, I write it anyway. I like the fact that my four daughters believed in the tooth fairy and Father Christmas rather longer than average. Better that than believing in the values of Big Brother - or the even bigger brothers who replace their nursery rhymes with jingles and their dreams with assembly-line desires. Shame on them. Shame on us.

Phillip Adams, *Paedophilia Inc*, in *the Weekend Australian Magazine*, June 21-22, 2003, p. 15

Looking into the eyes of Ali Ismail Abbas: what do you see?

This article by Chris Goddard, a member of the Advisory Panel for DCI (Australia), is reprinted by kind permission of *The Age*. Although the article was written several months ago and the media attention for Ali has lapsed, the issues Chris Goddard raised continue – outside the concerns about the lack of any evidence of weapons of mass destruction and the effects of the US-UK-Australian intervention on the lives of those in Iraq. *The Age* April 30 2003

By Chris Goddard

This is the story of Ali Ismail Abbas. Ali is the 12-year-old boy who had the misfortune to be at home in Iraq when a United States rocket arrived.

According to one newspaper report, the “hovel” he lived in was destroyed. So were his father and his five-months pregnant mother. He lost his brother. Some of his sisters were injured. Cousins and other relatives were also killed. The number of relatives who died varies from report to report.

What happened to Ali himself is not in dispute. After the terrible explosion, Ali woke up, soaked in blood, his sheets on fire. *The Times* of London reported that Jon Lee Anderson, the *New Yorker* correspondent who saw him in hospital, was shown a photograph of Ali before his treatment, his body blackened, one of his hands “a twisted, melted claw. The other arm had apparently been burned off at the elbow... two long bones were sticking out of it.”

That is not the photograph of Ali that we see now, however. We see photographs of Ali after his arms were amputated, the stumps and his body swathed in bandages, his face somehow unscathed, his eyes... What do we see in his eyes?

Almost all of us will retain images of this invasion of Iraq. There is the shot of a dead child, taken by Akram Saleh of Reuters, his or her face like porcelain, intact, appearing strangely at peace as only the dead can, but the rest of the head and body bound together, as if to stop bits falling out. There is the symbolism of statues toppling, footage of crowds (with one person

wearing a Beckham shirt), a mother sobbing next to her injured toddler, suspects stripped and kneeling in the dirt, a boy liberating a bag of sugar as big as he is. The blood on a BBC cameraman's lens. Those are my images. You will have yours.

The full cruelty and catastrophe of war has become something we cannot avoid. We are assaulted by it even when we try to avoid it. Susan Moeller, an American journalism professor, describes us all as "passive receivers of images". That is akin to blaming the victim. The images home in on us, no matter how much we duck and weave. They are wrapped around our papers, they are inserted into television programs, even our children's programs are "updated".

Children have always suffered massive damage in war. Even when they are not themselves killed or maimed like Ali, they lose mothers and fathers, brothers and sisters. As in my parents' families, in the London Blitz, they lose uncles and aunts and other relatives, both actual and potential.

The world has a long history of treating children cruelly. Children worked as chimney sweeps, encouraged to work faster by the fires lit under them. Children were used to dip pottery figures into poisonous lead glaze. Slain infants, it was believed, could benefit sterile women, cure disease. Buried in the foundations of buildings, dead children strengthened the structure. The unwanted child was abandoned. Children were mutilated to alter their appearance.

Perhaps our new technologies have provided new ways of using children.

Most of us will now have an image of Ali Ismail Abbas, although it is hard to believe that the images we see are sanitised.

We do not see (but can read about) his arm that looked like, in Jon Lee Anderson's words, "something that might be found in a barbecue pit". Perhaps we are shown what it is believed we can tolerate, what is judged to be useful, what is required to show that he has been rescued.

As ABC TV's *Media Watch* observed, Ali's future is brighter "with the help of *The Daily Telegraph*, "his rescue was organised by *The Courier-Mail*

team", "by the *Herald Sun*'s team", "by *The Australian*". Many newspapers claim a part in his recovery.

Several charities and other papers have claimed his image. London's *Evening Standard* and the *Daily Mirror* are reported to be using his face and torso to raise money for good causes.

What do we see when we look at the photographs of Ali? What do we see and think when we look into his eyes? I see the confusion and random cruelty of war. I see a child who, in the words of his uncle, "wants to be normal again" but can never be. I look for other children's eyes, other bodies, other children we should be caring for but are not.

I think, such are our relations to children, that we need a particular child to "adopt". Just as we "adopted" the bruised and battered face of Daniel Valerio, dead and beyond repair, so we "adopt" Ali Ismail Abbas who can never be mended. Perhaps, at heart, we tend to be indifferent to the present suffering of children in general, of children who need our help every day, but we find it difficult to ignore a child, a clearly identified, named, photographed, damaged and distant or dead child.

I wonder what Ali Ismail Abbas is thinking. I think of the words he has said, his anger at being repeatedly exposed to the stares of strangers. I wonder if we do this to him because he is 12 years old and because he is an Iraqi. After all, that is how he came to lose his arms, skin, parents, family and home. I reflect upon our sensitivities to photographs of "our" soldiers as prisoners. I wonder if any of the newspapers and charities have thought to ask his permission to use his photograph around the world in this way. Perhaps we use his photograph rather than that of a wounded adult because we do not feel we have to ask a child. Perhaps some of us believe that, after all he has lost, he will not miss his dignity and privacy.

I wonder if Ali Ismail Abbas knows that, perhaps, we need him more than he needs us, that he is helping us more than we can ever help him, that we didn't want to do what we have done, that we really don't know what to do now.

I see Margaret Drabble's words, in *The Millstone*, that we claim that children forget and recover so readily because we dare not contemplate the fact that, in reality, they will always remember, they will never forget.

That is perhaps another part of the story of Ali Ismail Abbas.

Dr Chris Goddard is head of social work in the school of primary health care at Monash University and director of the Child Abuse and Family Violence Research Unit, a joint initiative with Australians Against Child Abuse.

Email: chris.goddard@med.monash.edu.au
<http://www.theage.com.au/articles/2003/04/29/1051381946931.html>

**ACM AND GOVERNMENT
RESPONSIBLE FOR CHILD ABUSE
27 May 2003**

The Heart of the Nation's Existence: A review of reports on the treatment of children in Australian immigration detention centres. In the light of the earlier Four Corners program, "About Woomera" and Minister Ruddock's response on Tuesday 20 May's 7.30 Report, ChilOut released a report it produced last year on the administration of the contract between Australasian Correctional Management (ACM) and the Department of Immigration, Multicultural and Indigenous Affairs.

This report, *The Heart of the Nation*, summarises both alleged and confirmed reports of child abuse and neglect within Australia's immigration detention centres. Full report is available at <http://www.chilout.org/6e.htm>

CONTACT: Mary Quilty (ChilOut Canberra 6257 0803 or 041 2280 908) Dianne Hiles (National Executive Director, ChilOut Australia 0425244 667)

Faces at DCI

Congratulations DCI member Quentin Bryce to be Governor of Queensland

Distinguished lawyer and human rights advocate, Quentin Bryce AC, BA, LLB Qld, LL.Dhc Macq, HonDlitt CSturt has been sworn-in as 24th Governor of Queensland.

Ms Bryce was principal of The Women's College within the University of Sydney. She was also a member of DCI-Australia's Advisory Panel but resigned prior to taking up her position. DCI-Australia congratulates Ms Bryce on her appointment and thanks her for her contribution over the years to this organisation and for her long and passionate advocacy for human rights and in particular the rights of women and children.

Quentin Bryce has also been a member of - or led - more than 20 organisations including the Association for the Welfare of Children in Hospital, the Australian Women's Cricket Board, the National Breast Cancer Centre Network, the Children's Television Foundation, Plan International, YWCA, Mindease Mental Health Foundation, and the National Institute for Law Ethics and Public Affairs Advisory Board. She was also a member of the Australian Delegation UN Commission Human Rights, Geneva from 1988-92.

In announcing her appointment, the Premier of Queensland, Peter Beattie pointed to Ms Bryce's strength and commitment: 'The courage and dedication Ms Bryce has brought to her service to our community was well illustrated during her years as CEO of the National Childcare Accreditation Council (1993-1996). In leading the campaign to establish appropriate standards in this important field, she encountered strong opposition from powerful economic interests in the then childcare industry.'

**Ms Bryce was sworn in at the
24th Governor of Queensland
on 29 July 2003.**

Teresa O'Sullivan – outgoing NT representative on National Committee

Teresa O'Sullivan is a highly respected children's lawyer and received the National Children's and Youth Law Centre inaugural award in 1997 as Children's Lawyer of the Year. Teresa was a member of the National Committee representing the Northern Territory but has now moved to Sydney to work with the Legal Aid Commission.

I commenced work as a criminal lawyer at the Central Australian Aboriginal Legal Aid Service in Alice Springs in February 1998. Prior to moving to Alice Springs I was living in Sydney and working as a Children's Solicitor at Marrickville Legal Centre.

I thought things were bad in New South Wales before I walked into court in Alice Springs. I saw children in custody sitting with adult prisoners in the same court. They sat there and listened to all that goes on in an adult court. When it was their turn to appear, they would sit behind their lawyer in the large courtroom and listen to court proceedings about them, in a language other than their first language. It was shocking.

When I arrived in Alice Springs, mandatory sentencing was in full force and children were being locked up for 28 days if it was their second time in trouble. Adults, including 17 year olds, were locked up for 14 days for their first offence, 3 months for their second and 1 year for their third. It was an extremely stressful time for our clients and the lawyers. I remember having to ask for an adjournment for a 17 year old girl who had never been in trouble before. She was facing a mandatory term of imprisonment for a minor property offence and needed the adjournment so she could go to jail during her school holidays. Many magistrates were also frustrated by what the law required them to do. Some spoke out publicly.

On my first weekend on after hours duty, a 16 year old boy hanged himself in a police cell. He had been picked up by the police for "protective custody". He had been taken to a police cell despite the fact that he had done nothing wrong and he was standing with his cousin 200 metres from his house. I represented the family at the Inquest into his death and it was one of the saddest experiences of my life. The court room was packed with his family who found it so difficult to accept what had happened to their loved one. It is hard to accept the unacceptable.

I left Alice Springs at the beginning of 2003 and I am pleased to say that there were some improvements before I left. Mandatory sentencing for children has ended. The age of becoming an adult has been raised to 18 years. There is a separate court for children and most children are now

diverted away from court. At long last, interpreters are now available at court.

