

The Rights of Children and Young People

Working Conference



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Introduction

About the Federation

The Federation of Community Legal Centres (Vic.) Inc is the peak organisation for over 40 Community Legal Centres in Victoria. The Federation has a number of working groups made up of Centre workers, both lawyers and non-lawyers that address specific areas of law affecting our clients. One such working group is the Children and Youth Issues Working Group, which aims to:

- share the experience of legal centres and the issues of law impacting upon young people;
- promote access to justice for children and young people;
- promote the implementation of the recommendations of the 1997 joint report of the Australian Law Reform Commission and the Human Rights and Equal Opportunity Commission *Seen and Heard: priority for children in the legal process (Seen and Heard)*;
- promote the United Nations Convention on the Rights of the Child; and
- initiate campaigns to promote children and young people's rights within the legal system through law reform and community legal education activities.

This project

In the year of the 10th Anniversary of Australia's ratification of the Convention, the Federation saw the need to reinvigorate debate about the rights of children and young people in Victoria, and in particular in relation to the Convention. This project was devised whereby we set out to:

- raise awareness of the Convention and the human rights of children and young people;
- bring together key stakeholders, including young people, workers with young people, funding bodies and policy makers to assess compliance with the Convention in Victoria;
- together with key stakeholders, develop strategic actions that involve young people and which improve the implementation of the Convention in Victoria, at both a government and non-government level; and
- together with key stakeholders, ensure that the necessary networks are established to enable the strategic actions to be implemented beyond March 2001.

In September 2000, the Federation appointed a researcher, Annie Pettitt, to:

- undertake a literature review and action research, involving relevant people and agencies; and
- prepare and distribute a discussion paper that explains simply the Convention, its legal standing, and the rights contained in it, to workers with young people in Victoria.

On 10th November 2000, the Federation held a forum with some key representatives from the youth and legal sectors to discuss the progress of Annie's research and to further develop the format for the conference to be held in March 2001. The key recommendation from the forum was the need to establish in Victoria an independent statutory body, a Commission for Children and Young People.

As part of the process of involving government in the project and its outcomes, the Federation wrote to relevant Ministers, encouraging them to become involved in discussions towards the development of a Commission for Children and Young People in Victoria and to be a part of the March conference and its outcomes.

The conference – 2nd March 2001

Prior to the conference, all participants were provided with materials about the Convention and Victoria's compliance. The papers were intended to provide a basic understanding of the Convention, its legal status in Australia and what it means for those working with young people. The Honourable Justin Madden, Minister for Youth Affairs, opened the conference together with the Honourable Justice Marilyn Warren representing the Victoria Law Foundation. The key-note address was made by Moira Rayner, Director, Office of Children's Rights Commissioner, London (Appendix 1).

Conference participants then attended two workshops. The task of each workshop was to develop realistic action strategies to improve compliance with the obligations spelt out in the Convention and to strengthen the rights of children and young people in Victoria. The strategies look not only at what our governments can do, but also what non-government agencies can do at the policy level, at the service delivery level and through advocacy to enhance young people's rights. The workshops were chaired by people with expertise in that particular topic area.

The morning workshops focussed on developing strategies within the context of the Convention. We chose five key Convention principles as the focus for these workshops, namely:

- Article 3 – Best Interests of the child
- Article 5 – Parental Guidance and the child's evolving capacities
- Article 6 – Survival and Development and Article 8 – Preservation of Identity
- Article 12 – Expression of Opinion and Article 13 – Freedom of Expression
- Article 4 – Implementation of Rights

The afternoon workshops were designed to develop strategies to improve compliance with the Convention in the context of specific areas of activity or sectors. The materials provided to the participants outlined relevant issues in each sector, so as to maximize the opportunity to discuss these issues in the context of the Convention. We chose five sector areas that were identified by participants as areas of interest or expertise, namely:

- Education
- Employment
- Housing
- Justice
- Use of Public Spaces

The final address was provided by Danny Sandor, President Defence For Children International, Australian Section and Board member, National Children's and Youth Law Centre.

The Federation's research, together with the strategies developed at the conference form the basis for this report. The recommendations of the workshops are printed in their entirety. Key themes and recommendations are summaries at the end.

Since the conference, the Federation has begun the process of working to implement the recommendations. Work towards the establishment of a Children and Young People's Commission in Victoria is being continued by the Youth Affairs Council and the Children's Welfare Association of Victoria. The Federation continues to campaign for the establishment of Victoria's first State-wide community legal centre for young people. The Federation is also working with other key agencies and individuals in areas outside our expertise.

The Federation is currently developing a web-site that will focus on young people's legal issues. This will include interactive chat rooms for both workers and young people so that there is an ongoing dialogue towards the implementation of these recommendations. All conference participants who provided their email address with the registration form will be invited to join the chat room.

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Thanks to all those that participated in the forum in November 2000, the conference in March 2001 and in advance to all those that will continue to work on implementation of the strategies and recommendations outlined in this report.

Sarah Nicholson

Convenor, Children and Youth Issues Working Group

A Basic Introduction to the Convention on the Rights of the Child

The Convention on the Rights of the Child (the Convention) was adopted by the General Assembly of the United Nations in November 1989, and ratified by Australia in December 1990. To this day, this Convention is fully ratified in all but two countries, the United States and Somalia.

The legal effect of the Convention on Australian governments

By ratifying the Convention, the Australian Federal Government has agreed to “undertake all appropriate legislative, administrative and other measures” to translate the rights in the Convention into reality (Article 4). Although this does not mean that the Rights contained in the Convention are automatically a part of Australian law, under International Law, the Federal Government is legally bound to take steps to have the Convention implemented, at a Federal, State and local government level.

The effect of the Convention outside Parliamentary chambers

In addition to creating legal obligations, the Convention has persuasive power. Courts, politicians, government decision makers at all levels, as well as non-government and community based agencies, should all look to the Convention for guidance in developing law, policies, practices and procedures.

Important International mechanisms

Under the Convention, the Australian government is required to submit a report to the Committee on the Rights of the Child every five years. The Committee reviews the report and hears oral evidence from the Federal government, as well as considering any other reports that are provided by non-government organisations in Australia.

After consideration, the Committee makes concluding observations highlighting the Committee’s particular concerns about Australia’s compliance with the Convention. These observations are important as the Committee expects its concerns to be addressed over the next reporting period.

Australia’s first report under the Convention was in December 1995. The second report is currently being prepared by the Commonwealth Government, in discussion with non-government agencies.

A full copy of the Convention can be found from the UNICEF web-site www.unicef.org/crc

Article 3 – Best Interests of the child

Summary

All actions concerning the child should take full account of his or her best interests. The State is to provide adequate care when parents or others responsible fail to do so.

Current Issues in Victoria

While recognising the 'Best Interests of the Child' it should be noted that at times this right may be in conflict with Article 12, the right of children and young people to freely express an opinion and have that opinion taken into account. It is therefore essential to maintain an understanding of human rights generally and children's rights specifically, as interrelated and interdependent.¹

An example of this potential conflict is the child's representative in the Family Court. The child's representative is a lawyer who is not bound to act on what the child wants but rather tells the Court what is in the child's best interests. Similar conflicts arise when workers are not bound to assist a young person according to their wishes. The conflict can be compounded when young people are disabled and are perceived to be unable to make decisions for themselves.

Another example is the removal of indigenous children from their families. The Report 'Bringing them Home' clearly details that many children were forcibly removed on the grounds of it being in the best interests of the child. We have witnessed the devastating effects of government removal policies on the whole indigenous community. It is essential that when considering the best interests of children that we primarily treat their own opinions and those of their communities with respect.

How do we determine what are the best interests of the child? Should there be stated guidelines? Are 'best interests' dependent on age and developmental issues or gender, sexuality, cultural background, etc? Can there be objective criteria? How do we balance competing interests, such as the perceived conflict with the rights of parents?

Key issues identified by UNICEF Task Force of Child Rights:

- Mandatory sentencing
- Care and protection legislation
- Police searching powers
- Juvenile justice
- Diversionary programmes

Concluding Observations of the Committee on the Rights of the Child on 10/10/97

The Committee expressed concern about the lack of local legislative prohibition of the use of corporal punishment in schools, at home and in institutions. In the Committee's view this contravenes the principles and provisions of the Convention, in particular Article 3.

The Committee encouraged the State party/Australia to review its legislation and make paid maternity leave mandatory for employers in all sectors, in the light of the principle of the best interests of the child.

¹ For a recent authoritative example see Article 5 of the Vienna Declaration and Plan of Action (1993): 'All human rights are universal, indivisible and interdependent and interrelated; The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.'

Tasks and strategies identified by the workshop

What can agencies do?

- Develop a definition of “best interests of children” and a process for considering a definition of “best interests” in decision making. Incorporate this into agency policies.
What should be taken into account when developing policies:
 - issue of ‘power differentials’;
 - cultural exceptions;
 - be upfront about conflicts inherent in pursuing best interests;
 - incorporate a system of evaluation, such as a Child Impact Process;
 - ensure child inclusive processes;
 - collaborate with other agencies;
 - include content and process issues;
 - respect confidentiality and the ability to access services;
 - where possible, streamline and co-ordinate systems to minimise the merry-go-round of services and maintain continuity in referrals and consistent documentation; and
 - incorporate different frameworks for different circumstances: flexibility.
- Advocate around issues that are clearly in children’s best interests, including:
 - involving students in decision making processes at schools; and
 - minimising children going through systems i.e. law, parents, lawyers, police.
- Obtain copies of the Convention and conduct training for staff.
- Educate the community and build local support for the Convention.
- Fund youth advocacy organisations and state-based children and young people’s organisations.
- Publicise and advocate for the London model of Office for Children’s Rights Commissioner, including the development of a Child Impact process at all levels of government.
- Involve young people in processes.

What does government (State and Commonwealth) need to do?

- Take ‘best interests’ at face value and develop processes by which to ensure best interests are being met in all government decision making, such as a Child Impact Assessment process. Provide resources and leadership to ensure that the non-government sector and the broader community complies with ‘best interest’ principles.
- Ensure that the diverse voices of children and young people are included in all policy making processes.
- Establish a Children’s Ombudsman and a Commonwealth ‘Children’s Commissioner’; which is a one stop shop that pursues issues and lobbies government, develops training materials and provides leadership around young people’s rights and the Convention.
- Review and ensure compliance with all international conventions affecting children and young people.
- Fund youth advocacy organisations and state-based children and young people’s organisations.

Article 5 – Parental Guidance and the child’s evolving capacities

Summary

The State’s duty to respect the rights and responsibilities of parents, of the extended family or community (as provided for by local custom) and of legal guardians or other persons legally responsible for the child, to provide - in a manner consistent with the evolving capacities of the child - guidance to the child in the exercise of their rights, as recognised in the Covenant.

Current Issues in Victoria

There is a sense in the community of a conflict between children’s and parents’ rights and responsibilities. For example, when do parents decide, when do children decide, when do both decide together? For example:

- Freedom of opinion, such as choice of school.
- Freedom of expression such as what to wear, piercing, hair colour.
- Health issues such as deciding to take contraception, infections from a tattoo.

Discipline – corporal punishment at home and at school

Whilst corporal punishment is prohibited in government schools in Victoria, there is no specific legislation for private schools. However, Victorian general assault provisions apply in the home and in private schools. But do police and the courts appropriately enforce them? Do young people know about or have access to these provisions?

Other issues identified by the Workshop

Issues in the care and protection system

- Use of physical restraint against children and young people.
- The lack of adequate ongoing and reliable supports for children and young people leaving care.
- Loss of support from extended family and family friends when children and young people are removed from their family.

Income support

Lack of independent means testing by Centrelink resulting in greater reliance by young people on parents’ income.

Family Violence

- Increased use by parents of the intervention order process for protection against their children. This does not necessarily solve the conflict between parents and children but rather brings the young people into the criminal justice system.
- Requests by young people for contact with perpetrators of family violence are not being respected.