Despite these improvements, Aboriginal children in the NT are still extremely disadvantaged. Basic services, including education, housing and health are still inadequate, particularly for children in remote areas. There is an urgent need for safe supported accommodation and substance abuse programs for children.

My perspective has changed after spending 5 years in Alice Springs. I am extremely fortunate to have had this opportunity. I have been moved by my experiences, good and bad and I am ever grateful to those who showed me such generosity during my time there.

SARA : Incoming NT Representative

I have lived and worked in Alice Springs for the past 17 years. During this time I have worked in a number of fields including cultural heritage, nursing and youth work. For the past five years, I have been employed by Alice Springs Youth Accommodation and Support Services (ASYASS), a community based organization that provides support, accommodation and advocacy services to young people that are homeless, disadvantaged and at risk. 80% of the client group I work with are Indigenous young people and my work has been focused on providing advocacy and support to young people involved with the criminal justice system. I have a keen interest in social justice (particularly relating to young people) and have actively participated in a number of campaigns and lobby groups around a number of issues, including the anti mandatory sentencing campaign.

Whilst in Alice Springs, I have been involved (and continue to be involved) in various networks concerning youth issues, for example:

- Northern Territory Youth Affairs Coordination Committee – advisory committee to the Chief Minister on youth affairs
- Central Australian Youth Justice Coalition – lobby group on juvenile justice issues. This group was instrumental in coordinating the mandatory sentencing campaign.
- Central Australian Young People's Issues Network
- Northern Territory Youth Affairs Network
- National Youth Advocacy Network

I am currently studying law through the Northern Territory University (soon to be Charles Darwin University) and hope to focus on juvenile justice issues in the future.

Tel 08 89534200, Sara, Youth Services Coordinator
Alice Springs Youth Accommodation and Support Services

Collaboration and Support for Child Asylum Seekers

At a time when it seems in short supply, especially from the political leadership of the country, it is heartening to see real generosity of spirit between an eminent and highly respected national Indigenous leader and a young Afghani asylum seeker. Professor Lowitja O'Donoghue and Yazdan Jawshani (a 19 year old Afghan refugee) both spoke at a public meeting in Port Augusta on Saturday 28th June 2003. The meeting was organised by Port Augusta RAR to discuss the Baxter Housing Project.

Below is the text of Yazdan's and Lowitja's speeches reprinted with permission.

Yazdan Jawshani is from Afghanistan. He's 19 and a Year 12 student in Adelaide. Last year, he was the winner of the State's language award for Persian, over Year 12 students from Iran, where Persian is the native language. Yazdan has a wife and small daughter in Afghanistan. Although he made contact with them through the Red Cross while in Woomera, recent attempts to renew contact have sadly failed. Yazdan is trying to overcome his concern by concentrating on his studies. Yazdan is one of a number of boys who have come to know Lowitja.

A Journey of Healing, in common Yazdan Jawshani

Unlike Lowitja, public speaking is new for me, so I hope you'll be patient. I am also a little emotional after being at Baxter. Many of my memories of detention have been ignited.

But I want to begin by paying my respects to the Aboriginal people and their ancestors in this place. They are our hosts. We are their guests. And I respect their hospitality.

How can I possibly tell you - in such a little while - what has happened to me in the last three years since I left Afghanistan? How can I fully tell you what it was that brought me here? That story is so full of pain. And full of adventure. It is so full of struggle. But some good has come from it too.

I love my own country, but I am not safe there. I have come to this country and have come to respect it.

I will tell you just two stories. I will tell you about a trip to the Flinders Ranges with Lowitja. And I will tell you about a film we saw together called 'Kandahar'.

It was on Australia Day last year that I first met Lowitja. She was putting on a party with a friend of hers. We were to have Afghani food under a black sky and cascades of fireworks in the park. It was the night of 'Skyshow'. The Europeans had arrived in little boats at Sydney Cove. And there was a party. We had just got off little boats ourselves and were guests of one of Australia's indigenous leaders. If only Captain Phillip could have seen it.

I turned up with my flat mate that night, not knowing what to expect. We hadn't been long out of Woomera. Ali was even more nervous than I was. He looked like he was dressed for a disco. When he met Lowitja at the door he didn't know what to do. He puffed out his chest and acted as though he owned the place. Lowitja was taken aback, and then confronted him in the way only Lowitja can, and still be your friend. "You've got tickets on yourself", she said. By the end of the night Lowitja's friend explained to Ali what that meant. "You know those clothes in the shop?" he said. "They've got tickets on them that say 'buy me'". Ali broke into laughter and embarrassment. Lowitja's been our friend ever since.

We have found that we have a lot in common. That night, Lowitja showed me her story, which was

published in *The Australian*, and which she'd only come to know herself some months before. I learned how she had been taken from her mother and the tribal lands of northern South Australia. How she was brought up against her wishes in a country house at Quorn, run by two religious women. I learned how her official parent was the Protector of Aborigines. And how she had struggled against being a servant to eventually get the top job for Aboriginal people in ATSIC.

Lowitja and I saw *Kandahar* together some time later. Again we were under a dark summer sky – this time, in Adelaide's Botanic Park. *Kandahar* is the story of a woman who had fled Afghanistan to seek asylum in the United States of America. There, she had become a journalist, but her sister remained in Kandahar. Her sister told the journalist in a letter that she would commit suicide out of despair at the coming eclipse of the sun.

To stop her doing this, the journalist began her travel into Afghanistan, entering from the Iran border and travelling into Afghanistan's most western city, Herat. Herat is one of the world's great cities. Alexander the Great was there and Genghis Khan savaged the city many years later. It has a history of poetry and the arts. It's famous for its miniatures and its architecture. And along the road from the border into Herat, the journalist would have passed my village and entered the great city ruined time and again by war and bloodshed. As a youth of fighting age, there was only one path of escape for me – and I took the chance of getting to safety in Australia.

Across the desert from Herat to Kandahar, the journalist in the film met various people, some of them Hazaras like me. The Hazaras have been the oppressed people of Afghanistan. We have our own dialect and we are generally of a different religion from other Afghan peoples. And we look different. In many ways we have been like the Aboriginal people in Australia. We have been treated as different. We have been denied the rights others have had. We have found it hard to get good jobs and education. We are good workers, but we've had to accept any labouring job that would come along. For many years, when the British were in Afghanistan, we were slaves. Our grandparents were traded at the markets as mules. And we faced

the threat of complete extermination – or genocide – under the rule of the Taliban.

But, as I watched with Lowitja the film under that dark Australian sky, I became aware of a rich cultural beauty that we shared. The producer of that film had an understanding of the land and its meaning. For those of us who wanted to see it, he took us beneath the skin of the story and exposed the flesh, bleeding though it was. There, starkly uncovered on the screen, was the poetry, the loyalty and the mountain and desert land that has nurtured my people for all we've been through. And even though the buildings are little more than rubble now, the mountains stand tall and unshaken as if holding some overpowering governance.

Not long ago, Lowitja had to go back to Quorn for a meeting of all those people who had been brought up with her at Colebrook – the name of the hostel or house where she lived. For her, it was like going home. And, as I'd written Lowitja's story for school in year 11, she asked me if I'd like to come along.

As we climbed from Pt Augusta into the Flinders Ranges, we passed the riverbed where Lowitja was married under the river gums to her husband, Gordon. We'd later visit his grave. And then, going past Lowitja and Gordon's old house in Quorn, we turned into the drive at Colebrook. With the mountains in the background and her Colebrook family coming out to meet her, I was suddenly taken back to Afghanistan, not only because some of them had Afghan names. In a strange sort of way I was caught between two worlds. These people coming out to embrace Lowitja were my family coming to welcome me home. The arms extended were arms that had worked hard, had embraced long and had wiped away many tears. Many of the men had died. The women struggled on. These were the arms of my mother and father, and of my young wife, my cousin.

It started to rain, and while Lowitja was at the meeting, I headed off to visit some of the traditional rock art in the caves high up. I got drenched on the outside by the mist that promised the coming of winter and on the inside by the vigorous climb up the hillside. I was like a child. I was like a bather, unhindered by the water and playing in the wet mountain spaces of rocks and caves. An eagle descended to prey on a

kangaroo hit by a passing car. A fox came out without fear to share the meal. Then, the next day, we stood at the crest of a ridge and looked over one of the great purple gorges of the Flinders: and I was home.

It didn't matter that the Flinders are all that remain of mountains the size of giants, like the ones that I see from my window near Herat. These are the mountains that have secrets to tell, and give us reason to be brave.

At the beginning of last year, just after that first meeting with Lowitja, school went back after the break. Like Lowitja as a child, my official parent had been a Government minister – the Minister for Immigration, Multicultural and Indigenous Affairs. I had been under 18 and what was called a UAM, an unaccompanied minor. Perhaps there's an irony in the fact that the home in which Lowitja was detained as a child was operated by the United Aborigines Mission – UAM.

Now I was 18 and on my own. I was, in Australian terms, an adult. I had my birthday, just like Lowitja, given to me by the State. Hers was on the first of August, the birth-date given to horses, and mine was, like most other Afghan refugees, the start of the year. So, at 18, I had a choice to make. Should I get a job or continue at school? It was not an easy decision. The future was unknown. I could get money for whatever the future held. Or I could get an education. This was my only opportunity to do that.

I am grateful to Lowitja for helping me make the decision I did. Hospitality is part of being Aboriginal and in our culture, it's the same. Lowitja welcomed me and made me feel at home. She shared her story and her life. She accepted me as one of her family.

I'm now doing year 12 and I'd like to go to university to study dentistry after this. It's very expensive and I don't know how I can do it. I don't have the money. But I am a stronger person for having made the decision I have. And I know I can help make a better life for my family, hopefully this country and Afghanistan because of it. Lowitja has set an example. As one of Australia's first peoples, she climbed over difficulties as though they were

rocks on the mountain, she took opportunities that came along and now she advocates for her own Aboriginal people, street people and the latest boat people, all of whom struggle to survive.

There are many like me in Baxter. Many of you have made them feel welcome and visit them. They have a lot to offer once their humanity is restored. Aboriginal people claim to be on a Journey of Healing. Those who I met at Baxter this afternoon want so much to have that opportunity. Whether they're from Afghanistan, Iraq, Iran or Sri Lanka, they have been through hell. They need to see the mountains and feel the gentle rivers of this country. And they need to be taken into the hearts of Australians. Thank you.