Cultural Diversity

- The need for acknowledgement of the historical context around the parent and child balance of power. A cultural shift is required.
- The need to acknowledge differing cultural perceptions of the parent and child relationship.

Concluding Observations of the Committee on the Rights of the Child on 10/10/97

The Committee suggested that:

- awareness-raising campaigns on the Convention be conducted with particular focus on its general principles and on the importance it places on the role of the family;
- legislative measures be taken to prohibit corporal punishment in private schools and at home;
- awareness-raising campaigns be conducted to ensure alternative forms of discipline; and
- in cases of abuse and ill-treatment of children - including sexual abuse within the family - should be investigated, sanctions applied to the perpetrators and publicity given to decisions taken.

Other Reports and recommendations

Seen and Heard recommended that:

- government and community organisations educate the community and parents about young people's rights of children and young people; and
- advocacy and complaints bodies be established nationally and at a State level.

Tasks and strategies identified by the workshop

What can non-government agencies do - at the policy level?

- Address the strict demarcation of age within a service, including the policies prohibiting access by older adolescents to adult services.
- Develop a consistent definition of who is a child or young person for use between services.
- Develop intake and ongoing policies that address violence and corporal punishment within families.
- Clarify policies around who is the client: parents or children?
- Develop cooperative and guided referral protocols between agencies for young people clients.
- Create an appropriate process for participation of young people in policy formulation.
- Increase resources to school based youth support.
- Remove the requirement for parental permission for young people's involvement in school based counseling and other support programs outside school curricula.

What can non-government agencies do – in service delivery?

- Value young people's opinions (howsoever expressed) regarding contact with their parents.
- Promote services directly to children and young people.
- Produce appropriate and targeted information for young people around their rights and make it accessible to them.
- Respect young people's requests for confidentiality (especially when sharing information with their parents).
- Educate parents around the effects of corporal punishment, alternative parenting models, and young people's rights.
- Train workers to improve their engagement with young people, help them to work out what they want and assist them to work to get there.
- Use family education/case management strategies that combine one to one work and group work with parents and their children.
- Bring parenting programs to schools to initiate parenting education at a very early stage in children's development.
- Increase education of primary school age children around human development and communication skills.
- Develop culturally aware parenting programs (remaining wary of 'cultural apologism').
- Improve parents' involvement in their children's secondary education to decrease the alienation of parents from their teenage children.
- Encourage and support parents of adolescents to remain 'connected' with their children.
- Provide access to 'Kids Helpline' or other telephone counseling service within all schools.

What does government (Local, State and Commonwealth) need to do?

- Initiate consultation within the community about what is an 'acceptable' level, if any, of physical punishment of children.² Based on the consultation, develop legislative provisions.
- Provide improved enforcement of existing laws as well as support and education for parents who physically abuse their children.
- Increase resources to support services for secondary school age young people.
- Increase training and improve support for Student Welfare Coordinators in counseling and supporting young people.
- Address the issue of parental consent for young people's involvement in extracurricular school based support programs.
- Develop strategies in the community to:
 - Better educate parents, schools and young people around young people's ability to make decisions/participate/take responsibility;
 - Experiment with different ways to increase young people's participation/decision making ability within families/government policy formulation/ service agencies; and
 - Better define community's definition of the 'role' of parents of secondary school age young people.
- Recognise that the Department of Human Services is not solely responsible for enforcing law around child abuse – it is the responsibility of the broader community. Community education is required to achieve this shift.
- Research the overseas experience regarding children and young people's participation in Government decision making, including the Children's Commissioner model in London.

² The workshop considered whether Government should grant a limited 'right' of parental physical punishment (i.e. in accordance with proposed NSW legislation) or whether Government should outlaw *all* forms of physical punishment of children by their parents? The majority of the workshop supported the latter blanket prohibition and raised arguments around the need for Government to show community leadership with a clear statement on the issue, the need for sanctions to be combined with support and education for parents who abuse their children, and that sanctions need not necessarily be punitive but could involve parental education orders. Other participants argued that blanket prohibition would indirectly discriminate against those parents with lower 'social capital', that there are not sufficient resources to enforce such a prohibition, the criminal law already outlaws assault against the person and that the community would not accept any law that prohibited physical discipline by parents

Article 6 – Survival and Development

Summary

The inherent right to life and the State's obligation to ensure the child's survival and development.

Current Issues in Victoria

- Access to health services for rural and regional, indigenous and gay and lesbian young people.
- Youth suicide.
- Education on economic, social and cultural rights (health, housing, recreation, culture etc.).
- Provision of and access to appropriate information and services.
- Nature & quality of state care in the protective and juvenile justice systems.
- Support for family and children, including following divorce and separation.

Concluding Observations of the Committee on the Rights of the Child on 10/10/97

The Committee expressed concerned about:

- special problems still faced by Aboriginal and Torres Strait Islanders, as well as children of non-English-speaking backgrounds, with regard to their enjoyment of the same standards of living and levels of service, particularly in health.

The Committee recommended that:

- further steps need to be taken to raise the health standards of disadvantaged groups, particularly Aboriginal and Torres Strait Islanders, new immigrants and children living in rural and remote areas.

Article 8 – Preservation of Identity

Summary

The State's obligation to respect and protect right of the child to preserve his or her identity, including name, nationality and family ties; and, if necessary, provide appropriate assistance and protection with the view to re-establishing these basic aspects of a child's identity.

Current Issues in Victoria

Stolen Generations

The *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* has revealed the devastating effects that the forced removal of indigenous children has had, and continues to have on the indigenous community. The Inquiry found the effects on children were multiple, continuing and profoundly disabling. The trauma of separation and attempts at assimilation into the non-indigenous community have damaged the self esteem and well being of many and impaired their parenting and relationship skills and abilities, culminating in a cycle of damage people find it difficult to escape unaided.³ These children have lost their culture, language, heritage and land as well as their families and communities.

Indigenous children continue to be separated from their families at much higher rates than non-indigenous children through the legislation, policies and practices of the child welfare system, adoption, family law and through the juvenile justice system.

Cultural and linguistic diversity

- Importance of home language maintenance.
- Language and culture are not always taught as part of the curriculum.
- Causes cross-cultural conflict, leads to breakdown of family relations and alienation from the community of the child's family.

³ Human Rights and Equal Opportunity Commission (HREOC) 1997 *Bringing Them Home* Summary Report, 18.

Asylum Seekers, including holders of temporary protection visas

- It is estimated that 1/3 of all asylum seekers in detention centres are children, many of whom are unaccompanied minors (under 18).
- For those asylum seekers who are accepted under Australia's off-shore humanitarian program, the right to family reunion is not expedient (it can take up to 2yrs). Australia has a responsibility to the children of asylum seekers and refugees, including those who are not yet within Australian State borders.
- Limits upon access to services and resources, including Centrelink benefits, for many asylum seekers including holders of temporary protection visas.
- The impact of "statelessness" of refugee children and young people.

Other issues identified by the Workshop

- It is difficult for children to maintain meaningful relationships with parents who are in jail in Victoria because there are few services providing contact and access support, there is limited public transport to and from prisons and phone contact is problematic.
- Homeless children do not access mainstream services and hence require specific services such as youth specific health services for kids on the street.
- Rural young people lack access to a variety of services and confidential access is problematic.
- Full fee paying students, in particular at Secondary School level can be left without family supports, and limited access to government services such as Medicare.

Concluding Observations of the Committee on the Rights of the Child on 10/10/97

The Committee expressed concern that, in some instances, children can be deprived of their citizenship in situations where one of their parents loses his/her citizenship.

The Committee recommended that:

- legislation and policy reform be introduced to guarantee that children of asylum seekers and refugees are reunited with their parents in an expedient manner; and
- no child be deprived of his/her citizenship on any ground, regardless of the status of his/her parents.

Tasks and strategies identified by the workshop for Article 6 - Survival and Development

What can non-government agencies and local government do?

- Youth Suicide
 - Develop suicide prevention programs for refugee children in early stages of resettlement; and
 - Conduct research around youth suicide and literacy – is there a link?
- Asylum seekers
 - Campaign for a policy for alternatives to detention for children and their carers in the migration system and that no children should be in detention – migration or criminal;
 - Implement policies allowing access to services, whether or not specific funding is provided;
 - Campaign to change the policy preventing access for asylum seekers to Medicare funded services;
 - Improve co-ordination of the campaign around asylum seekers; and
 - Increase research to inform a campaign around the denial of basic rights to asylum seekers.
- Involve young people in the ongoing development of services at every level, through:
 - Meetings with young people / children;
 - Direct confrontation of issues at the organisational level;
 - Training and resourcing young people adequately so they can take on roles;
 - Giving up real authority to young people e.g. employment of staff;
 - Introducing peer education across all services that affect young people; and
 - Involving young people in developing a service that is accessible to them: be prepared to offer outreach services to young people. Don't assume young people will come to you.

- Assist and encourage young people to use equal opportunity legislation to make age related discrimination complaints; lobby the Equal Opportunity Commission to look into age discrimination.
- Advocate around drug issues in jails such as safe injecting and harm minimization.
- Make contact with young people whose rights have been violated or who have been abused in state care, to investigate their legal options.
- Encourage young people to care about what is happening to them and around them at school, such as school curricular.
- Make community health centres “youth friendly” including outreach activities.
- NGO’s need to reclaim their independence from government.
- Carry out a longitudinal study on literacy and suicide among refugee children.
- Examine services for rural young people – issues of confidentiality, the range of service options.

What does government (State and Commonwealth) need to do?

- Enhance funding for youth services, including services targeted at particular groups of young people such as homeless young people.
- Be more proactive and take a leadership role in delivering a Child’s Rights policy message to NGOs, and assisting NGOs to comply with the Convention.
- Take steps to address youth suicide, including conduct research, develop and implement education programs in schools and the community, ensure adequate funding for counseling at school and develop a youth unit within the “depression initiative”.

Tasks and strategies identified by the workshop for Article 8 - Preservation of Identity

What does government (State and Commonwealth) need to do?

- Recruit bilingual staff in detention centres.
- Ensure people in detention centres can contact overseas family by providing phone access.
- Provisions relating to the operation of detention centres need to have explicit requirements about cultural diversity and development.
- Develop school/community cultural awareness activities.
- Appoint indigenous staff.
- Develop cross cultural training in all workplaces.

What can non-government agencies and local government do?

- Lobby for the Victorian Aboriginal Child-Care Agency to receive money to support the preservation of identity of indigenous kids.
- Develop a framework for an understanding of issues that affect gay, lesbian and transsexual young people.
- Develop a framework for an understanding of issues that affect culturally and linguistically diverse young people.
- Develop school/community cultural awareness activities.
- Appoint indigenous staff.
- Develop cross cultural training in all workplaces.
- Presentation of identity for kids presents different issues than for adults – advocacy (young kids limited capacity to identify their own needs / issue).

Article 12 – Expression of Opinion

Summary

The child's right to express an opinion, and to have that opinion taken into account, in any matter or procedure affecting the child.

Article 13 – Freedom of Expression

Summary

The child's right to obtain and make known information, and to express his or her views, unless this would violate the rights of others.

Current Issues in Victoria

- Is sufficient accessible, appropriate and specific information available for children and young people?
- There are insufficient services providing general casework, and advocacy for young people.
- There is no existing network of legal advocates and lawyers for young people who can assist young people to be heard.
- Victoria has only recently re-established its Youth Affairs Council.

Legal Aid provides casework for young people in crime and protection in the Children's Court, but there is no comprehensive service of lawyers or advocates for young people that can provide education, advocacy and case work in civil, discrimination and administrative law matters.

Seen and Heard recommends that, a network of grassroots, community or peer advocates for children be established and that a system of accreditation for child advocates developed by the Office for Children (OFC) (Recommendation 9,157). Further, it recommends that the OFC should publicise the existence and role of the network of advocates, especially to those most likely to need the assistance of an advocate, including children who have learning difficulties (Recommendation 10, 156).

Currently in Victoria, *Alphaline* provides 24-hour free legal advice to young people who live, work or study in Fitzroy, Collingwood, Richmond, North Melbourne, East Melbourne, Brunswick and Carlton. There is no similar service that is provided throughout Victoria. *Seen and Heard* has recommended that a national toll-free advice line for children should be provided and that the OFC should co-ordinate this publicity.

Key issues identified by UNICEF Task Force of Child Rights:

- Care and protection legislation.
- Commission, participation mechanisms, National Youth Week.
- Civic/youth participation.
- Education.

Concluding Observations of the Committee on the Rights of the Child on 10/10/97

The Committee is concerned that the general principles of the Convention, in particular those related to the respect for the views of the child are not being fully applied.

The Committee believes:

- There is a need for an awareness-raising campaign on the right of the child to participate and express his/her views, in line with Article 12 of the Convention.
- Special efforts need to be made to educate parents about the importance of both children's participation, and dialogue between parents and children.
- Training should be carried out to enhance the ability of specialists, especially caregivers and those involved in the juvenile justice system, to solicit the views of the child, and help the child express those views.

Tasks and strategies identified by the workshop

What can non-government agencies do - at the policy level?

- Develop a policy for involvement of young people in decision making in all levels of agency – policy development, service delivery and program evaluation. Some suggestions:
 - Avoid tokenism – participation must be real and integrated but will be difficult;
 - Allow young people to decide what they want to discuss and make decisions about. Do not make decisions before asking young people;
 - Give young people control over the decision making process and systems – change processes and systems to fit young people, develop new ways of doing things;
 - Follow through with young people's decisions, opinions and ideas;
 - Approach controversial issues through education and open discussion;
 - Provide adequate support, training and resources for young people to be involved;
 - Provide education about rights, participation tools and processes for the agency's community;
 - Accept that young people may not want to participate – may have other priorities;
 - Give young people ownership of systems, processes, outcomes, activities;
 - Recognise that not all young people are the same – different groups of young people may need to be treated differently; and
 - Put young people at centre of the organisation. Make the organization fit around young people.
- Count young people in indicators, reports and evaluations.
- Develop transparency so that young people understand the structure, processes, logic and outcomes.
- Undertake an audit or evaluation of the agency against the Convention including feedback from young people who are and are not accessing the service using rigorous methods such as a survey or questionnaire, and not just anecdotal evidence.
- Incorporate Child Impact Assessment process into service evaluation processes.
- Ensure policies accord young people procedural fairness in decisions made about them.
- Allocate sufficient resources (staff and other resources) to work with young people.

What can non-government agencies do – in service delivery?

- Respect young people's rights.
- Ensure that services are flexible, accessible and responsive to young people.
- Develop a relationship of trust through personal contact.
- Be patient and persistent – young people may take time to trust or to work out what they want.
- Educate young people about their rights using peer education and peer support programs.
- Encourage feedback.
- Accessible and appropriate young people specific information.
- Use active listening techniques – listen, reflect and confirm.
- Ensure that referrals are to "youth friendly" services - get to know people and policies at other services. Follow through on the referral.

What can schools do?

- Develop young people's participation in primary and secondary schools.
- Include young people's rights, participation tools and decision making models in school curriculum.
- Ensure to have Student Representative Councils and student representatives on School Council.
- Establish forums to involve young people in decisions that are important to them.
- Implement strategies to ensure that young people who are less advantaged, assertive and articulate are encouraged to participate.
- Accord young people procedural fairness in relation to decisions made about them.

What can non-government agencies do – in advocacy?

- Talk to other agencies about the rights of young people.
- Develop networks of advocates to assist young people to be heard.
- Develop referral protocols with other agencies that respect the rights of young people.
- Educate the public and dispel myths and question assumptions about young people's rights.
- Promote positive images of young people to the media, other agencies and the community.

What does Government need to do? How?

- Reaffirm full commitment to the Convention on the Rights of the Child.
- Incorporate Child Impact Assessment in government policy and decision making cycles.
- Incorporate opinions of young people in policy and decision making using a number of strategies that recognise that they are not a homogenous group.
- Ensure that where government policy is carried out by contractors, specifications include that the contractor must work with young people in the development and evaluation of projects.

Specifically, what else does Local Government need to do? How?

- Work with local agencies and schools to ensure an integrated approach to young peoples' participation and whole of community planning.
- Specifically involve young people in policies that affect them e.g. public space, transport and youth services.
- Promote the Convention and rights mechanisms through a local awareness raising and education campaign especially targeted to young people, parents, media and workers with young people.

Specifically, what does else State Government need to do? How?

- Establish an independent Children and Young People's Commission.
- Provide adequate resources for a community based, statewide Young People's Legal Service.
- Allocate resources to agencies to work with young people and support their participation.
- Increase resources for legal advice, information, education and advocacy for young people (particularly in civil, discrimination, administration and justice matters).
- Allocate resources to continue and extend *Alphaline* to a statewide 24 hour free legal advice telephone line for young people.
- Educate and train workers with young people about the Convention to enhance the ability of specialists to solicit and represent the views of young people – incorporate into existing degrees such as education, youth work and develop specific training courses for workers.
- Establish a system of accreditation for child advocates.
- Promote the existence of accredited child advocates, especially to those most likely to need assistance, including young people who have learning difficulties.
- Review laws that restrict young people's ability to fully participate in society e.g. age laws such as independent person program (increase from 16), Centrelink means tests (reduce from 21), right to vote in elections (reduce from 18).
- Specifically involve young people in policies that affect them e.g. policing and education.
- Develop young peoples participation in primary and secondary schools by:
 - including young peoples' rights, participation tools and decision making models in curriculum;
 - ensuring all schools have Student Representative Councils and young people represented on School Council;
 - establishing forums to involve young people in decisions that are important to them;
 - implementing strategies to ensure that young people who are less advantaged, assertive and articulate are encouraged to participate;
 - according procedural fairness to young people in relation to decisions made about them.

Article 4 – Implementation of Rights

Summary

The State's obligation to translate the rights in the Convention into reality.

Related Articles

Article 41: Respect for existing standards

- If any standards set in national law or other applicable international instruments are higher than those of this Convention, it is the higher standard that applies.

Article 42 –54: Implementation and entry into force

- State Parties to make the principles and provisions of the Convention widely known to adults and children.
- State Parties to submit reports to the Committee on the Rights of the Child two years after ratification and every five years thereafter.
- State Parties to make their reports widely available to the general public.
- The Committee may propose that special studies be undertaken on specific issues and may make its evaluations known to each State Party concerned as well as the UN General Assembly.
- In order to 'foster the effective implementation of the Convention and to encourage international cooperation', the specialised agencies of the UN (eg. ILO, WHO and UNESCO) and UNICEF would be able to attend the Committee meetings. Together with any other body recognised as 'competent', including NGOs in consultative status with the UN and UN organs such as UNHCR, they can submit pertinent information to the Committee and be asked to advise on the optimal implementation of the Convention.

Current Issues in Victoria

- Who has carriage of the Convention in Victoria, in the absence of a Children's Commission?
- Who initiates community information campaigns about the Convention?
- Who provides information to government and agencies about how to improve policies, procedures and practices in line with the Convention?

Concluding Observations of the Committee on the Rights of the Child on 10/10/97

The Committee expressed concern:

- that although the Convention has been declared a relevant international instrument under the *Human Rights and Equal Opportunity Act 1986*, which enables HREOC to refer to the Convention when considering complaints, this does not give rise to legitimate expectations that an administrative decision will be made in conformity with the requirements of the Convention;
- that there is no right of citizens to launch complaints in local courts on the basis of the Convention.
- regarding the reservation made to Article 37(c) of the Convention;
- about the absence of a comprehensive policy for children at the federal level, including the lack of monitoring mechanisms at federal and local levels and disparities between different states' legislation and practices (including budgetary allocations); and
- that the public does not generally know the Convention and its principles.

The Committee recommended:

- that in light of the Vienna Declaration and Programme of Action 1993, the State Party review its reservation to Article 37(c);
- that the State Party create a federal body responsible for drawing up programmes and policies for the implementation of the Convention, and monitoring their implementation; and
- increased co-operation in the field of the rights of children and young people.

Australian law

The Australian Report to the Committee on the Rights of the Child (submitted 1996) made it clear that legislation would not be introduced to implement the Convention. It asserted that at the time of ratification a review of Australian law and practice had been undertaken to ensure that they conformed to the Convention.

The Convention was declared a relevant international instrument under the *Human Rights and Equal Opportunity Act 1986*, which enables the HREOC to refer to the Convention when investigating and conciliating complaints under domestic law.

In the absence of specific legislation the Convention lacks full legal force, it is therefore possible that existing and/or future Federal, State or Territory laws could contravene its provisions.

There continues to be no independent statutory body at either State or Federal level charged with the responsibility for promoting, monitoring and reporting publicly on Australia's compliance with the Convention.

Further, there is no focal point in government for coordinating the development and delivery of relevant policies and programs, or for ensuring cooperation between Federal, State and Territory governments.

There are no arrangements for consultation between government and community organisations focusing on the Convention or for participation by young people in policy, planning or monitoring of service delivery.

Recommendations:

Australia's Alternative Report to the Committee on the Rights of the Child recommends that to comply with the Convention, Australia must, as a matter of urgency:

- enact specific legislation to implement the Convention and create a Commission for Children;
- develop and adopt a National Agenda for Children;
- establish administrative arrangements to ensure compliance in the laws, policies and practices of all levels of government; and
- establish formal arrangements for consultation between government, relevant community organisations and young people on the adequate of government performance.

Other issues raised by the workshop

- insufficient knowledge of what human rights are;
- human rights are perceived to be a middle class concept; and
- limited user friendly information about legal rights and mechanisms.

Tasks and strategies identified by the workshop

What can non-government agencies do - at the policy level?

- Advocate/lobby for a Children's Commission as an Independent Statutory Authority. The roles of the Commission would be education, investigation and complaints (not necessarily individual complaints), with the Convention scheduled as part of the enabling Statute.
- Advocate/lobby for the Office of Children and Youth to be fully funded and promoted to Premier and Cabinet, and given status similar to the Office of Women's Affairs. The roles of such an office would be to develop a whole of government approach to the insertion of Convention principles in policy across all departments in the State Government, including reporting and evaluation mechanisms.

- Undertake education and awareness within agencies to improve the substantive participation of young people in organisations, so that:
 - all workers and management have an understanding of key Convention principles, especially those relating to participation;
 - young people are given the opportunity to educate workers and management about effective strategies for maximising young people’s participation and decision making in organizations;
 - a diversity of age groups, ie both children and young people are included; and
 - policies and practices are developed to fit the different and evolving capacities of children/young people (e.g., language used); this is very hard!
- Develop internal and external policies creating opportunities for young people to be part of consultation AND participation processes. Consultation alone is not sufficient as it requires:
 - A community development focus. Go out and find young people don't wait for them to come knocking on the door; and
 - Avoiding tokenism. Give children and young people an equal vote of equal value.
- Allocate resources to worker/management education and to encouraging young people to participate.

What can non-government agencies do – in service delivery?

- Develop education materials about young people’s right generally and the specific Convention rights:
 - Involve young people in the development of information and education materials and in the development of delivery strategies e.g. radio, internet, popular music, posters, etc;
 - Ensure the language used is appropriate to and targeted to both children and young people;
 - Check the understanding of concepts within different age groups; and
 - Cross cultural communication is essential; not just information targeted to “Anglo” young people.
- Undertake initial education of Convention principles within organisations and networks.
- Incorporate Convention principles into the organisation’s business plan. Develop strategies to implement principles, allocate resources, monitor and evaluate implementation and report achievements and areas for improvement in Annual Reports.
- Work towards incorporating Convention principles in all areas of work and service delivery.

What can be done in advocacy?