Introduction to Professor Lowitja O'Donoghue

Yazdan has alluded to Lowitja O'Donoghue's work for Aboriginal people and for the homeless. She is a national leader who has been outspoken on matters concerning the well-being of her people. She was Australian of the Year in 1984 and has two of Australia's highest honours, the AC and CBE. Lowitja is a Professorial Fellow at Flinders University and has been listed among Australia's 'National Living Treasures'. Over recent months she's been vocal about matters that stand in the way of delivering real services to communities. She has had the top job herself, as Yazdan has said, and she has continued to serve on the board of the Indigenous Foundation for Rio Tinto and until recently chaired the CRC for Aboriginal and Tropical Health. She has the forthcoming Festival of Ideas named after her and she is patron of many organisations that achieve outcomes in the community. She is here today as Patron of A Just Australia, an umbrella group for organisations like Rural Australians for Refugees and many others. And it's in that capacity that I welcome her today.

A Pathway to Residential Hospitality Prof Lowitja O'Donoghue AC CBE Port Augusta

I am pleased to be here and, like Yazdan, pay my respects to the ancestors and elders of the land.

Port Augusta is an important landmark for me, as you know. My brother lives here and part of me does too. It's very much tied up with my story.

And I want to say a special thanks to the people that put aside their visits to Baxter this afternoon, simply for us. We have found it's not easy to get into Baxter on a Saturday. But people have bent over backwards so that we could get in to visit our friends. And I want to say thanks. And please thank the people you were to visit for letting us come instead.

I want to acknowledge Yazdan as one of the young people who have come into my life these last two years. He was being very generous about what he had to say. But I want to assure him that I have benefited too. We all have. It's not always been easy. There's been some pain. But that's being family. And we have found a love and support for each other. We so much want him to go to university. We'll try to get him there. As Yazdan has said, I'm an advocate for people who are struggling. That's the bottom line.

I'm not a critic of the Government. I have no political allegiance. But I am an advocate for justice. And that's why I do what I do. That's why I'm a patron of A Just Australia. Richard Butler and I will be strangely sharing the same platform in a week or two when I launch the Festival of Ideas in Adelaide. We come from totally different places. Richard Butler, as you know, was head of the United Nations inspectors that went into Iraq to find Saddam Hussein's Weapons of Mass Destruction. He was opposed, as you may also know, to Australia defying the United Nations and joining George Bush in an attack on Iraq. Now he's attacking the government for trying to compromise its relations to the United Nations and so weakening that body.

Richard Butler said on the ABC's AM program yesterday: "This government is quite prepared to go against international law. It does so on refugees. It does so on mandatory detention. It does so on Aborigines. This government is talking about rogue states and outlaws. Yet it is behaving like a rogue state and an outlaw." And will we sit there and let this happen? I, for one, will not sit there and let this happen to us.

Some years ago I stood in front of the United Nations Assembly myself and put Australia slap bang into the middle of a forum to protect the interests of Indigenous peoples worldwide. I called on international law to protect Aboriginal and Islander peoples. We had a long way to go in this country, but we fought hard to get our heads above the racism and injustice now well recognised as part of our darker history. We can criticise Aboriginal leadership all we like, and some of it is well deserved. But we fought hard with the support of certain good people who are not aboriginal. Together we fought simply for justice. Together we fought for understanding. Together we fought for equal rights to health and water - for food, education and jobs. Together we fought to abolish racism and achieve status and dignity for Aboriginal and Islander peoples.

But Terry Plane's article in the City Messenger in Adelaide on June 11 is sobering. He describes "Fourth World conditions - in SA" in 2003. In Fregon he says, "It's not that they don't live like us. A lot of them aren't living like themselves. They exist ... in appalling conditions. The wonderful old men are frustrated. They want the kids back. They won't teach the kids traditional law because the kids aren't fit to learn it. Physically, spiritually, anyway. The old men can see communities torn by degradation and desperation. You have to stay positive. But I don't know what you can do. But if there's anything, anything at all, please do it."

And we're turning our backs on international law? Over my dead body! We're turning our backs on Aborigines? We're turning our backs on people seeking asylum in this country? Over my dead body! It's simply not in Australia's best interest. In international law asylum seekers who come to Australia by boat are NOT 'illegals'. They have not come here illegally. The word 'illegal' is the language of propaganda. It is like the word 'half-caste' and 'quadroon'. It's inflammatory language to build discrimination and separation. We've had it in this country for years. For Mayor Joy Balluch to say, as she did in the Transcontinental on 30th May, "They're illegal in our country and that's the bottom line" means she has bought the Government's propaganda package. She's too smart for that. She's smart enough to see that DIMIA doesn't ride "rough shod over" the Pt Augusta Community. And I'll support her on

that. But I'd offer to send her back to the international agreement Australia signed over refugees. Its use of the term 'illegal' is only to differentiate between authorised passage and unauthorised. It's not as we use the word 'illegal'. The government has used the term for propaganda. And that's why the courts are on the side of refugees and asylum seekers. While no one approves of people smuggling, the mode of entry to Australia for asylum seekers is irrelevant under international law.

This government goes against international law on refugees, says Richard Butler. It does so on mandatory detention and it does so on Aborigines.

A few weeks ago, Ian Chappel and I were at Pt Augusta Secondary School. We visited the children from Baxter who'd recently started studying there. And, as we saw how well these kids had adjusted, I remembered some letters I uncovered from the State Records when researching my own story.

Let me read to you from the Protector of Aborigines' report of May 1931, after some outrage occurred in Quorn when Colebrook kids were to go to the school there.

'At Quorn I interviewed the Mayor, Town Clerk, Doctor, Secretaries of the School Committee and Mothers Club and others', says the report.

'Nearly all those spoken to expressed the opinion that the native children from the Colebrook Home should not be educated in the primary school with the white children. Some of the people said that the feeling was general throughout the town, but one or two thought that only a certain section were complaining. The grounds on which exception was taken to native and white children being educated together were: -

1. The danger of white being adversely affected morally through mixing with the natives who are supposed to have stronger and earlier sexual development.
2. The risk of endangering the health of the whites through contact with natives who might be suffering from some form of infectious disease.
3. The difficulty of teaching children in the same grades whose ages differ by two or three years.

4. That the sulky and stubborn disposition of some of the native children has a bad effect on the white children.

5. That the native children should not be compelled to do the same amount of brain work as the whites, but should be given more manual work.'

Those minutes were written 72 years ago.

And I ask you, how much has changed? It all sounds so terribly familiar. Embarrassingly familiar! So you would have been pleased to read in the *Transcontinental* last week:

"The benefits of the children being in the school are already showing, Mr Ashby said, with one senior boy increasing his reading age by three-and-a-half years in just over two months. Others that are in Year 10 are now doing Year 11 and Year 12 subjects, Mr Ashby said. Mixing with other students at the school's two campuses has also not been a problem, with a number for students visiting the Baxter students on weekends at the detention facility." Fantastic!

And 'At Willsden Primary, principal Gavin Khan' (a nice Afghan name) said, "both the Baxter students and other students at the school are learning a lot from each other. They are excellent ambassadors for our school and community and I personally have not received any negative feedback at all from the time that they arrived here" Mr Khan said.' Again, Fantastic!

Some of us attending the school at Quorn did reasonably well too. 'This government goes against international law on refugees', says Richard Butler. 'It does so on mandatory detention and it does so on Aborigines.'

Let me be quite clear about this. Mandatory Detention has been used to punish innocent people so that others will be deterred from coming to Australia using people-smugglers. It's now clearly out in the open. The Minister has said as much and DIMIA officers have been quite specific. And let be quite clear about this too: such a use of detention centres is clearly in breach of international law. Why is it, again, that the

lawyers have taken up the cause for asylum seekers and refugees? It's certainly not out of ignorance. It's to bring about justice and a fair go – values for which we are told Australians place importance.

It doesn't take much grey matter, I should have thought, to see that if 'people smuggling' was our problem we could have tackled it by cutting off supply. But the Prime Minister's own words give us a clearer picture of the government's agenda: "We will decide who comes here!" So it's not about the needs of people, but of our needs of them. Are they rich? Are they skilled? Are they like us? That's the issue. Greed! Not justice! I wonder how Aboriginal people would fare if they had not been here first.

Bad enough to be here first! Meanwhile we hold people in the prison of detention camps or the outside prison of the Temporary Protection Visa. We keep them in prison.

Barry Wakelin wrote in the Whyalla News a few days ago to a refugee advocate angry over government policy. He asked the advocate where his 'compassion lies for many in the genuine prison a few kilometres down the road from Baxter who many would argue are just as worthy of his sympathy.' It was recognition of Baxter's prison status, genuine or not. Of course the people in the Prison down the road need our visits and our attention. That's not the issue here. International law is clear.

Detention is not to be used for punishment. It is not to be a prison. So, we have to find a way out of this mess. And one way the Government has tackled this satisfactorily in the past – satisfactorily for some at least – is by way of Residential Housing. On Wednesday, The Minister stated his preferred site for the Port Augusta Residential Housing Project – a project based on what had worked well in Woomera. And the preferred site, as you know, is Ellis Close in Port Augusta West.

When I last went to Baxter some weeks ago, it was clear to me how some people are in desperate need for a more humane approach to their long-term suffering. Yazdan is no different from most people there. They are people just like you and me who want to live. They've done nothing wrong. They've

NOT come here illegally, for heaven's sake. There are people from Iran there who are Mandaens, about whom the government seems to know very little, passing them off as Christians or something. They have lived terrible lives in their home countries. They are gentlefolk and highly gifted as jewellers and gold merchants. They love peace, more than anything. It seems to me that we don't understand what religious persecution is, one of the five determining factors for refugee status. But that's not their fault. It's ours. And so, we keep them locked up. In prison! 'This government goes against international law. It does so on refugees, it does so on mandatory detention and it does so on Aborigines.'

The Minister responsible for all three is Philip Ruddock. Whether or not he's his own man is a question. Perhaps he's not? But some of us have had enough and we are speaking out and trying to do what little we can to restore humanity to people who have lost hold of it. I've been speaking out ever since Philip Ruddock took on the extra portfolio of Indigenous Affairs. And when he was caught out saying it was the 'recreational' part of his portfolio I was furious. For one thing, it has led to some real confusion about separation of portfolios under the Minister. Will Aboriginal funding be diverted to Immigration and Detention Centres? Will Aboriginal funds be diverted to the Residential Housing Project? Who will pay? Will it be Aboriginal people?