- In any advocacy work by NGO's (legal, welfare, policy) refer to the relevant Convention principles. In doing so, this will educate other decision makers.
- Raise public awareness in the general population about the Convention and young people’s rights towards a shared vision within the community. Challenge the adversarial concept of rights: it is not a matter of parents versus kids; but of enhancing human and civil rights for all. Maybe articulate this in terms of "entitlements" to basic needs (education, food, health, housing) and fundamental freedoms.
- Empower children and young people to articulate and exercise rights.
- Work with mainstream media and young people to develop creative public relations strategies.
- Submit an alternative, non-government, report to United Nations on Government achievements or otherwise of obligations under the Convention and the situation of young people.
- Identify and use resources and networks such as "Children's Rights International Network" (CRIN).

What does Government need to do? How?

- Create a centralised Office for Children and Young People in Premier and Cabinet, to coordinate and monitor policy across Government and Government agencies. Create mandatory annual reporting mechanisms on the implementation of Convention principles to the Office.
- Establish an independent Commission for Children and Young People. As outlined above, this should be a statutory body with legislated powers to require accountability across all Government and non-government agencies. Legislation should include a Charter of Rights.
- Incorporate into all Government policy and tenders for public contracts, commercial or otherwise, a requirement of compliance with Convention principles as part of specified performance criteria and reporting on achievement of criteria. For example, architectural design for public buildings must include a minimum requirement for effective consultation with young people, even if space is not specifically designed for young people. Failure to demonstrate implementation of strategies to comply should preclude any further contracting with the company unless and until change is demonstrated.
- Schedule the Convention to *Equal Opportunity Act (Vic) (EO Act)*. Amend the *EO Act* to repeal exceptions and certain exemptions relating to young people. Require specific reporting to EO Commission on compliance with the Convention (as part of the EO Commission Plans and Reports).
- Provide additional resources for youth advocates, in areas other than juvenile justice, protection or separate representation under Family Law Act.
- Provide adequate resources for a community based, statewide Young People's Legal Service.
- Schools / Department of Education:
 - Require schools to empower student representatives with real decision making powers; and
 - Incorporate into curriculum an annual class project whereby young people provide a submission to Government about Convention rights and how they are working for young people.
- Raise public awareness in the general population about the Convention and young people's rights towards a shared vision within the community. Challenge the adversarial concept of rights: it is not a matter of parents versus kids, but of enhancing human and civil rights for all.
- Create a Convention tram to advertise key Convention principles!

Issue: Education

Which Convention Articles relate to Education Issues?

- Article 28: Right to education
- Article 29: Aims of education
- Article 2: Non-discrimination
- Article 12: Expression of Opinion
- Article 13: Freedom of Expression
- Article 19: Protection from Abuse and Neglect
- Article 22: Refugee Children
- Article 23: Children with Disabilities
- Article 30: Minority and Indigenous Children

What are the Human Rights issues in Victoria relating to Education?

Access – Article 28

Education is in principle compulsory, free and universal. In practise, access to school activities is restricted for many children as a result of incurred costs (costs of books, equipment and some school activities (eg school excursions, swimming lessons) and voluntary fees.

Bullying – Article 19

Students who are the target of violence and bullying often leave school altogether, which seriously compromises their employment prospects.⁴ Research has shown that the effects of harassment at school can have serious health consequences and these young people are at greater risk of suicide than their peers.⁵ Research also indicates that violence against lesbian and gay students has consequences such as truancy and dropping out of school.⁶

Curriculum Content – Articles 2 & 13

In an on-line survey and in one-to-one interviews, young gay, lesbian, bisexual and transgender people have identified that school curriculum does not and needs to include and address issues relating to sexual orientation. Schools also need to adopt an anti-harassment policy and affirm diversity.

Human Rights Education

Few young people are aware of their rights or know that legislation in Victoria (*EO Act 1995*) and nationally (*HREOC Act*) prohibit discrimination on grounds of age. Many young people are not aware that mechanisms are available to protect their rights or of how to access these mechanisms. With the introduction of the Federal government's *Discovering Democracy*, civics and citizenship education was made compulsory in all schools for student in years 4-10. However, submissions to *Seen and Heard* suggest that this information should be complemented by human rights education, especially around children's rights and responsibilities.

Physical Punishment

The Convention requires that the administration of school discipline be consistent with students' human dignity and other rights, including their rights to be heard on matters affecting them (Articles 28(2) and 12). Disciplinary measures in schools range from informal provisions such as additional homework and detention to formal sanctions such as exclusion from school and corporal punishment.

Statutory provisions in most States and Territories only apply to public schools. NSW and ACT are the only jurisdictions that regulate discipline in private/independent schools by legislation – both have a statutory ban on corporal punishment in all schools. In Victoria, legislation banning corporal punishment applies to government schools only.

Exclusion

⁴ See K Rigby *Bullying in Schools: And What to do About it* Australian Council for Education Research Melbourne, 1996, 52.

⁵ K Rigby 'Can adverse peer-relations at school drive children to suicide?' *Paper* 20th International School Psychology Colloquium University of Melbourne 15-19th July 1997, 20.

⁶ J Griffin 'Anti-lesbian/gay violence in schools' in G Mason & S Tomsen (eds) *Homophobic Violence* Hawkins Press Sydney 1997, 107.

Suspension and expulsion from school permanently or temporarily are used arbitrarily as forms of punishment without adequate safeguards for rights of the child.

Searching and Confiscation

Specific discrimination issues faced by some young people

- **Indigenous children:** post primary school education is not always accessible or available.
- **Refugee/migrant:** language and culturally appropriate curricula and appropriate integration education are not always available.
- **Disability:** services for children with specific learning difficulties or disabilities are inadequate. Difficulties exist in the interface of disability services with education system. Underlying this is the ability of generic systems to cope with specific situations of differently able students.
- **Remote and Rural:** education beyond primary school is not always accessible/available to those living in remote areas.
- **Sexuality:** gay, lesbian, bisexual, transgender discrimination in the playground and curriculum.
- **Sex/gender:** higher education opportunity disparities.
- **Children in care:** face particular difficulties associated with frequent moves.

What has the UN Committee on the Rights of the Child said about Education?

The Committee noted Australia's provision for universal and free education. However, it also expressed concern that the law does not prohibit the employment of children who are still in compulsory education.

The Committee expressed concern about:

- special problems still faced by Indigenous Australians, and children of non-English-speaking backgrounds with regard to their enjoyment of the same levels of education services; and
- the lack of legislative prohibition of the use of corporal punishment in schools. In the Committee's view, this contravenes the principles and provisions of the Convention, in particular Article 28(2).

The Committee recommended that:

- all appropriate measures be taken, including of a legislative nature, to prohibit corporal punishment in private schools;
- the rights of the child are incorporated in school curricula.
- awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and the Convention; and
- further steps be taken to raise the standards of education of disadvantaged groups, particularly Aboriginal and Torres Strait Islanders, new migrants and children living in rural and remote areas.

What have major Australian Reports already found and recommended?

Seen and Heard:

Recommendation 37

Guidelines on best practice for student participation in school decision-making be developed.

Recommendation 38

The National Campaign Against Violence and Crime (NCAVAC) should conduct a specific project aimed at reducing school violence.

In 1995 the NSW Standing Committee on Social Issues recommended that the Minister for Education ensure sufficient funds are available to school in order for them to function as tolerant non-violent communities.⁷

Recommendation 39

All teachers and school counsellors should receive training in identifying children at risk and referring them to appropriate government and non-government support services. State and Territory education departments should provide this training.

Recommendation 40

In recognition of the relationship between early intervention and diverting involvement with the juvenile justice system, the Students at Risk (STAR) program should be re-established. Although this recommendation is directed towards DEETYA, the Commonwealth Department of Education Employment and Youth Training, has Victoria taken steps to implement a similar program?

Recommendation 41

Local programs to identify and support at-risk students and to encourage continued participation in education should be developed by State and Territory education departments in conjunction with DEETYA, peak bodies from independent school sector and community groups.

Recommendation 42

National standards for student support services (health, nutrition and counselling) in primary and secondary schools should be developed by DEETYA in conjunction with State and Territory education departments. This should include identifying specialist services and intervention programs to support disadvantaged families and young people aimed at meeting the needs of children who are homeless or at risk of homelessness.

Article 23(3) of the Convention sets out particular rights of children with disabilities and specifically provides for effective access to education. *Seen and Heard* notes that discrimination in education is the third most common ground of complaint to the Disability Discrimination Commissioner.

Recommendation 43

Each State and Territory education department should ensure that all teaching staff and school administrators are trained in disability, disability discrimination laws, and how to meet the education and social development needs of students with disabilities.

The *Victorian Education Regulations 2000* note that the Minister may provide transport services to special schools for students with disabilities free of charge (part 3 para 10). Students participating in integration programs in mainstream schools who desire their own transport to and from school are eligible.

Recommendation 44

Government schools should distribute a Charter of School Education to each family at the start of each school year, which sets out the nature and extent of education that will be provided at no cost; government policy on 'voluntary' contributions; and information on any financial assistance provided by government agencies, community groups and the school.

Recommendation 45

The Federal Government should coordinate and implement a national strategy to reduce truancy, in consultation with State and Territory education departments, peak groups from independent schools sector, community groups and the Australian Council for Education Research.

⁷ NSW Legislative Council Standing Committee on Social Issues Report 8 *A Report into Youth Violence in NSW* NSW Government Sydney 1995 rec 86.

Recommendation 47

National standards for school discipline should be developed setting out permissible grounds for exclusion and the process to be followed. Standards should require that legislative provisions regarding discipline should be widely publicised; States and Territories collect and publish annual statistics on truancy and excluded students (age, sex, race, length of and reason for exclusion, and the support provided); each State and Territory education department to establish a unit with responsibility for ensuring appropriate arrangements are made for each excluded child, including counselling or other support and alternative schooling.

Recommendation 48

National standards for school discipline should provide that:

- students facing exclusion and their carers should be informed in writing of the reasons for exclusion and be given the opportunity to respond to allegations;
- an advocate for the child should be permitted and encouraged to be involved in the disciplinary process; and
- reviews for exclusion longer than 14 days, or repeat exclusions totalling more than 14 days in one year and permanent exclusions should be heard by a panel of school and community representatives.

Recommendation 50

Corporal punishment should be banned in all schools (including independent schools). The Victorian government should legislate against corporal punishment in all schools in Victoria.

Australia's promises to Children – the Alternative Report (Defence for Children International, 1996) recommended:

- That governments restore spending on school education to levels of the mid-eighties – with attention to class sizes and schools in disadvantaged areas;
- That steps be taken to ensure that schools do not discriminate against children in care [or for any other reason];
- For the introduction of protocols related to exclusion from school to ensure procedural fairness; and
- For all States and Territories to enact legislation to ban the use of corporal punishment in all schools.

What's currently happening in Victoria – government and non-government initiatives?

- Handbook has been prepared by Andrew Hopkins, *Teachers, students and the law: A quick reference guide for teachers* (Victorian Law Foundation, 2000).
- *Know Your Rights*, National Children's and Youth Law Centre (Victorian, 1994) – outdated.
- *Being fair; a procedural fairness manual for Australian schools*, National Children's and Youth Law Centre, 1999.
- The Victorian Board of Studies will be reformed to form a cross-sectoral Curriculum and Assessment Authority (CAA). The CAA will be responsible for the maintenance of the Curriculum and Standards Framework, the delivery of the Victorian Certificate of Education and its assessments and the conduct of statewide testing as directed by government.
- 'Education is not a privilege. Education for all, equally, is an inalienable democratic right which governments have an absolute duty to protect.' Premier Steve Bracks in Speech from the Education Foundation Forum - 23 October 2000.

Tasks and strategies identified by the workshop

What can schools do?

- Access to education requires the provision of:
 - support to all families/individuals to access education;
 - a secure school environment; and
 - locally-based quality schools appropriate to the needs of the community.
- There must be flexibility in the way education is provided in order to cater for diversity in the social, cultural and economic circumstances of young people, as well as factors including disability, indigenous communities, rural and remoteness, homelessness, refugee experiences and sexuality.
- Every school should have a policy to combat violence and bullying which spells out:
 - rights and responsibilities of teachers, parents and students;
 - attitudes to race relations, disability and sexuality; and
 - due processes on how to implement/enforce the policy.
- Ensure that school policies reflect the Convention.
- Teachers must be trained in the Convention and its implications i.e. rights of the child to express an opinion in class. Students could have a role in the teacher training process.
- Rights of the child to be heard and express views should relate to all school structures. Young people should be trained and encouraged to participate in student representative and school councils.
- Student representatives are often chosen by staff, or on the basis of popularity, ability to articulate or parental encouragement. The voices of socially disadvantaged children are rarely heard. There needs to be more thought put into (and consultation with young people on) how to achieve real participation by all young people in the socio/political structures of the school. This will involve more resources, both educational and social support, to ensure that all young people are literate, articulate and socially confident.
- Active citizenship cannot be taught unless it is practiced. Non-democratic structures cannot teach democracy effectively. What are the implications of this for the way schools/classes are structured?

What can non-government agencies do?

- School is part of our community, as such it should be treated as a community resource, reflecting the needs of the community, rather than the community adjusting to the requirements of the school. E.g. opening hours, community use of facilities and access issues.
- Training/education is essential to combat bullying. Resources must be allocated for education within the classroom, at teacher training institutes and in the community on how to combat violence.
- Youth workers and recreation workers should be employed by the education system to work in the playground at recess and lunch in order to provide respite to teachers by supervising play and ensuring the safety of younger children, the disabled, socially isolated and victimized.
- More positive male role models are needed in primary schools.
- Teachers need to be more highly valued in society for the work they do in order to achieve better outcomes for students.
- Parents need to be educated on the importance of young people's rights. This may also involve examining the rights of young people in the family.
- Involvement of the community in school is important to ensuring that the rights of young people are maintained, in particular young people from diverse cultures and indigenous young people. This necessitates clear policies and a commitment by the school to consultation processes.

What does Government need to do? How?

Access to Education:

- Remove voluntary contributions and pay schools more money.
- Return all of the Education Maintenance Allowance to parents as this allowance was designed to pay for costs involved in accessing education for the least well-off not for program levies, etc.
- Reduce public transport costs for access to education and training.

Educate the decision-makers about the Convention:

- Governments need to educate themselves (politicians and public servants) on the obligations involved in being a signatory of the Convention.
- Governments need to fund teacher training and in-service forums to allow groups such as Amnesty to teach them about the Convention and its implications in the classroom and in schools.
- It is important to hear the voices of young people not attending school. Also marginalised young people such as homeless youth.
- Some schools are reluctant to talk about “rights” for students. The Government has a role in creating an environment that welcomes the involvement of outside services into schools to speak about rights.

Curriculum:

- Put the Convention and human rights education into the curriculum. This will involve an audit of the curriculum to locate a suitable place for these teachings.
- An audit of school curriculum to look at the educational needs of all those who do not go through to tertiary studies, particularly disadvantaged groups. Also those groups with a high drop-out rate e.g. Kooris, children in high-rise accommodation, and homeless young people.
- Schools are curriculum-based, and the curriculum is driven by requirements of tertiary sector. Where does the teaching of children’s rights fit into this? What about the needs of the non-academic students to receive an education which will equip them to exercise their rights in employment, as consumers, in families and society, as participants in the democratic process?

Resources:

- Put more resources into the classroom to give teachers more support in assisting disadvantaged young people.
- Schools, in co-operation with local communities, need greater access to support services to assist young people. These include remedial and teachers of English as a second language, disability support workers, and a range of counselling options for dealing with family violence and breakdown, substance abuse and mental health issues. This requires a greater commitment of resources across the board, but particularly in rural and remote communities where the youth suicide rate is high.
- Resources must be more equitably distributed. A competitive environment works against ensuring human rights for all. The government must work towards reducing the current glaring inequities between private and public education, rich and poor suburbs, cities and rural regions.

Issue: Employment

Which Convention Articles relate to Employment Issues?

Article 32: Protection from Economic Exploitation

- a) Provide minimum age(s) for admission to employment;
- b) Provide for appropriate regulation of the hours and conditions of employment; and
- c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 26: Benefit from Social Security

Article 2: Non-discrimination

Article 12: Expression of Opinion

Article 13: Freedom of Expression

Article 15: Freedom of Association

Article 19: Protection from Abuse and Neglect

It is also worth noting that Article 6 of the *International Covenant on Economic, Social and Cultural Rights* states that, "State Parties recognise and will take steps to protect the right of everyone to work, which includes the right to freely chosen work." Further, Article 7 recognises the right of everyone to just and favourable conditions of work, including fair wages and equal remuneration for work of equal value, and safe and healthy working conditions.

International Labour Organisation (ILO) *Convention 138 Minimum Age Convention, 1973* relates to child labour and specifies that the minimum age for employment is not less than the age for compulsory schooling and in developed countries is not less than 15 years. Australian Government policy is to ratify ILO Conventions only if law and practice in all jurisdictions is in compliance with the Convention. However, an absence of specific legislation dealing with the employment of children, as far as the ILO is concerned, indicates that Australia does not comply and therefore cannot ratify the *ILO Convention 138*⁸.

What are the Human Rights issues in Victoria relating to Employment?

*"The focus of rights and responsibilities for dealing with youth unemployment has shifted. Once a tacit right, employment for young people has been replaced by work or education. Responsibility has also shifted, with Government simultaneously withdrawing from a commitment to full employment and removing resources from labour market programs as they have introduced 'enhanced mutual obligations'."*⁹

Minimum age – Children under 15 are permitted to work in Victoria with a permit. Under the Victorian Industrial Relations legislation it is possible for a child to enter an employment contract and no minimum age rate applies. Children tend to work in State award service industries, they are part-time and often transient worker and therefore have little protection.

There is a concern that the permit system is now largely ignored and prosecutions for breaches are uncommon. Spot checks on workplaces employing children under 15 to monitor occupational health and safety, hours of employment and wages no longer take place.¹⁰ The Annual Report of 1998/99 for the Department of State Development makes no mention of child employment permits so the number issued is unknown. Further, statistics for prosecutions for breaches are also not mentioned.

Minimum hours of work – The *Community Services Act 1970* (Vic) permits children as young as seven to work (section 77(1)) up to 8 hours a day outside school hours between 6 and 11pm (section 77(6)), except in situations where the hours of work are so few, such as paper rounds, or the child is employed by the family in a shop at the residential premises, or for occasional charity events or sporting activities (section 77(c)).

Youth wages – The issue of youth wages continues to be a contentious one. The House of Representatives Committee report *Youth Employment: A Working Solution* (1997) presents statistics that

⁸ *Employment of children – Who is Responsible?* Jobwatch 2000

⁹ National Youth Affairs Research Scheme, 2000

¹⁰ Karen Milgrom, *Rights Now*, September 2000

show junior wage rates currently apply to 52% of young people under 21 and that trainee wages apply to 13% of this group.

“Freely chosen” work – The Work for the Dole scheme raises particular concern about the right to freely chosen work endorsed in the UN Convention on Economic, Social and Cultural Rights and whether or not participation is likely to lead to real jobs.

Enhanced mutual obligation – This signals a shift from a contract between unemployed people and government, which might be better describe as a “reciprocal obligation”, to one that involves unemployed people and community. Work for the dole, one component of the governments ‘mutual obligation’ policy, is intended to be about individuals giving something back to the community.

Increased unemployment rates – In 1997 9% of all 20-24 yr olds were unemployed and looking for full-time employment compared with 6% in 1987.

High levels of part-time or casual work – Recent evidence has shown that part-time and temporary work does not necessarily lead to more secure full-time employment. Casual and part-time work is associated with low levels of training (Wooden, 1996). There is evidence that part-time work may persist for non-student part-time workers (Flatau & Simpson, 1996). Under-employment among part-time workers is higher among 20-24 yr olds, with 37% of part-time workers wanting to work more hours (ABS, 1998). While making up 20 % of the overall work force in Australia, the rate of increase of part-time and casual employment among 15-19 year olds is by far the largest of any age group.

Labour Market disadvantage – Factors found to contribute to young adults’ labour market disadvantage include the labour force status of parents, ethnicity and indigenous background (Cass, 1995). Longitudinal studies show an association between early school leaving and ongoing labour market disadvantage, particularly for women (Dwyer 1995; OECD 1998). Cost barriers to education and training may especially affect the choices of young women from low socio-economic backgrounds (Byrne, 1995; Lewis & Koshy, 1998).

Occupational Health and Safety provisions – children require more protection and monitoring in the workplace than adults. Children require careful supervision, adequate rest and nourishment.

Violence in the workplace against children and young people – violence and harassment of young people in the workplace continues to be a serious concern, particularly when young people are not fully aware of their rights and have limited bargaining powers.

Young people have little knowledge of the rights – therefore with the shift to employment contracts they have low and unequal bargaining powers. Lack of knowledge, reluctance to complain and the absence of complaint mechanisms available to young people all suggest that young people have few enforceable rights in the workplace.

Trainees and Apprenticeships – No access to unfair dismissal mechanisms at Victorian level. *Vocational Education and Training Amendment Act 1995* moves to allow the government to contract out the monitoring of apprentices by employers.

Invisible work of children – Home-based work is increasing in many industries so further increases in child labour might be expected.

Demise of the Youth Industrial Unit – One of the most significant consequences of the *Commonwealth Powers (Industrial Relations) Act 1996* was the demise of the Youth Industrial Unit, the Victorian industrial inspectorate and the Victorian Wageline service. The Youth Industrial Unit had specific responsibility for workers under 21 years of age, and aimed to recognise the needs of young people and to provide a more flexible and personal response to young people.

Social Security – Youth Allowance integrates a range of payments to young people that include Austudy, Abstudy, Youth Training Allowance and Sickness Allowance. Under this current system income support is payable up to the age of 18 only if a young person is in an education or training environment and for those aged 18 to 20, only if the young person is looking for work or is in education or training. One of the more contentious aspects of the Youth Allowance is that payments to young people under 21 are parental income and asset tests. This means effectively that from an income security perspective young people are not considered to be adults and that they are not eligible for income support in their

own right until this age.

Some concerns associated with income support highlighted by young people include: administrative processes being bewildering and intimidating; government departments often being unhelpful; co-ordination between department being poor; insufficient information about entitlements; applications forms being difficult to complete; waiting periods being unreasonably long; and clerical errors often mean that benefits are incorrectly reduced or stopped. (*Seen and Heard*). The introduction of a diary scheme and 'dob in line' by Centrelink puts young people at risk in fulfilling the requirement to apply for a stated number of jobs per month.

What has the UN Committee on the Rights of the Child said about Employment?

The Committee expressed concern that:

- employment legislation on the federal level, as well as in all states, does not specify minimum age(s) below which children are not allowed to be employed – the law does not prohibit the employment of children who are still in the compulsory education.

The Committee recommended that:

- in line with Article 12, there is a need for awareness-raising campaigns on the rights of young people to participate and express their views;
- specific minimum age(s) be set for employment of children at all levels of government;
- there is a need for clear and consistent regulations in all the states on maximum allowed work hours for children who are above the minimum employment age; and
- that the State Party reconsider ratifying ILO Convention No. 138 concerning minimum age for employment.

What have major Australian Reports already found and recommended?

***Seen and Heard* recommended:**

Recommendation 16

Models of income support service delivery should be designed specifically for young Indigenous people and young people from non-English speaking backgrounds to take account of cultural differences in family structures and relationships. **Implementation:** Centrelink should develop these models in consultation with appropriate community groups and Office for Children (OFC).

Recommendation 17

Models of income support service delivery should be designed specifically for young people living in rural and remote communities. **Implementation:** the Minister for Social Security should co-ordinate a federal strategy for service delivery to young people living in rural and remote communities.

Recommendation 18

Evidential requirements, particularly those concerning identification, should be interpreted flexibly for young homeless applicants and should not of themselves bar them from receiving income support. **Implementation:** Centrelink should ensure that eligibility requirements for young homeless applicants comply with this recommendation.