Well, I think I can answer that. The portfolio of Indigenous Affairs is entirely in different administrative hands from Immigration and Multicultural Affairs. And there is no crossover at all. But what I would like most to assure you, is this: the people in Baxter are people badly damaged by experiences in the past and the present. They are not enemies. They are not to be feared. Fear and discrimination drives a wedge into our communities like a knife. We don't need it. As Yazdan has said, my people, the Aboriginal people, and particularly the Stolen Generations have embarked on what we call a 'Journey of Healing'. We have to move on and let others move on too. I'm convinced Port August can be such a place of healing. And I would ask my Aboriginal brothers and sisters not to stand idly by. Claim the land for justice. Claim the land in the tradition of hospitality. Claim the land for peace and goodwill.

Some weeks ago I was invited to the home of the second richest man in Australia who was holding a dinner to raise money for Aboriginal tertiary education. He gives so much to this country in return for the wealth Australia has given him. That man started in Australia making packing cases for the fruit market. He came here as a simple refugee.

His boat was not turned away. And I would like his story to be told over and over by way of lives that are starting out in this country right now. It can. It should. And, with the permission of the people, it will. Let it begin in Port Augusta and let Port Augusta prosper, not as a result of its greed, but its inherent goodwill.

I am part of a project where Afghan refugees can drop in to eat and talk at a private home in Adelaide. Yazdan is one of the people who come there. What I have experienced is what the people of Port Augusta can come to know for themselves. The kids at the school will be coming to know it already. And it's this; that sharing our lives enriches us. We may look different at first or wear funny clothes. But, as the boys constantly remind me, "We're all human".

From the Inside : Children's Lives in Immigration Detention Centres

"For just one hour in the morning we come out of the room to see the sky and one hour in the afternoon. And then the doors closed, locked in."
(Unaccompanied teenage boy)

Overview:

A new publication that provides an extraordinary account of children's experiences of coming to Australia as refugees, their treatment within immigration detention centres and their views on how detention can be improved has recently been produced by the NSW Commission for Children and Young People.

The *Ask The Children* publication focuses on children who have been recognised under Australian and international law as refugees and who spent an average 140 days in immigration detention during 2000 and 2001. It compares their experiences against Australia's obligations to them under the *Convention on the Rights of the Child*.

The children were originally interviewed as part of a submission to the Human

Rights and Equal Opportunity Commission's national inquiry into children living in immigration detention. They participated in the project in the hope that things would change for the better.

"Ask the Children: Kids speak out about immigration detention experiences", available free from the Commission, is one of very few accounts that enables us to hear about refugee children's experiences in their own words.

Coming to Australia:

Each of the children interviewed had come to Australia after close family members had been imprisoned, disappeared or been killed. Their departures took place in a climate of trauma and uncertainty and their journeys to Australia were difficult and dangerous.

"The Taliban took my father and my older brother and my mother was very devastated by what had happened to us and she told me I had to leave. She thought that my cousin was going to leave and I could go with him and I had no idea of where we were going and what arrangements were made..."
(Unaccompanied teenage boy)



new commission for
children & young people

On arriving in Australia the children were placed in immigration detention centres, for periods ranging from a few months to well over a year.

Living conditions:

The children told us that the conditions in the centres were harsh, difficult and over-crowded. It was particularly difficult for unaccompanied children, one of whom described sharing a room with 22 other detainees. Sharing with adults also raised particular cultural and religious sensitivities for some children.

“We were sharing a room with families plus a single man in that room too... My sister had to share the bunk bed with a single man, like she on the lower and he was on the higher. It was really, really, very, very uncomfortable for us to be in that situation.”

(Teenage girl)

The availability of facilities, such as toilets and showers, was insufficient and most children found the quantity and quality of food inadequate.

Educational opportunities:

The kids said access to education was limited. Some children received only one hour of education once or twice a week. Most received only English lessons of a very rudimentary kind, in large classes made up of children and young people across a very wide age range.

“At the week we had two days to go to school. We went to the class. When I arrived in Australia I did not speak English. They speak English and I did not understand what they said and the lady that looked after us, everyone weekday, she was very helpful. I draw a flower for her and I give to her ...” (Unaccompanied teenage boy)

Health care:

The children often arrived at the camps with serious illnesses as a result of the difficult travel to Australia

or their experiences before leaving their countries of origin.

Conditions in the camps and the harshness of the desert locations also caused illness and disease.

“Mum got so red and everywhere there were bites and bugs and things like that.”

(Boy under 10 years and his mother)

The children often found it difficult to obtain medical assistance. Each said that the principal medical advice given was to drink more water and the only medication prescribed was Panadol.

“I had a tooth pain and they say just drink water. If the person had eye problem, drink water. Stomach problem, drink water. If you drink water 10 glasses, then drink 11. If we drink 11, then drink 12, 13. All the people sick, then drink water – nothing else.”

(Unaccompanied teenage boy)

Recreational opportunities:

All the children interviewed described the boredom of life in the camps. They found it particularly dull in the closed camps, where detainees are placed when they first arrive, where they said both adults and children were locked indoors except for an hour in the morning and an hour in the afternoon.

“We had one small TV for 17 or 18 people for one or two hours, we have ball to play ... but very small place to play and, if we kicked the ball out, we ask the officers, “Could we have the ball please?” and they would say, “No. Why did you kick the ball out?”” (Unaccompanied teenage boy)

What would make detention better?

The children interviewed were asked to reflect on their experiences and nominate their priorities for changing the detention centres. They came up with a range of things that would have made their experience



better. Implicit in all the comments is the wish to be treated as children, as a human being.

The fundamental issue raised by many of the children, was the detention itself.

“I think there should not be any detention for children at least. All these Afghans that are spending months or years in detention, they have not done anything wrong, they are not criminals and they should listen to them. But there should not be any detention for children. They should be free.” (Teenage boy)

Accessing the publication:

The free publication

“Ask the Children: Kids speak out about immigration detention experiences”

is available by contacting the Commission on 02 9286 7276 or kids@kids.nsw.gov.au.

It is also available in PDF format on the Commission’s website at:
www.kids.nsw.gov.au/ourwork/immigrationdetention.html



Family Court decisions on Howard government’s asylum policy

The last few months have seen a number of developments in relation to court action in the Family Court and in the High Court over children in immigration detention.

In June, the full Family Court in a majority decision [B and B and Minister for Immigration] ruled unanimously that it had the authority to make decisions about the conditions under which children were held. It upheld the appeal of two boys and their three sisters against an earlier ruling that the Court had no jurisdiction over children in detention. The court ordered that the case of the children - boys aged 14 and 12 and girls 11, nine and six - be retried urgently.

In a direct challenge to the Howard Government’s policy and practice on immigration detention, the Court ruled that it could order the release of children on welfare grounds, saying that its responsibility for their well-being overrode immigration law. The Court concluded the specific provisions of the Migration Act did not hinder the general provisions of the Family Law Act because it had a broad fiefdom for the welfare of children, akin to the ancient *parens patriae* jurisdiction of the English courts which exercised power on behalf of the sovereign to protect those who cannot take care of themselves.

As reported in *The Age* on 21 June 2003, Chief Justice Alastair Nicholson and Justice Stephen O’Ryan said that the (indefinite) detention of the children breached Australia’s obligations under UN conventions and was probably “unlawful”. The judgment referred extensively to the UN Convention on the Rights of the Child and claimed that the amendments to the Family Law Act in 1995 were intended “at least in part to implement the provisions of UNCROC” and is therefore also supported by the external affairs power in the Constitution” (p. 108).

Human Rights Commissioner Sev Ozdowski supported the judgment that the indefinite detention of children was a serious breach of Australia’s international obligations and called for the immediate release of children and their families from detention. The Human Rights and Equal Opportunity Commission is still to present the results of its children in detention inquiry to Federal Parliament later this year.

The Government's response

The Government's response to this judgment was two-fold: to claim that it was in children's best interest not to be separated from their families, and to appeal against the decision to the High Court. The Treasurer Peter Costello defended the government's policy by claiming that it was better to keep children in immigration detention centres with their families, rather than taking them out into the community on their own, or with only one parent (The Age, June 27, 2003).

The government's appeal to the High Court has been set down for hearing on 30 September 2003.

Further developments re B and B

The Full Court has brought down its judgment on the appeal against the earlier decision by Justice Strickland in which he said that a 'prima facie' case existed that children were being detained unlawfully in Australian detention centres but deferred a decision as to whether the children currently should be released from detention. His concern was about the possible effects of a short-term release pending appeal to the High Court. The Full Court ordered that the children should be released. After 32 months in detention, they were taken to Adelaide on 25 August in the care of Centacare. They were able to be reunited with their pregnant mother, there for medical treatment. Their father remains in the Baxter Immigration Detention Centre but it was his reported wish that the children should be freed even if it was only temporary.

In allowing the appeal and ordering the release of the children, the Full Court found that the concerns about separating them from their father and their possible return to detention following a final hearing re possible deportation were "outweighed by the detrimental impact of detention on the children, which among other things, had exposed them to violence and other inappropriate behaviour".

Further cases

In the second case, an Iranian family (including three children), held in detention immigration at Woomera and at Baxter for more than two years, applied to the Family Court for an injunction restraining the Minister for Immigration from keeping them in detention and

requiring proper medical treatment while in detention. In this case, the application was for the release of the whole family, not just the children. This would have overcome the government's objection that it was in the children's best interests to remain in detention rather than be separated from their parents.

The South Australian Family Court had heard from a number of experts that the family suffered varying degrees of post-traumatic stress, depression and were at risk of suicide because of their prolonged detention at Woomera. The parents and children - girls now aged 19 and 15 and a four-year-old boy - had appealed against the rejection of their visa applications which subsequently earmarked them for deportation. They asked the Family Court to release them on an interim basis into residential housing in Adelaide until their High Court appeal was decided. The father had mutilated himself and the oldest girl, 19, was sexually assaulted at Woomera in December 2001 in the presence of her family.

Justice Chisholm ruled that he did not have the power to release the parents and three children from detention, despite evidence of them suffering "highly damaging experiences in their time in Australia". But Justice Chisholm said he believed Mr Ruddock was not indifferent "to the great suffering and distress the two adults and three children had experienced".