Recommendation 20

The adequacy of the homeless rate of benefits paid to young people should be assessed regularly to ensure appropriate minimum benefit and rent assistance rates are maintained. **Implementation:** The Minister for Social Security should commission surveys on a regular basis to ensure that appropriate minimum rates are fixed.

***Employment of children – Who is Responsible? Job Watch, July 2000* recommends**

Recommendation 1: Set up an investigation or inquiry into the employment of children.

Recommendation 2: The Office for Workplace Standards re-establishes a Children and Youth Industrial Unit.

- Recommendation 3:** An awareness campaign is undertaken to inform employers, parents, teachers, students, youth workers and community organisations about the laws regulating the employment of children.
- Recommendation 4:** A minimum age for entry into employment is specified in any forthcoming industrial regulations legislation.
- Recommendation 5:** Legislate for harsher penalties for organisations and employers that breach the regulations.
- Recommendation 6:** Investigate the extension of the duty of care inherent in the *Education Act 1954* (Vic) to employers, including parents as employers, and charitable organisations.
- Recommendation 7:** The *Fair Trading Act 1999* is examined to ensure door to door canvassing by children under 15 years of age is conducted with particular regard to health and safety.

***A New Social Contract: Changing Social and Legal Frameworks for Young Australians*, Ed Carson, Paul Fitzgerald and Suzanne Roche for the National Youth Affairs Research Scheme, 2000 made the following suggestions for future action and research:**

- That the Commonwealth Government establish a comprehensive employment strategy for young people with multiple disadvantages, who experience a disrupted transition from youth to adulthood, and from education to full-time employment.
- The features of such a comprehensive strategy should include:
 - a whole of person/whole of community approach using individually focussed assistance strategies in the context of integrated family support and community development, and measures to stimulate local labour markets; and
 - clear specification of the intended outcomes.
- Additional resources should be made available for the development of a comprehensive employment strategy.
- That planning and implementation of this employment strategy be integrated with programs in related policy areas, including juvenile justice, care and protection and community and citizenship development.
- That mutual obligation programs that have a community focus (work for the dole and green corps) be drawn into a community development framework and that compulsion be replaced with support.

What's currently happening in Victoria – government and non-government initiatives?

The Youth Pathways Action Plan Taskforce is part of the Commonwealth Government's response to addressing the needs of young Australians as they make their way from dependence to independence. The Taskforce is currently undertaking work that will help in developing the Action Plan.

Creating Employment Pathways (final report forthcoming), initiative of Dosseldorp, Melbourne City Mission, Brotherhood of St Laurence and Hanover Welfare Services.

Victorian Government has drafted the *Fair Employment Bill*. The Victorian Government is producing a discussion paper about employment of children under 15 years and has announced that they will increase the penalties for breaches of the current permit system.

ACTU Policy Young People and Trade Unions was endorsed at the ACTU Congress 2000, 27 June 2000. ACTU recognises the issues facing young people in the workplace and will continue to work to improve the situation for young people.

The Child Employment Network has been established to publicise the issues around child employment, and to work for a uniform system of both legislative and enforcement protections for children in the workforce.

In terms of realising rights, as articulated in the Convention, what needs to be done in Victoria?

- Labour market programs must provide a mix that is likely to have the best prospect of success. This mix is likely to be a combination of job search, training and work experience which critically is linked to the individual's circumstances and disadvantage of young adults.
- Young people are often portrayed as being out of work because they lack the skills, motivation or education, policy proposals increasingly carry the message that the problem is one of personal failure on the part of the unemployed. These strategies serve to divert attention from the fact that young people's unemployment is part of a larger unemployment problem for all age groups.
- Regulation and standardised conditions in the workplace to protect children and young people, both under and over 15.
- Young people need to have access to information and support facilities designed to protect their industrial rights, so that they can ensure that they receive adequate pay and conditions and are not harassed or exploited. Further, young people need ongoing access to free legal advice and mechanisms for redress.
- Research into number of injuries suffered by children and young people in the workplace.
- Effective complaints mechanism that is accessible to young people in the workplace.
- Improved regulation of new training programs given their vague legal status.
- Establishment of an authority or provision of additional infrastructure to an existing infrastructure, to adequately carry out the monitoring and enforcement of child labour laws. Penalties for breaches must reflect the serious concern of government to ensure the safety of working children. A Children and Young Person's Commission could perform this role.

Tasks and strategies identified by the workshop

What can non-government agencies and government do?

- Lobby for funding for research - who's working? where? how many? What is the current situation of child and youth employment.
- Establish a non government enforcement agency to oversee and monitor youth employment issues, including:
 - numbers and reasons for drop outs from secondary schools;
 - education for children and young people – where to go for help;
 - lobby government;
 - advocate on behalf of young workers;
 - law reform; and
 - possibly prosecutions.
- Lobby for a government department to enforce legislation via a proactive Youth Industrial Unit with legislation to back it up. This unit should have an enforcement role as well as a role in:
 - Monitoring;
 - Research and advice; and
 - Encouraging young people's participation.
- Develop the following:
 - passbooks issued e.g. City of Whittlesea – what's available locally;
 - information packs for young people; and
 - strategies to encourage clients to make contact with government agencies.
- Educate colleagues about the Convention.
- Educate employers.
- Improve liaison between non-government agencies. Nominate one body to co-ordinate communication between non-government agencies.
- Involve young people.
- Hold forums for young people, organised by local government or community legal centre.
- Employment Ombudsman? – consider this further.
- Review all legislation pertaining to children and employment both in Victoria and federally to ensure it complies with the Convention, including: *Accident Compensation Act 1983 (Vic)*; *Community Services Act 1970 (Vic) (in progress)*; *Disability Discrimination Act 1992 (Cth)*; *Education Act 1958 (Vic)*; *Equal Opportunity Act 1985 (Vic)*; *Fair Employment Bill*; *Fair Trading Act 1985 (Vic)*; *Human Rights and Equal Opportunity Act 1986 (Cth)*; *Long Service Leave Act 1992 (Vic)*; *Occupational Health and Safety 1985 (Vic)*; *Race Discrimination Act 1975 (Cth)*; *Sex Discrimination Act 1984 (Cth)*; *Superannuation Guarantee (Admin) Act 1992 (Cth)*; *Vocational Education and Training Act 1992 (Vic)*; *Workplace Relations Act 1996 (Cth)*.
- In the context of the Convention and employment rights, develop a campaign along the lines of FairWear, CAFFE (alliance of disability organisations), Victorian Children's Employment Network, including a media campaign.
- Develop an advisory body for government that is representative of young people.
- Use TAFE/Trade schools to educate about the Convention.
- Oversee the implementation of the Convention via an interdepartmental committee (IDC). The IDC must have involvement from communities and non-government agencies, including rural and remote representatives, to be non discriminatory and inclusive.

Issue: Housing

Which Convention Articles relate to Housing Issues?

- Article 27: Right to adequate standard of living
State Parties 'shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.'
- Article 20: Protection of children without families
Article 24: Right to health and health services
Article 26: Right to social security
Article 19: Protection from abuse and neglect
Article 15: Freedom of association

What are the Human Rights issues in Victoria relating to Housing?

Homelessness – and risk of homelessness

Definitions – definitions of homelessness vary and often serve very different purposes, e.g. Governments use *service delivery* definitions to identify eligibility for particular services, while agencies might use *advocacy* definitions to draw attention to broader issues surrounding homelessness. However, there now appears to be an emerging consensus about how homelessness is understood in Australia. Using a shared '*community standard*' benchmark about the minimum housing that people in Australia have the right to expect, agreement pertaining to definitions follows a three tier model of the homeless population¹¹:

1. *Primary homelessness*: without conventional accommodations (living on the streets, sleeping in parks, squatting in derelict buildings, cars or railway carriages).
 2. *Secondary homelessness*: moving around from one form of temporary accommodation to another (emergency accommodation, youth refuges, residing with friends or relatives, boarding houses on occasional or intermittent basis).
 3. *Tertiary homelessness*: living in single rooms on a medium to long term basis, such as private boarding houses, without separate bedroom and living room, without separate kitchen and bathroom facilities, not self-contained, no security of tenure provided by lease.
- Lack of economic and social support.
 - Difficulties in accessing social security payments especially in situations of instability and limited mobility.
 - Cut off from family and friends.
 - Few independent resources.
 - No/few means or prospect of self-support.
 - Danger of falling below poverty line.
 - Difficult to access drug rehabilitation/withdrawal services (many lack residential component).
 - Difficulties faced with criminal justice system – failure to appear.
 - Difficulties in keeping appointments – leads to problems in accessing services.
 - Homelessness is not only an issue in larger cities – 41% of Victorian SAAP clients were not in Melbourne when they sought assistance.¹²

Contributing factors include: family conflict, including family violence and abuse, family poverty and resulting stresses, high incidence of youth unemployment and increased dependency of young people, a history of state intervention and wardship, substance use and mental and physical illness.

Related Issues: Homeless young people may turn to sex work for economic survival, with consequent vulnerability to violence, sexual exploitation, drug use, HIV/AIDS and other sexually transmitted diseases, poor health, malnutrition and difficulties accessing education, training and social security.

¹¹ Outlined by Chris Chamberlain and David Mackenzie, *Youth Homelessness: Early Intervention and Prevention* (1998) Sydney: Australian Centre for Equity through Education.

¹² Brief paper about homelessness and social issues from <http://www.infoxchange.net.au/saapnet/>

Private rental issues

- Access to private rental market is extremely limited.
- Uncertain legal enforceability of leases signed by young people under 18 years.
- Real estate agents discriminate against prospective renters, especially young people. Anyone on Centrelink payments is considered not to have 'permanent' income (regardless of age).
- Lack of affordable housing – matching to income security.
- Between 1986 and 1996 the private rental sector expanded by approximately 28%, but the stock available at the lower end (weekly rents below \$120) of the market fell by 20%.¹³
- Annual funding for rent assistance increased by 400% from 1986-96, but has not resulted in greater access to the private rental market.¹⁴

Public Rental issues

- Lack of access to public housing – age limits.
- Lack of public housing stock due to government sell off.
- Waiting list in Victoria at the end of June 1998 was 53,379 households.¹⁵
- Net value of the Commonwealth funding under the Commonwealth State Housing Agreement (CSHA) has fallen by nearly \$200,000 (nearly one third of annual funding) between 1984/5 – 1997/8.¹⁶

Specific Discrimination issues faced by young people

Discrimination in service provision by police, schools, estate agents, housing policies and Centrelink.

What has the UN Committee on the Rights of the Child said about Housing?

The Committee expressed concern about:

- Homeless children and the spread of homelessness amongst young people; and
- Local police removing congregating young people, infringing the right to assembly.

The Committee recommended that:

- Research be conducted to identify causes of the spread of homelessness, particularly among children and young people;
- Strategies be implemented to alleviate poverty; and
- Support services provided to homeless children be strengthened.

What have major Australian Reports already found and recommended?

The Alternative Report (Defence for Children International, 1996) recommended that:

- Federal and State Governments ensure that homeless young people have access to safe, secure and stable accommodation and access to education, training and health services, consistent with the enjoyment of the rights enshrined in the Convention.
- Governments adopt a national code of practice for the care and protection of young people in the care system, based on the principles set out in the Convention.
- Governments give high priority to adopting standards for the accreditation of child protection agencies to ensure that service delivery agencies are managed in the best interests of the child.
- Governments ensure that all staff of agencies with care and protection related responsibilities meet the rigorous standards of integrity and competence in accordance with the principles of the Convention.

13 Ibid.

14 Ibid.

15 Ibid.

16 Ibid.

Written Submission by the Federation of Community Legal Centres (Vic) to the *Joint Inquiry into Children and the Legal Process (HREOC and ALRC)*, July 1996, recommended that:

- More youth outreach services for young homeless people be established; and
- Levels of Centrelink payments for young people be increased to provide adequate money for accommodation, food and travel costs.

What's currently happening in Victoria– government and non-government initiatives?