Family Court Judge urges compassion

In his judgment in the matter *HR & DR vs Minister for Immigration*, Justice Chisholm stated:

"I have come to the conclusion that I do not have the power or jurisdiction to make the orders sought by the applicants..." Nevertheless, I hope that now that all the evidence is available, the Minister might give further consideration to whether some alternative arrangements might be made that would help these unfortunate children. ... The evidence, although untested, strongly suggests that these children have had highly damaging experiences in their time in Australia. ... It is within the Minister's legal powers to arrange this ... I express the hope that he will give careful and compassionate consideration to the urgent needs of this unfortunate family."

Family released

The family were released the day after the judgment (Friday 15 August 2003) on three year temporary protection visas and were being assisted by the refugee support group, the Circle of Friends.

According to the report in *The Age* by Penelope DeBelle (15 August 2003), “the only official acknowledgement by Mr Ruddock that the family had been released came in a letter to Australian Democrats Senator Andrew Bartlett, who in May asked Mr Ruddock to intervene on their behalf. Mr Ruddock confirmed that he had granted a three-year visa but gave no explanation.” Another Iranian family, of two adults and two children, was also unexpectedly released and given temporary protection visas.

JURISDICTIONAL ISSUES

Children’s safety, welfare, and well-being appear to come in second best when the responsibility is vested in the Commonwealth government and when the supervision and detention is carried out by a private US owned company in correctional ‘services’. The Minister for Immigration was reported in *The Age* (21 June 2003) as saying :

“I have made it clear over a long period of time, that if . . . [those state] departments form a view that it is in the best interests of children to be removed from detention, and from their parents, to be cared for under supervision in the community, I would not stand in way of that outcome,” he said. “The fact is I have not been given that advice by any state department of family and community services in relation to children being detained.”

But a response to a question without notice in the NSW Parliament makes clear the restrictions on that “advice”.

The question from the Hon. Dr ARTHUR CHESTERFIELD-EVANS asked about a memorandum of understanding between the Commonwealth and the NSW government about the welfare of children in immigration detention in NSW (eg Villawood Detention Centre), the Minister for Community Services, the Hon. CARMEL TEBBUTT replied:

I will respond to those aspects that I am able to.

Although I appreciate the sentiments of the honourable member and know that he has strong feelings about children in detention centres—and they are feelings shared by many members in this House—nonetheless, as I have indicated previously to the honourable member, the Villawood Detention Centre is operated by the Commonwealth Department of Immigration, Multicultural and Indigenous Affairs and the New South Wales child protection legislation, known as the *Children and Young Persons (Care and Protection) Act 1998*, does not apply to children and young people in the Villawood centre. The department has provided me with that information based on legal advice.

I know that some people would like to use the New South Wales legislation to progress issues with regard to their concerns about the detention of children in the Villawood Detention Centre, but I do not think that is possible because the legislation does not apply. DoCS can investigate reports received about individual children confined in the Villawood immigration detention centre—and we have done so—but we can only do it if DIMIA invites DOCS in. When this occurs, as it has in the past, DOCS can only undertake assessments and make recommendations to DIMIA about required action.

Extract from NSW Legislative Council Hansard. Article No.14 of 27/05/2003.

Ahmadou Kourouma: Allah Is Not Obiged

Ahmadou Kourouma is one of the most prominent non-French authors writing in the French language. He became famous with his first book *The Suns of Independence* (1968). His fourth book *Allah Is Not Obliged* is written in response to a request from children to write a book about tribal wars and child soliders at a writer-reader meeting in Djibuti.

Allah Is Not Obliged To Be Just In All His Things Down There is the full name of the book. Birahima, the child soldier, tells his story about his involvement in civil wars in Liberia and Sierra Leone. He tries to find his aunt and during his search he changes factions, as it suits his purpose.

Writing from the child’s viewpoint, he speaks without pathos. On the contrary, he uses irony and hyperboles to describe such a cruel war. Birahima faces life and the war as it comes. Army camps are bordered by impaled human skulls, hashish is used to remove chn from the horror of the war for a time, and everybody sleeps with a machine-gun. Superstition protects a priest from ripping bullets as he holds the The Holy Bible in one hand and The Koran in the other. Commander of the faction cuts out his opponent’s heart and eats it and cries at the bodies of his fighters.

“And when man has nobody on the Earth, neither father, nor mother, nor brother, nor sister and when he is a boy, a kid lost in a barbarian country, where everybody slits the throats of others, what will he do? Of course, he becomes a child soldier to eat and, for a change, he too slits the throats of others : there is not another way.”

It is an insight into a world with another mentality, in a time when there is no order, and there are no rules. One day, you have pockets full of diamonds, but lose them the next day. You fight with those who are going your direction against those who were your friends just yesterday. It all depends on who holds the power, and only their name differs - all holders of power are of the same kind.

It is not just about two civil wars, but what happens when civilization disappears and people lose their humanity.

Ahmadou Kourouma: Allah N’Est Pas Obligé, Seuil 2000, Paris
This review was written on basis of Czech translation by Petr Komers, Mlada Fronta 2003, Prague, David Major, Czech Republic

Three prominent Australians speak out on Australia's treatment of asylum seekers and need to find greater generosity of spirit

The last few months have seen three prominent Australians from quite different backgrounds – voice their concern about the way the Australian government is treating asylum seekers, and especially children.

These three prominent Australians are:

- **Sir Zelman Cowen, former Governor-General;**
- **John Yu, paediatrician, Australian of the Year in 1996 and chancellor of the University of NSW, and**
- **Greg Chappell, former Test cricket captain**

In a special ABC broadcast of an address on Monday June 9, 2003 “Where To? Questions for Australians” The Rt Hon Sir Zelman Cowen, former Governor General of Australia expressed his hope that we could ‘behave with magnanimity to those who arrive here carrying little more than their hopes for a better life.’

On immigration, Sir Zelman said: ‘I appreciate our government’s need and right to maintain control of the process of deciding who is allowed to settle in this country. Yet it is clear that aspects of our response to this difficult situation have caused concern. In the very difficult balancing of these complex arguments, I consider that being as generous as we can be is the most likely way to get the best result. My background gives me a sense of that powerful urge to find something better... we have an obligation, as part of an international community, to behave with magnanimity to those who arrive here carrying little more than their hopes for a better life.’

In another ABC program, this time on ABC TV’s *Australian Story*, former Test cricket captain Ian Chappell said that he is ashamed of Australia’s treatment of asylum seekers, after visiting the Baxter detention centre in South Australia. He said that the Government’s stand on detainees was unAustralian. “I feel horrible about having to apologise for my own country ... It is a horrible position.”

The program revealed that Chappell has been lobbying key figures in Canberra on behalf of asylum seekers, including Immigration Minister Philip Ruddock, the then Opposition spokeswoman, Julia Gillard, Opposition Leader Simon Crean and Democrats leader Andrew Barton.

As reported in the *Herald Sun*, Chappell’s feelings, expressed after his visit to the Baxter centre, are certain to embarrass the Government - coming from a sporting figure admired by Australians for his hard-nosed approach on the field.

Chappell’s conversion to the refugee’s cause came while watching news coverage of the Tampa crisis. Chappell told how he became angry: “I am living this responsible, quiet life and suddenly the Tampa crisis blew up. I was sitting there in front of the TV watching these people on the Tampa, and I am thinking, ‘This is terrible’ . . . “No matter what you think about protecting Australia’s borders, these are human beings, and you cannot just treat them like that.

“The games I have played in my life are very good tutors at teaching you what is fair and what is unfair. And this (his sense of fair play) was being offended by what I was seeing during the Tampa crisis. “In cricket parlance, it was like cheating.”

Chappell later became involved with Australians for United Nations High Commission for Refugees, and travelled to East Timor last year to present a gymnasium and playing field to the people there. As a result of his friendship with cricket writer Mike Coward, he joined *A Just Australia*, an umbrella group for all asylum-seeker support organisations, and became involved in lobbying on their behalf.

Building bridges over troubled waters

Reprinted with permission from the Sydney Morning Herald June 16 2003

A prominent Australian wants others who followed in his wake to enjoy the fruits of the land that gave him sanctuary, writes Tony Stephens.

John Yu, the boat person who arrived in Australia without the necessary papers, was carried ashore by a former prime minister, went on to become Australian of the Year and is a frequent choice in opinion polls as next governor-general, has told of the pain he feels when asylum seekers are denied opportunity in Australia.

"I am a refugee," he says. "I was a boat person. Yet I was able to go to Summer Hill Primary School, Fort Street High School and take a Commonwealth scholarship to study medicine at Sydney University. I believe in some way I have been able to return to the community something that Australia gave me.

"What concerns me about the [Federal] Government is that we are not helping the asylum seekers, especially the children, to develop and grow to their potential, so that they can contribute to the community. Why can't we show compassion to people who have suffered so much, particularly when we have made judgements against their oppressors in Iran, Iraq and Afghanistan and these people have been brave enough to stand up to those regimes?"

The pediatrician, 1996 Australian of the Year and chancellor of the University of NSW, was speaking at the launch of the Bridge for Asylum Seekers Foundation, which seeks to help asylum seekers released from detention on bridging visas and habeas corpus orders denying them the right to work or access to any government benefits.

Of about 4500 people on bridging visas and habeas corpus orders, more than 1500 are not allowed to work or receive any government benefits or services. The children can go to school only after extensive negotiations.

An Iraqi who had planned to attend the launch was too troubled to do so. He had just heard from his brother, who was accepted as a refugee in Canada, that the rest of their family had been killed in the coalition bombing of Iraq. A man and wife declined to speak because their son feared being victimised.

The foundation includes prominent patrons and supporters across the political spectrum. The launch was chaired by John Valder, former president of the Liberal Party, and attended by Bruce Baird, Liberal MHR. Laurie Brereton and Bob Brown, Labor and Green MPs, are among patrons.

Yu's father, a member of Chiang Kai-shek's pre-communist government of China, sent his wife, son and daughter from mainland China in 1937, during the Japanese Rape of Nanking. The three sailed into Sydney Harbour on the day Nanking fell, and the day of Yu's third birthday. Sir Earle Page, the founder of the Country Party, who had studied medicine with Yu's uncle, carried the little boy ashore.

John Yu grew up believing his father was dead. In fact, he remained a member of the Kuomintang government that ruled Taiwan after Mao Zedong's communists defeated them in 1949. He finally made contact with his Australian son when Yu was a doctor in his 30s.

Yu says children of asylum seekers should be given the same opportunity as he had received.

"I find it really painful when children are denied the opportunity, especially when a significant number will ultimately be allowed to stay," he says.

Frances Milne, one of the founders of Bridge for Asylum Seekers Foundation, says she had found a family of five at Rockdale who had nothing to eat other than oatmeal. She had discovered since that many others were in a similar position. A South American family had been living hand-to-mouth for seven years. "When we see what's happening, not only will our hearts bleed but they will break," she says.

Milne says that the asylum seekers stayed in terrible conditions because they were terrified of going back. She pointed to the case of Alvaro Moralez, who was refused refugee status and murdered soon after his return to Colombia last year, and to Ahad Bilal, deported from Villawood and murdered two months after his return to Pakistan.

Tanya Plibersek, the Labor MHR, says the asylum seekers were being bullied and punished. David Bitel, president of the Refugee Council of Australia, says Australia is breaching refugee conventions.

Former judge Elizabeth Evatt says she was angered, particularly by the denial of human rights to people who faced torture, arbitrary detention and other human rights abuses if sent back.

This story was found at: <http://www.smh.com.au/articles/2003/06/15/1055615673443.html> .

Inquiries Concerning Children

Four inquiries, two national and two State-based, affecting children in Australia are currently under way.

The first national inquiry concerns the presumption of equal or shared time for children with both parents after the separation or divorce of their parents. The concern is that it will lead to legislative change to create a rebuttable presumption which may conflict with or over-ride the paramountcy of the child's best interests in the current law. There have reportedly been over 1500 written submission to the inquiry to date.

The other three inquiries concern the institutional abuse of children in care. The first of these is a national inquiry into past practices but with terms of reference that allow consideration of current issues. The other two inquiries are based in Queensland and Tasmania and concern abuse in foster care.

Joint Custody Inquiry

The Committee on Family and Community Affairs is conducting a Parliamentary Inquiry into Joint Residence Arrangements in the Event of Family Separation.

The Terms of Reference are as follows:

(a) given that the best interests of the child are the paramount consideration:

(i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a

presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and

(ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.

(b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

Written submissions were due by **8 August 2003**. The Committee also plans to hold public forums and hearings.

In announcing the inquiry, the Prime Minister said that historically, when a marriage broke up, the courts had to decide between the mother or the father for residence (or in the old terminology, 'custody'). "It's only in very rare circumstances that other arrangements are ordered," he said. "The situation at the moment is that the presumption is that custody will be given to one or the other. ... What we're looking at is to alter that so the presumption is that it will be a shared arrangement unless circumstances suggest otherwise."

The proposal has attracted considerable media interest and a number of expressions of concern about the "one size fits all" approach. The Chief Justice of the Family Court, Alasdair Nicholson, Labor's Family Court

spokesman, Robert McClelland, and the Democrats' spokesperson, Brian Greig, have expressed their opposition to a law enforcing rebuttable shared residence. And legal experts, Professors Patrick Parkinson and John Dewar have commented on the need to focus on the best interests of the children and the likelihood that such a presumption will suit only a limited number of families able to manage the conflict, the need for close co-location and with sufficient money to set up two houses to accommodate the children.

The National Network of Women's Legal Services has prepared a Briefing paper to assist other organisations and individuals to respond to the Parliamentary Inquiry. The Paper is aimed at workers in generalist community legal centres (CLCs), refuges, family support agencies, counselling services and other community organisations, Legal Aid Commissions, lawyers and counsellors in private practice, and individuals with their own family law experiences. The paper includes background research and arguments for organization to use in preparing their submissions and also includes the contact details for the key politicians.

For further information, contact
Women's Legal Services, Catherine Carney
(Principal Solicitor) or
Pia van de Zandt (Solicitor),
Women's Legal Resources Centre 02-9749
7700
Catherine_Carney@fcl.fl.asn.au

National Senate Inquiry into Children in Institutional Care

An inquiry into children in institutional care is currently being conducted by the Senate Community Affairs References Committee. Due to report in December, it aims to uncover the scale of institutional abuse and explore its legacy. The Senate this week voted for the inquiry after years of intense lobbying

by former wards of the state who had been excluded from the previous Aboriginal stolen generation and child migrant inquiries. Children in institutions were often separated from siblings and subjected to punitive routines and harsh corporal punishment. Sexual abuse was also rife in many homes.

The inquiry's terms of reference are wide-ranging and it is expected to also throw light on the current foster care crisis, and put pressure on governments and church agencies to provide compensation and support services to victims. However, while the committee may make recommendations suggesting remedies for the general problems that it identifies, it cannot force the Commonwealth or State parliaments to adopt those remedies nor make recommendations that are binding on other jurisdictions.

Democrats senator Andrew Murray, one of the key players behind the Senate vote, estimates there are between 50,000 and 80,000 former state wards who went through institutions from the 1920s to the mid-1970s. Their testimony would become part of a "collective social record" of a less enlightened period of history and its effect down the generations, he said. "The Government spent about \$69 million on the stolen generation inquiry and about \$3 million on the child migrant report, but here is a significant cohort of Australians that need reconciliation with their past identity," according to Senator Murray.

Dr Joanna Penglase, a former children's home resident and a sociologist at Macquarie University whose PhD analysed the conditions and the effects of such institutionalisation said that many institutions systematically dehumanised children. The effects played out in survivors experiencing higher levels of alcoholism and drug abuse, depression, and crime. Many were unable to later care for their own children.

Leonie Sheedy, founder of the Care Leavers of Australia Network, comprising 330 former state wards, said governments and churches needed to provide support services to her members. This would include counselling services, allowing access to old files and help in locating biological relatives.

The closing date for the receipt of submissions was 31 July 2003 but the Committee will be holding public hearings. Information relating to Senate Committee

inquiries, including notes to assist in the preparation of submissions for a Committee, can be located on the internet at

http://www.aph.gov.au/senate/committee/wit_sub/index.htm

Tasmanian inquiry into abuse in care

An inquiry into the abuse of children in state care was announced by the Health Minister David Llewellyn in mid-July 2003. The inquiry was sparked by an ABC news report on July 11 concerning the story of Hobart man Walter Tusyn who, as a homeless boy in the 1960s, says he was placed into the foster care of a convicted pedophile and raped. Mr Tusyn has lodged a Supreme Court writ in a bid to claim compensation from the State Government.

Advertisements in the public notices of the state's major newspapers, calling for adults who have claims of abuse while in state care to come forward, have led to a number of complainants with fresh claims of emotional, physical and sexual abuse spanning more than 40 years.

A hotline has been established and the Ombudsman said those who called it would have their details taken so an interview could be arranged soon.

All matters brought to the inquiry would be dealt with confidentially and sensitively by people trained in handling claims of child abuse.

According to articles in the *Mercury*, the Ombudsman said "Some people might simply want to unload," Ms O'Grady said. "Some matters could be referred to the police while others may be referred to the Department of Justice and Industrial Relations for compensation."

To make a report to the inquiry call 1800335466 between 9am and 5pm, Monday to Friday. After hours, Lifeline will receive calls to the number on the Ombudsman's behalf.

Immediate access to counselling is offered for those making reports while their matter is reviewed.

The closure date for reports was July 31, but Mrs O'Grady said this was a flexible date.

The inquiry is expected to start a wave of compensation claims, possible police charges and counselling for those involved. Yet many victims will have no avenue to apply for compensation under state law. The cut-off date of the Criminal Compensation Act is for crimes committed after 1976.

The State Government said it was awaiting the Ombudsman's report and that it was too early to comment on possible changes to state law to accommodate the likely rush of claims.

Queensland inquiry into abuse in foster care

Four years after the Forde inquiry into institutional abuse, Queensland's crime and corruption watchdog, the Crime and Misconduct Commission (CMC) will hold public hearings in early October into the foster abuse scandal. The inquiry follows the exposure of the alleged abuse of a significant number of children in the care of one foster family. The CMC inquiry was initiated following claims of departmental inaction over the abuse of six children in foster care in the 1990s after they were removed from their parents in the 1980s because of abuse. The inquiry is to look into the actions of the Families Department and its ministers over a 20-year period. The Chairman of the Crime and Misconduct Commission, Brendan Butler, said the evidence already shows that more than 50 children were fostered over a 20-year period by the family at the centre of the inquiry.

Unfortunately, the systemic failures in this State are nothing new. Similar problems have been exposed in NSW, and Tasmania, and the national inquiry into institutional abuse indicates that similar problems go back decades.

The Queensland Premier, Peter Beattie, has revealed that he has a particular interest because, as he said on ABC's Stateline program on 15 August 2003, "Now I want to make this point really clear and I'm not trying to be melodramatic about it. I have been

a ward of the State and therefore I have a personal commitment to this. I know how important it is to protect our children in care. I know that from my own personal experience. So I'm not going to let anything go if we need to do things better."

He went on to say:

"We've made more reforms than any other government in the history of Queensland and we've funded this area more than anyone else. We've put \$188 million in, ... we've got strategies that are more designed to be preventative rather than simply cure the problem. ... But frankly, I think everyone could have done better, we're doing our best but if there are ways that we can improve it further we will."

According to a report in *The Age* on 15 August 2003, a number of Families Department officers have been stood aside or quit over the abuse claims, amid police and internal departmental investigations. Mr Butler said the CMC would consider an indemnity for department officers who wanted to provide evidence but were concerned they might incriminate themselves in criminal activity.

This inquiry is will run contemporaneously with the current audit of foster carer files being monitored by Queensland's Commission for Children and Young People. The Commission for Children and Young People is an independent statutory authority, and the Commissioner reports directly to the Premier. The Commission is actively involved in the audit, will contribute to the development of subsequent recommendations and will monitor the implementation of those recommendations.

The CMC has called for written submissions and will hold public hearings in Brisbane from October 8.

See <http://www.theage.com.au/articles/2003/08/15/1060871762549.html>

And see

"Premier braces for CMC foster care inquiry"
Broadcast: 15/08/2003

<http://www.abc.net.au/stateline/qld/content/2003/s925542.htm>

A World Fit for Children

UNITED NATIONS SPECIAL SESSION ON THE RIGHTS OF THE CHILD

❖ From the 8-10 May 2002, more than 7000 people participated in the most important conference on children in more than a decade

❖ In his opening address, UN Secretary General Koffi Annan said to the children of the world:

"We, the grown-ups, have failed you deplorably... One in three of you has suffered from malnutrition before you turned five years old. One in four of you has not been immunized against any disease. Almost one in five of you is not attending school... We, the grown-ups, must reverse this list of failures".