- Victorian Government currently conducting a review of the Segmented Waiting List. Community Reference Group will consider all comments received and prepare draft report.
- Homelessness taskforce.

In terms of realising rights as articulated in the Convention, what needs to be done in Victoria?

- SAAP needs to be maintained and better funded.
- Better co-ordination between mainstream services and agencies for young homeless people.
- Better understanding of what homelessness means and entails.
- More agencies including legal services need to advertise in accommodation and houses where homeless young people may reside.
- Develop and implement more appropriate and systemic ways of educating homeless young people about their rights.

Tasks and strategies identified by the workshop to implement the Convention in Housing:

What can non-government agencies and local government do - at the policy level?

- Review intake policies to ensure the service is accessible and has an open door policy.
- Define the role and responsibilities of lead tenants.
- Provide better resourcing of lead tenants.
- Define responsibility of care, continuity of care, what is care?
- Provide better support for informal care arrangements.
- Ensure services are culturally appropriate.
- Youth housing: Acknowledge that 12-15 months is not long enough; segmented waiting list, fast track is not appropriate process for young people.
- Ensure policies prioritise to keep young people within their communities and provide resources to support this.
- Ensure young people's environment is taken account of, such as young people who are parents, young people in same sex relationships.
- Private rentals: advocate for real rental subsidies to improve housing options.
- Investigate further where the statutory system currently breaches the Convention.
- Advocate that the statutory system increase options available, that are properly resourced and provide an improved standard of training for carers.
- Ensure housing for young people is flexible and based on alternative models.

What can non-government agencies and local government do – in service delivery?

- Simplify processes/administrative forms.
- Improve awareness of entry points to housing services.
- Look into the cheaper options in terms of the Convention. Are caravan parks appropriate housing for young people?
- Improve the size, model and environment of refuges.

What can non-government agencies and local government do – in advocacy?

- Advocate for housing to be recognised as a basic need.
- Advocate for safer housing options for young people, after hours services, more refuges and exit options. Recognise that the needs of young people are different to those of young children.
- Advocate for more children's domestic violence outreach workers in each region.
- Advocate for government policies to reflect that women's housing should be based on the needs of children.
- Advocate for more housing to keep families within their own environment and community – families should be able to nominate the suburb in which they wish to live, to avoid families being displaced in areas where they do not have support or do not feel connected with the community.

What does government (State and Commonwealth) need to do?

- Improve resourcing to early intervention and prevention programs (e.g. maternal & child health programs, programs through community houses).
- Fund housing services for a range of activities, not just core services e.g. planning, debriefing.
- Provide infrastructure to support new housing developments.
- Define housing broadly.
- Establish a Commission for Children and Young People and youth accountability measures.
- Undertake community campaigns educating the community about the Convention.
- Increase youth and family incomes: current Centrelink levels of payments are inadequate.
- Ensure parity between housing policies and Centrelink policies.
- Ensure Centrelink provides a more flexible approach to administrative breaches because of homelessness.
- Investigate government regulation of the private rental market.
- Incorporate the Convention into policy across all areas of Government including evaluation processes such as the current reviews by the State government of the homelessness strategy, youth strategy and Segmented Waiting List.
- Commit more resources towards housing to meet the identified needs.

Issue: Justice

Which Convention Articles relate to Justice Issues?

Broad Justice issues:

- Article 3: Best interests of the child
- Article 12: Express an opinion
- Article 13: Freedom of expression
- Article 16: Protection of privacy
- Article 17: Access to appropriate information

Juvenile Justice issues:

- Article 40: Administration of juvenile justice
- Article 19(a): Protection from abuse - whilst in the care of any person
- Article 22: Special and appropriate protection for refugee children
- Article 37: Prohibition of torture and deprivation of liberty
- Article 37(b): No unlawful and/ or arbitrary deprivation of liberty
- Article 37(d): Prompt access to legal and other assistance
Prompt impartial decision-making

Protection issues:

- Article 9: Right to live with parents unless if this is incompatible with the child's best interests; right to maintain contact with parents
- Article 19: Protection from abuse
- Article 20: Protection of children without families
- Article 21: Adoption
- Article 22: Special protection for refugee children
- Article 25: Periodic placement review of children in State care
- Article 26: Right to benefit from social security

What are the Human Rights issues in Victoria relating to Justice?

Jurisdiction of the Children's Court

Currently the jurisdiction of the *Children and Young Persons Act* 1989 includes persons under the age of 17. A review to extend this to include any person under 18 is currently under way.

Independent witness to police interviews involving young people

Section 464E *Crimes Act* 1958 (Vic) provides that:

If a person in custody is under the age of 17 years, an investigating official must not question or carry out an investigation under section 464A unless – (a) a parent or guardian of the person in custody or, if a parent or guardian is not available, an independent person is present; and (b) before the commencement of any questioning or investigation, the investigating official has allowed the person in custody to communicate with his or her parent or guardian or the independent person in circumstances in which as far as practicable the communication will not be overheard.

However, section 464E gives young people no right to choose who is present during the interview, whether it be a parent or an 'independent' person. This is in contradiction to Convention Article 12 which espouses the right of children and young people to express their opinions and promotes their right to have more control over the legal process.

In practice once a parent is found to be unavailable, police choose someone to act in this role. Officers have different opinions on the extent to which the views of young people should be taken into account in choosing who the interview witness should be. There is significant concern amongst youth workers, lawyers and police that the witness is often not 'independent' but actively supporting either the police or the young person.

There is further controversy over whether the role of an 'independent' person is simply to witness the interview process, or to more actively assist the young person to understand and exercise their rights.

Pre-Court diversion

The Criminal Justice Diversion Program provides an opportunity for mainly first time offenders to avoid a criminal conviction by undertaking program conditions that benefit the community, victims and the offender. This program was recently extended to include seven Magistrates' Courts in Victoria (Broadmeadows, Heidelberg, Dandenong, Sunshine, Frankston, Ringwood and Melbourne) however, it does not yet operate throughout Victoria or in the Children's Court.

Release of Criminal Records

Currently even if an offender receives a non-conviction disposition it is recorded for the life of the offender. It is only by virtue of Victoria Police policy that records more than 10 years old are usually not released.

The Age of Criminal Responsibility

There continues to be some concern around the defence of *doli incapax*, that is, not having the capacity for criminal conduct. In Victoria it is presumed that those under that age of 10 years are *doli incapax*, or unable to commit a crime or be found guilty of an offence. The UN Committee on the Rights of the Child maintains that while this age limit may be higher than in other States it is still too low. Further, there is some discrepancy around the defence of *doli incapax* for those aged between 10 and 14. It is presumed that for those younger than 14, the defendant is incapable of forming the criminal intent necessary to be found guilty, however, there are a number of issues that require consideration:

- The prosecution must establish that the defendant knew that what he/she was doing at the time of offending was **seriously** wrong.
- If the young person has been cautioned prior to the offence it could be detrimental to a *doli incapax* defence.
- The older the defendant the less strength given to the presumption.
- Occasionally during the interview the young person will be specifically asked, '**did you at the time of doing these things**, know what you were doing was seriously wrong?' In almost all other cases the questions will be put 'do you know what you were doing was wrong?' Clearly it can be argued that the knowledge of the young person at the time of attending the police station and being interviewed may be dramatically different to their perception at the time of offending.

Other issues identified by the workshop:

Police Powers

- Forensic testing of young people.
- Difficult relationship between young people and police generally.
- Police misuse of powers, including search powers.
- Inadequacy of police accountability processes, through Ethical Standards Department and the office of the Ombudsman.
- Diversion programs - what are the safeguards, accountability of police?
- Limited access to legal representation for young people at a police station, and limited access to information relevant to young people about police powers.
- Lack of accountability for the bail justice process.

Civil Law matters

- Lack of information for young people as well as services providing advice and ongoing casework, in relation to the following areas: contracts, mobile phones, debts, fines, mandatory immigration detention, rights in school, disputes with Centrelink.

What has the UN Committee on the Rights of the Child said about Justice?

The Committee welcomed amendments to the *Family Law Act 1975* and the *Crimes (Child Sex Tourism) Amendment Act 1994*.

The Committee expressed concern about:

- The reservation made to Article 37(c), separation from adults in detention.
- The minimum age of criminal responsibility being very low (7-10 years depending on the state).
- Respect for the views of the child (Article 12) not being fully applied.
- The lack of prohibition in local legislation of the use of corporal punishment.
- Existence of child abuse and violence within the family.
- The treatment of asylum seekers and refugees and their children, and their placement in detention centres.
- The situation of the juvenile justice system and the treatment of children deprived of liberty.
- The disproportionately high percentage of Aboriginal children in the juvenile justice system and the tendency to refuse them bail.
- The enactment of mandatory sentencing laws in WA and NT, resulting in a high percentage of Aboriginal juveniles in detention.

The Committee recommended that:

- the reservation to Article 37 (c) be reviewed, separation from adults in detention.
- all appropriate measures be taken, including legislative, to prohibit corporal punishment in private schools and at home.
- the Convention be incorporated in the training provided to law enforcement officials, judicial personnel, teachers, social workers, care givers and medical personnel.
- an awareness-raising campaign on the right of the child to participate and express his or her views (Article 12) be undertaken.
- training be carried out to enhance the ability of specialist, especially those involved in juvenile justice, to solicit the views of the child and help him/her express these views.
- although the Federal Government is planning to harmonise the age of criminal liability – raising it in all the states to 10 years – the Committee believes this age is still too low.
- the causes of the high rate of incarceration of Aboriginal and Torres Strait Islander children be addressed. Research should be continued to identify the reasons behind this disproportionately high rate of incarceration, including investigation into the possibility that attitudes of law enforcement officers may be contributing factors.

What have major Australian Reports already found and recommended?

Seen and Heard recommended that:

- The legal process itself may discourage or inhibit participation by children (91).
- Barriers to participation include:
 - stereotypes and discrimination;
 - children and young people tend not to complain or seek redress;
 - children and young people may not understand the legal process; and
 - children and young people are marginalised by the legal system and its participants (93-9).
- The Inquiry's survey found that 38% of young people did not think that their lawyer had told the court what they had asked them to; and 70% said that the Judge or Magistrate did not let them have their say. In family law proceedings many young people reported their representatives had refused to speak with them or had not done as they were instructed (97).

- In Victoria, 21% of children in care, over the age of 10 years, at April 1995 had been formally processed as offenders between May 1993 – May 1995. A rate substantially higher than that for adolescents in the general community (103).

Recommendation 1

A National Summit on Children should be convened as a matter of priority and should be attended by Heads of Australian Governments. Areas requiring particular attention include assistance to children from broken families, child abuse, causes of offending, crime prevention, suicide and homelessness.

Recommendation 67

All court rules should require the guardian ad litem or next friend of a child to regard the best interests of the child as the paramount consideration in conduction proceedings on behalf of that child. The Federal and High Courts, along with State and Territory courts, are encouraged to amend their rules to this effect.

Recommendation 68

There should be a rebuttable presumption that a child over the age of 16 years living independently is competent to initiate or defend litigation.

Recommendation 70

Clear standard for the representation of children in all family and care and protection proceedings should be developed. Legal professional bodies, including the Law Council of Australian, law societies or institutes, bar association and legal aid commissions should convene a working group to develop appropriate standards in consultation with young people and relevant youth agencies.

Recommendation 74

The standards at recommendation 70 should require the representative to explain to the child at the first meeting the limits of the confidentiality that applies to their communications. When it may be necessary to disclose a communication with the child the representative should meet with the child and formulate a strategy for that disclosure.

Recommendation 77

A child who has been provided with a representative in family law of care and protection proceedings should be able to apply for the representative to be dismissed and request a second representative. The court should make such an order on application if the child can show the representative has failed to consult.

Recommendation 86

Specialist children's units should be established with the legal aid commission of each State and Territory to work on children's issues in Federal, State and Territory jurisdictions. The units should provide representation for children in family law, care and protection and juvenile justice matters, before tribunals and in pursuing complaints.