❖ At the conference, the nations of the world committed themselves to a series of goals to improve the situation of children and young people, so as to create "a world fit for children":

1. Put children first. In all actions related to children, the best interests of the child shall be a primary consideration.

2. Eradicate poverty: invest in children.

3. Leave no child behind. All forms of discrimination affecting children must end.

4. Care for every child: children should be nurtured in a safe environment that enables them to be physically and mentally healthy

5. Educate every child.

6. Protect children from harm and exploitation.

7. Protect children from war

8. Combat HIV/AIDS

9. Listen to children and ensure their participation

10. Protect the Earth for children.

❖ Representatives of Governments who participated in the Special Session, which included Australia, agreed to develop, *by the end of 2003*, a national plan of action with a set of specific time-bound and measurable goals in order to achieve the above objectives, which are based on the *Convention on the Rights of the Child*.

So the question arises: what is Australia doing about this?

When, late last year, a member of Amnesty International Victorian Branch's Children's Rights Group wrote to the Hon. Larry Anthony, Minister for Children and Youth Affairs, asking about the development of the Plan, she was informed that the Department of Family and Community Services (FACS) was undertaking its preparation, and that 'key stakeholders' would be consulted. This has since been reiterated in a face-to-face meeting with Ms. Suzan Thomas, Director, FACS recently.

Larry Anthony committed to a National Plan of Action (NPA) at a regional forum held in Bali several months ago and an intergovernmental task force has been established to work out how to proceed with the NPA and government departments on the task force include: FACS, DIMIA, AG's Dept, DFAT, Health and Aging, Employment and AusAid. They had not at that stage decided on how NGOs would be consulted or involved in the drafting of the NPA or how children would participate.

Amnesty International, the Victorian Branch Children's Rights Team, and DCI are asking to have input into the Plan by reading and commenting on a draft and stressing the importance of asking children for their opinions. The Plan is a very important document, able to set standards against which behaviour towards children can be measured.

DCI urges the Australian government to develop and consult on the plan.

ILO and Child Labour

Update from the UN Ad Hoc Committee on Disabilities

Following is a summary of the opening session which took place on June 17th. Discussion at the meeting was about the principle of non-discrimination and equality from a disability perspective.

ACCESS: Think About It

Presently, the UN is considering adopting a Convention on Disabilities. As part of the process, the UN has undertaken a process to improve access to its own facilities. Process is about change and it is fair to say that since last year's Ad Hoc Committee meeting, there has been change. For example, this session, unlike the last, we have from the beginning a more accessible meeting room and some communication accommodations.

As with any process, there is considerable room for improvement. Were it not for the Convention process, there would not have been this level of understanding at the UN Headquarters about the issue of access for persons with disabilities. Similarly, the international human rights framework can benefit from this understanding.

When we talk about the Convention, we say we need it to:

- provide an immediate statement of international legal accountability regarding the human rights of people with disabilities
- clarify the content of human rights principles and their application in the context of people with disabilities
- provide an authoritative and global reference point for domestic law and policy initiatives
- establish independent mechanisms for more effective monitoring of the rights of people with disabilities, including reporting

on the enforcement and implementation of the new convention as well as existing international instruments

- ensure public dialogue and accountability for human rights situations
- ensure that the human rights of persons with disabilities are equally prioritized
- provide a tool for advocates to help bring about changes in legislation and implementation of progress in human rights
- contribute to the prioritization of the rights of persons with disabilities in national and international agendas.

Principally, it is an opportunity to raise awareness about the human rights of persons with disabilities and place this on the agendas. This in turn, provides opportunities for government, disability organizations and people with disabilities to build knowledge that results in the improvement of the lives of people with disabilities. It is about education, and the evolution of understanding.

Dr. Robert H. Nagel, member of the UNESCO Experts Council on People with Special Needs and chairman of the UN's Central Communication Committee's Subcommittee on Communication for Persons with Disabilities, has experienced first-hand how much accessible technology can vastly improve the quality of life of persons with disabilities. It wasn't until halfway through his life that he learned that he had a disease which would eventually leave him completely without vision. Through the upcoming World Summit for an Information Society, he hopes to promote the importance of integrating accessibility into the fundamental design of technology – both as a cost-effective measure and an indispensable part of equalizing the rights and opportunities of persons with disabilities. For example, the actual cost of the captioning systems that are automatically included in the design of modern televisions is a mere penny per television produced. The integration of the system into the fundamental design of the product means that accessibility is incredibly cost-efficient, as opposed to the installation of captioning systems into already-existing equipment, which may take thousands of dollars. Nagel points out that such integration will provide persons with disabilities with access to the rights they are entitled to and help make it possible for persons with disabilities to be viewed as assets,

rather than liabilities, as their access to working opportunities is improved and the cost of such access is lowered.

There are an estimated 400 million persons with disabilities in the Asia-Pacific region. The majority are poor and have been excluded from the benefits of ICT development due to the lack of appropriate or affordable technology for persons with disabilities. More effort, including implementation of disability-concerned regional plans of action and programmes, should be made to ensure equitable access to ICTs for persons with disabilities.

In more recent years a movement known as “Universal Design” has evolved. Universal design is based on the principle that the built environment, communication and products should be accessible to the widest range of people possible. Universal design is different from accessible design in that accessible design creates products and environments for people with disabilities, which often tend to segregate people [by] creating separate systems. Universal design is considered to be usable and inclusive to all, including people with disabilities.

Although the concept of universal design is well documented, the unique design needs of persons who are blind and partially sighted have not always been fully considered or incorporated into the built environment.

International Labour Conference, 91st Session, June 3-19, Geneva, Switzerland: A Child Labour Analysis

The 91st session of the International Labour Conference in Geneva had as its main focus of discussion the elimination of discrimination in respect of employment and occupation. Through a four-year cycle of Global Reports, every year the Conference analyses one of the four main principles of the ILO Declaration on Fundamental Principles and Rights at Work. Elimination of discrimination is the last of the first four-year cycle.

The Global Report entitled “Time for Equality at Work” was presented to the Conference plenary

on June 13. The focus was on the cyclical relationship between poverty and discrimination. The main goal was to analyse the possible social consequences of discrimination related to employment and to identify the means to avoid consequences and guarantee protection. The Report made it clear that discrimination related to employment often reduces parents' opportunities to access the job market and the consequences are particularly borne by the children.

The Reports of the Director General and the Governing Body were also presented to the Conference in the plenary. The Report of the Director General entitled "Working out of Poverty" looks at child labour as "both a cause and symptom of poverty" which has to be tackled through "an integrated, gender-sensitive, family-centred strategy" (p.10). Partnership between different groups and at different levels must be a key component, while replication of community-scale initiatives at a broader level should be encouraged. All these ingredients and others (especially the provision of education for children and employment opportunities for adults) are essential in the Time-Bound Programme (TBP), in which a set target is achieved within a specific timeframe.

The Report of the Governing Body included the outcome of the examination of IPEC's work in 2002. It emphasised the momentum of the first World Day against Child Labour and the new statistics and Global Report on child labour presented at the 90th session of the Conference. The tendency to shift towards provision of technical advice for ILO member States to formulate their own legislation and policies and the importance of the Time-Bound programmes were also highlighted. In fact, the TBP were launched in Salvador, Nepal and Tanzania during 2002.

In the discussions of the Governing Body and DG's Reports numerous countries mentioned child labour as one of the priority areas in the Decent Work Agenda. Specific attention was drawn on child labour and related Conventions in the following countries: Kenya and India.

Kenya spoke in relation to Convention No. 138 (Minimum Age), 1973. In particular, they highlighted the efforts of the Government in revising the country's

labour law. An important element of the new legislation would be the rising of the minimum age for employment to 16. Within this framework, the Government has issued several protection policies, and in particular in the education sector making primary education "truly free and compulsory" (p.63 of the Report).

As for India, the focus was on Convention No. 29: Forced Labour, 1930. The Committee praised the Indian Government's efforts to reduce the high number of children in hazardous child labour, child bonded labour and prostitution. The Committee noted that there is also a very large presence of children in the informal sector and urged the Government to strengthen the legislative apparatus, the capacity of data collection and to continue introducing socio-economic measures to combat the problem.

All the reports submitted to the Conference may be found at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc91/reports.htm>

2nd World Day Against Child Labour: 2nd June

According to the ILO, 246 million children are child labourers and 171 million children aged 5 to 17 are in hazardous occupations. The highest proportions of child labourers are found in Africa, followed by Asia and Latin America. The ILO and the world community celebrated the **2nd World Day against Child Labour** to raise awareness about the millions of children who are forced to work in dangerous conditions, cannot go to school and are not in the position of enjoying their rights.

On June 12 the ILO and the world community celebrated the 2nd World Day against Child Labour. This year's celebrations focused on trafficking of children worldwide. The ILO estimates that 1.2 million children are trafficked every year in different ways and for economic and sexual purposes worldwide. The statistics on the trafficking of human beings for forced labour indicate that children appear to be very vulnerable and more likely to be trafficked than adults, as they can be more easily smuggled and abused.

One event was organised by the ILO event within the context of the International Labour Conference. The session featured as a keynote speaker Her Majesty Queen Rania of the Hashemite Kingdom of Jordan who condemned the brutal “billion-dollar business”, nurtured by poverty above all, but also lack of education, conflict situations and natural disasters. This modern form of slavery begs for the world to “join hands” said Her Majesty. The problem should be addressed through better education at all levels, training for law enforcement, better rehabilitation for trafficked children and a commitment on behalf of the governments to prevent, protect and persecute.

The action element was illustrated by examples of good practices to prevent and combat child trafficking in different geographical areas: Philippines, Latin America, Togo and the Mekong Sub-Region. One project in the Philippines spots and provides protection to trafficked children. The project has managed to rescue 1,000 victims of child trafficking since January 2001. Another project, the ILO Triple-Boarder Project, is located at the border between Argentina, Paraguay and Brazil. Trafficking reaches huge proportions in the area and sex tourism is wide spread.

How do governments form meaningful partnerships with children and young people?

Save the Children / Save the Children Fund, Canada, 2002

This paper provides guidance on how to involve children and young people in the development of **National Plans of Action** for children (NPAs).

Drawing up these NPAs by the end of 2003 was a commitment made by all governments attending the 2002 UN General Assembly Special Session on Children. The guidance is provided by children and young people themselves interviewed by Save the Children, Canada in 14 countries around the world.

Previous NPAs for children that have failed have done so due to a lack of involvement of children and young people and the failure to link the goals of the NPAs

to the human rights of children.

Common areas of agreement amongst the children and young people consulted in different parts of the world included:

- They are the people directly targeted by the plans and the most important stakeholders
- They are the people with the most direct experience of the situation of children and they can help governments understand their problems better
- Children are not all the same and governments need to hear the views of different groups of children
- They have a right (contained in Article 12 of the UN Convention on the Rights of the Child) to be consulted on all decisions which affect them
- Children and young people can - and want to play a part in supporting implementation of the plan they will improve the effectiveness and impact of the plan
- It helps to build democracy and encourages responsibility among children for their lives, communities and societies
- Young people feel they have valuable resources to bring to the processes new ideas and a future-oriented perspective.

The children and young people also wanted to see improvements in the way governments work with them outside of the NPAs:

- Governments must consult with children and young people on their issues and problems and not just when they are on election campaigns
- Children and young people need to know more about how governments work
- and how they can contact the right people
- Governments should set up mechanisms and channels to enable them to consider children and young people’s views
- They should ensure that all children and young people know about them
- Special provision may have to be made for groups of children and young people who find it more difficult to speak to government e.g. children in rural areas, in more remote provinces, children caught up in armed

conflict and orphans

- Governments should consider setting up a place in government with particular responsibility for children and youth

- Governments should note that participation experiences only become positive if they are carried out within a framework of respect for the interests of children and young people, if they are based on real participation and no attempt is made to stigmatise them or manipulate the children and young people involved.

The paper goes on to outline:

- obstacles to children and young people's involvement

- what children and young people themselves have to do

- how governments should involve children and young people in the development of NPAs

- how can civil society support children and young people's involvement.

At <http://www.crin.org/docs/themes/SpecialSession/NPA-Final.pdf>

The Consultation Paper On Australia's Performance On Children's Rights is in print and will be available soon on the National Children's and Youth Law Centre web-site at <http://www.ncylc.org.au/Croc/home.html> The National Children's and Youth Law Centre and DCI-Australia are collaborating on the consultation process to prepare an alternative report to the Commonwealth's government's report to the UN Committee on the Rights of the Child. The government's report is reportedly 'almost finished'.

The website will be one way for children and young people to respond to issues of concern to them and to be involved in the preparation of the report. We will be seeking help from our members and volunteers in the consultation process and the preparation of the report, so stay tuned!

WA government curfew on children and young people in the inner city

The WA government became notorious when, in late 1991, it announced and implemented a mandatory sentencing regime that originally explicitly targeted young Aboriginal offenders, mostly boys. Other state and territory governments, especially in the Northern Territory, were quick to get on the bandwagon. As most know, this had tragic results.

The WA government did it again earlier this year when, without consulting the Youth Affairs Council, the City of Perth, welfare or other government authorities the Premier announced a blanket ban on all under-18 year olds in Northbridge at night, and released the results of a crackdown that had seen police remove 454 young people from the Northbridge nightclub and cafe area, of whom nearly all were Aboriginal, and more than 65% were young girls.

Much work immediately began and went on behind the scenes to make sure this surprising policy did not have the dire effects of the first.

When the government began to implement what it still describes as a 'curfew' for young people in the inner city entertainment precinct in July, it was significantly improved from its earlier promise of 'all youth off the streets', which Police Minister Michelle Roberts had enthusiastically suggested might be built upon in Fremantle or any other appropriate area. To his considerable credit Premier Gallop immediately 'clarified' the government's proposal as definitely limited to Perth's inner-city entertainment precinct.

The Premier's press release of 26 June 2003

makes it clear that the Curfew is limited to instructions to police under existing discretions that they should apprehend 'pre-teenage children who are not under the immediate care of a parent or responsible adult,' who will not be allowed on the streets after dark, and unsupervised children between 13 and 15 after 10 pm. There is also to be a crackdown on poorly-behaved young people generally.

The results of the new policy, which relies on existing *Child Welfare Act* powers and cooperation between welfare workers and police, are ambiguous, though the Premier told Parliament in August it was a success. In the first week, non government youth workers reported a significant drop in numbers of young people in town, but the following week many more young people claimed they had come into the area to confront police. Businesses have reported a considerable drop in young people's street presence, youth workers claim innocent and over-age young are being hounded. There is no plan to evaluate the policy. There is no evidence of young people's motivation for coming into the city, though City of Perth video cameras had previously recorded evidence of some seemingly ritualistic fights in the area in the early hours of Saturdays and Sundays. Without this, none can predict how effective police apprehensions and warehousing of young people could be, long-term. Nor has additional funding been allocated to police for surveillance, apprehension and supervision, nor for the development of targeted services for very young people 'inappropriately' coming into town alone.

The human rights of vulnerable and relatively powerless people depend on the skills, competence and integrity of adults. The rights of young people under the age of 18 are complex. All children and young people (under the age of 18) have special rights: to

PARTICIPATION in the decisions that affect them: the **PROVISION** of the necessities of a decent quality of life including the best possible quality and level of services for themselves their parents and their families; and to **PROTECTION** from all forms of violence, exploitation and maltreatment whether on the streets of Northbridge or other public places, or in their own homes. These three categories of rights are created by and equally protected under the UN Convention on the Rights of the Child, ratified by the Australian government in 1990.

Non government youth workers have offered to work with government to develop a more thoughtful approach to the issue, which does not so fundamentally offend against the UNCRC promises to respect all of the rights of children.

We await its response.

DCI Celebrates its Anniversary.

On June 5 2003, DCI celebrated its 24th anniversary. On this occasion, DCI would like to congratulate all of you on the significant results achieved in the field of children's rights throughout the years and to renew our efforts and cooperation to continue striving for a fair and just society for children.

NSW Out-Of-Home Care Provisions of 1998 Act Proclaimed

At last, there is a clear and definite schedule for the proclamation of the remaining sections of the *New South Wales Children & Young Persons (Care & Protection) Act 1998* relating to out-of-home care.

This is to be a staged process but this time the 3-stage schedule is part of the proclamation instrument. The basic framework and definition of out-of-home care is now in place and the NSW Office of the Children's Guardian now has the legislative base to do part of its job – to act as an accreditation agency. Other aspects of out-of-home care concerning the rights of children, carers, and parents rights to information come into effect on 12 December 2003, and the crucial monitoring and review aspects and the provisions for young people leaving care will begin on 31 March next year.

There are, however, two very significant areas of out-of-home care that remain unresolved. These concern the functions of the Children's Guardian and the status of voluntary care. The two functions of the Children's Guardian involved in s181(a) and (d) that remain unproclaimed and unresolved concern the capacity and role of the Children's Guardian as a guardian for children – as the name implies - rather than as a guardian for the system.

The role of the NSW Department and the Children's Guardian in relation to children in voluntary care especially in relation to monitoring and review also remains unresolved. Sections 155 and 156 were included in the Act to prevent children and young people 'drifting in care' without proper planning or review of their circumstances. There are three groups of children involved:

children with a disability, children in SAAP services, and the broader group of children placed in voluntary care without a care order. While there may be better ways than those currently included in the Act to deal with these issues, it is important not to jettison these protections without putting something better and workable in their place. Several consultation processes are under way or planned to work out some solutions for children with disabilities, and in SAAP services. Any changes around the provisions for all children in voluntary care need careful consideration and consultation before any decisions to change the legislation are made.

Resources, Publications and Useful Websites

“Orphans and other children made vulnerable by HIV/AIDS - Principles and operational guidelines for programming” -

<http://www.ifrc.org/what/health/tools/orphans.asp>

Fozzard S. (2002) Surviving Violence, A Recovery Programme for Children and Families,

BICE. This training manual consists of an intervention strategy in three parts: sensitization, work in existing institutions, and work in the villages. For more information, contact BICE, Tel: +41-22-731-32-48,

Email: bice.geneva@bice.org,

Website: www.bice.org.

Driskell D. (2002) Creating Better Cities with Children and Youth: A Manual for Participation.

UNESCO Publishing/ EARTHSCAN
Publications

This book is a practical manual on how to conceptualize, structure and facilitate the participation of young people in the community development process. Case studies from project sites help to demonstrate the methods in action and show how they can be customized to meet local needs. For more information, contact EARTHSCAN,
Email: earthinfo@earthscan.co.uk,
Tel: +44(0) 20 72 78 0433, or UNESCO Publishing,
Email:
publishing.promotion@unesco.org,
Tel: +33(0)1 45 68 49 30.

Grimsrud B. (2002) The Next Steps: Experiences and Analysis of How to Eradicate Child Labour,
FAFO.

This anthology takes stock of the experiences and analyses, with a focus not so much on individual activities or projects as on the underlying causes and the long-term solutions to fight child labour. For more information, contact FAFO,
Website: www.faf.no/engelsk.

ILO-IPEC (2002) Unbearable to the Human Heart: Child Trafficking and Action to Eliminate it.

Child Trafficking is a highly complex phenomenon with no simple answers. Yet, as demonstrated in this report, tackling this problem is possible. Available in French, English, and Spanish. For more information, contact ILO, Nepal,
Tel: +977 1 550 691,
Email: ilo@iloktm.org.np,
Website: www.ilo.org/kathmandu.

Regional Working Group on Child Labour (2002) Handbook for Action-

Oriented Research on Child Labour and Trafficking.

This handbook is particularly useful for the implementation of research exercises to generate accurate data/information, for national-level training and capacity building and, in the promotion of child-centred action-oriented research in the worst forms of child labour. For more information, contact Regional Working Group on Child Labour, Dominique P. Plateau,
Tel: +66 2 243 22 66,
Email: rwg@loxinfo.co.th.

Save the Children UK (2003) Finding the Right Tools for the Job: Lessons Learned on the Application of ILO Convention 182 on the Worst Forms of Child Labour.

This paper describes lessons learned during three evaluation missions to Honduras, Bangladesh and Burkina Faso. It is aimed at key decision makers and activists involved in the application of ILO Convention 182. For more information, contact Save the Children UK,
Tel: +44 20 7703 5400,
Email: enquiries@scfuk.org.uk,
Website: www.savethechildren.org.uk.

World Vision International (2003) Faces of Violence in Latin America and the Caribbean.

This book examines 12 countries that are confronted with soaring levels of violence. Recommendations are presented for confronting and curtailing cultures of violence and the structures, behaviours and perceptions that sustain them. For more information, contact World Vision International,
Tel: +41 22 798 4183,
Email: Geneva@wvi.org,
Website: www.wvi.org/home.shtml/

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