Recommendation 87

In addition to specialist units within legal aid commissions, legal advocates for children should be funded within specialist children's legal centres or generalist community legal centres. Initially, at least one legal advocate position should be funded in each State and Territory in addition to the existing positions. These advocates could form part of the advocacy network proposed in Recommendation 9 and should be able to work on cases for individual children, matters of public interest and test cases. They should provide legal advice, information, assistance and representation to children and their families.
Implementation: The Attorney-General should take the necessary steps to fund these children's legal advocates.

Recommendation 88

Legal aid for representation of children should be nominated by each jurisdiction as a priority. The Commonwealth and the States and Territories should make separate appropriations of funds for the representation of children in all jurisdictions. State and Territory legal aid commissions should administer these funds.

Recommendation 89

The effects of funding caps on children's cases, particularly on repeat applications in family law cases, should be closely monitored. Further retrospective funding caps should not be introduced for children's cases in any jurisdiction. **Implementation:** State and Territory legal aid commissions should monitor the effects of caps on children's cases and seek adjustments to funding agreements with the Commonwealth as appropriate.

Recommendation 90

Children's eligibility for legal aid should not depend on the means of their parents in either family law or care and protection matters. However, the Family Court should have discretion in appropriate cases to order the recovery of costs for representation of a child pursuant to section 68L of the *Family Law Act*, from either or both of parties. These orders should only be made where the parties are able to meet the costs and where it is appropriate to do so. Children who are full parties to family law proceedings that involve a parent should be subject to an individual legal aid means test independent of their parents.

Recommendation 91

National interview standards should be developed and adopted for all interviews of potential child witnesses.

Recommendation 92

Specialised interview teams comprising, as appropriate, a police officer and family services department worker or counsellor should deal with all allegations of child maltreatment in which multiple court proceedings are possible.

Recommendation 94

Legislation should permit the entire evidence of a child, including evidence in chief and cross-examination, to be taken prior to trial and video-taped for presentation at trial whenever the interests of justice so require.

Recommendation 95

Child witnesses should not give evidence in person at committal hearings. The rules of evidence should be amended to permit a child's written or audio or video taped statement to be produced instead of the live evidence of the child.

Recommendation 98

All children should be presumed *prima facie* competent to give sworn evidence. Oaths and affirmations should be simple and in language that the particular child understands.

Recommendation 103

Multiple proceedings involving more than one incident concerning the same child victim and accused or more than one child victim and the same accused should be joined in a single trial to avoid the necessity of children giving evidence in numerous proceedings over long periods.

Recommendation 104

Age appropriate literature and other forms of information should be developed for all child witnesses to explain various proceedings.

Recommendation 106

Child witnesses should have the right to support in preparation for the experience of giving evidence. **Implementation:** The Attorney-General through the Standing Committee of Attorney-Generals (SCAG) should encourage all States and Territories to establish specialist child witness support units.

Recommendation 110

Guidelines and training programs should be developed to assist judges and magistrates in dealing with child witnesses. **Implementation:** The Australian Institute of Judicial Administration (AIJA) should develop such guidelines and training programs.

Recommendation 116

Upon the application of a party or on its own motion, a court should have discretion to permit unconventional means of giving evidence for child witnesses from different cultural backgrounds. In addition, expert evidence explaining cultural behaviours or communication characteristics of a child from a particular cultural background should be admissible. **Implementation:** *The Evidence Act* should be amended to reflect these provisions and the Attorney-General, through SCAG, should encourage all States and Territories to enact similar legislation.

Recommendation 118

Upon the application of a party or on its own motion, a court should have discretion to permit unconventional means of giving evidence for child witnesses with disabilities. In addition, expert evidence explaining the disability of a child witness and its physical or behavioural characteristics should be admissible. **Implementation:** The Evidence Act should be amended to reflect these provisions and the Attorney-General, through SCAG, should encourage all States and Territories to enact similar legislation.

Recommendation 134

All magistrates and judges who hear care and protection matters should be trained in children's issues. **Implementation:** In conjunction with other judicial education bodies, AIJA should establish minimum training requirements for the children's court magistracy and judiciary and set guidelines for training programs to be implemented in each jurisdiction.

Recommendation 135

In all actions of a court under the *Family Law Act* concerning children, unless the Act expressly states otherwise, the best interests of the child should be a primary consideration. **Implementation:** Section 43 of the *Family Law Act* should be amended to reflect the provisions of Article 3(1) of the Convention in relation to all areas of the Act not subject to the present best interests requirements.

Recommendation 151

The Family Court practice that children generally not be called to give evidence should be retained, however, where the child is of sufficient maturity and is anxious to give evidence concerning his or her wishes about a parenting order the practice should be relaxed. **Implementation:** A Family Law Rule should be made to this effect.

Recommendation 154

The Family Court should continue to promote the access of indigenous families and children to the Court and continue its work liaising with Indigenous communities. The Court should continue research to ensure that its processes are adapted to take account of the dynamics of dispute resolution among Indigenous communities, particularly in relation to the involvement of extended families and family violence.

Recommendation 156

The Family Court should develop an access and equity plan to assist it in eliminating barriers which people of non-English speaking background, including children, experience in accessing its services.

Recommendation 159

Research should be conducted to establish the comparative levels of approval of applications for sterilisation operations on young people with an intellectual disability in each jurisdiction. This research should investigate the reasons for any discrepancy to ensure that procedures allow for appropriate exploration of alternatives to the sterilisation application.

Recommendation 161

National standards for legislation and practice in care and protection systems should be developed. These care and protection standards should provide a clear allocation of responsibility for their implementation.

Recommendation 164

A Charter for Children in Care should be developed. The Charter should create a legally enforceable obligation on the part of the relevant State or Territory family services department to provide each child with an established level of care. **Implementation:** OFC should develop the Charter for Children in Care in conjunction with the relevant State and Territory family services departments and in consultation with other relevant government agencies, non-government service providers, children's advocacy groups and children in care. This Charter should be enacted in legislation at Federal, State and Territory levels.

Recommendation 184

National care and protection standard should require that: the Aboriginal Child Placement Principle and the essential role of Aboriginal and Islander Child Care Agencies be enshrined in legislation in all States and Territories; and all family services department workers receive appropriate information and training in cross-cultural awareness, including on the differing child rearing practices of Indigenous communities.

Recommendation 185

The Minister for Aboriginal and Torres Strait Islander Affairs should prepare and release regular reports on:

- the current policies and practices of, as well as best practice guidelines for, State and Territory family services departments concerning investigation, assessment and case management of referrals for Indigenous children;
- the operation of Aboriginal and Islander child care agencies, including funding levels required for their effective operation; and
- prevention programs aimed at indigenous communities.

Implementation: Such reports could be prepared in consultation with OFC and the Secretariat of national Aboriginal and Islander Child Care.

Recommendation 187

The national care and protection standards should require that all family services department workers making assessments or conducting investigations receive appropriate training in cross-cultural awareness, including issues relating to difference in child rearing practices in various communities.

Recommendation 189

The national care and protection standards should require that all family services department workers receive appropriate training in issues relating to abuse and neglect of children with disabilities.

Recommendation 192

National standards for juvenile justice should be developed to reflect Australia's international commitments and ensure a proper balance between rehabilitation, deterrence and due process.

Recommendation 194

The minimum age of criminal responsibility in all Australian jurisdictions should be 10 years.

Recommendation 196

The age at which a child reaches adulthood for the purposes of the criminal law should be 18 years in all Australian jurisdictions. **Implementation:** All States and Territories that have not already done so should legislate to this effect.

Recommendation 197

The age of consent should be the same for heterosexual and homosexual sex. **Implementation:** All States and Territories that have not already done so should legislate to this effect.

Recommendation 204

Laws that permit preventative apprehension of young people should be repealed. **Implementation:** States and Territories that have such laws should arrange for their immediate repeal.

The Alternative Report (Defence for Children International, 1996) recommended:

Children in the care and protection system:

- There is a need to educate children about their rights and the mechanisms available to protect and defend these rights.
- Federal and State Governments must give highest priority to adopting standards for the accreditation of child protection agencies.
- Governments must ensure that all staff of agencies with responsibilities related to the care and protection of children meet rigorous standards of integrity and competence, in accordance with Convention principles.
- Governments must adopt a national code of practice for the care and protection of young people and children in the care system, based on principles set out in the Convention.
- As there are no mandatory placement reviews in some states, the proposed national code of practice must set out protocols for placement review, taking into account the child's views and making the his/her best interests the overriding factor.
- Frequent moves of children in care are disruptive and detrimental to their schooling and development. More care must be given to the selection of foster parents (language and cultural compatibility).

Special Protection Measures:

- There is a need for a systematic review of the rights of asylum seeking children and the development of protocols and services to ensure that those rights are protected.
- Governments must:
 - give high priority to devising and implementing strategies designed to keep children out of custody, with highest priority to Aboriginal and Torres Strait Islander children;
 - provide ongoing training and retraining programs for police, lawyers, magistrates, judges and court personnel on children's rights and the alternatives to arrest and detention; and
 - ensure that legal aid services are resourced to provide legal representation for all children in criminal and civil cases, as required by the Convention (29).

What's currently happening in Victoria government and non-government initiatives?

- Current review of the *Children and Young Persons Act 1989*. However there is concern among a number of non-government organisations that this review is essentially administrative and fairly constrained, and does not appear to have an overall vision of what is in the best interests of the child or young person.
- The Criminal Justice Diversion Program is currently being provided, or will be by May 2001, through seven Magistrates' Courts in Victoria (Broadmeadows, Heidelberg, Dandenong, Sunshine, Frankston, Ringwood and Melbourne). However, it does not yet operate throughout Victoria or in the Children's Court and there is concern that this gives power to police.

In terms of realising rights, as articulated in the Convention, what needs to be done in Victoria?

- An extensive and thorough review of the *Children and Young Persons Act* that is motivated primarily by the best interests of the child. Such a review would examine the legal age of majority, issues of care and protection, education, family support, early intervention and prevention and purposeful intervention, a Children's Commissioner and broader issues.
- Address the lack of consultation with young people in the legal process, especially in the area of their rights to express an opinion and have it taken into consideration, for example in the case of choosing an independent person to be present during an investigative interview by police.
- The recommendations of both *Seen and Heard* and *Australia's Promises to its Children – the Alternative Report* should serve as a guideline for steps to be initiated in Victoria.

Tasks and strategies identified by the workshop

What can non-government agencies and local government do?

- Advocate for adequate funding for a specialist State-wide young people's legal and advocacy service that provides a comprehensive casework service, preventative education and policy programs, as well as a State-wide youth lawline, for young people in police custody, like Alphaline – 24 hour, 7 days.
- Work towards a co-ordinated approach to teaching young people about their rights.
- Develop information about rights for young people that is educative, addresses practical issues impacting upon young people, is user-friendly, multi language information, and provides information about penalties that is relevant to young people.
- Advocate for changes to the PERIN system, to provide non-financial penalties for young people.
- Educate about rights around school exclusion.
- Advocate for improvement to or new models for the methods used to exclude young people from school.
- Ensure that the young people are able to report crime as victims without fear of punishment, and for their own offences taking over.
- Police /young people relationship:
 - Create programs between police and young people to improve relationships.
 - Encourage and develop improved police training in their dealings with community services/liaison. Many police are so set in their ways so must focus on all police training from point of police recruitment re youth / youth services / programs.
 - Advocate for an independent police accountability mechanism.
 - Develop programs that link young people to services at point of police contact.
 - Advocate for an improved system of independent persons for young people in police interviews, where the adult is independent of police and has been through a coordinated training program.
- Encourage young people to take action against arbitrary decisions made by courts/DHS that are oppressive to them. This will vary from region to region.
- Advocate for DHS to develop clear guidelines and standards at decision making levels - including review of decisions made, conflicts arising between parents and young people.
- Educate workers with young people about what and how DHS operates.
- Establish an audit in Victoria on the state of young people and their status as to Convention; ensure the research and consultation processes include young people as researchers.

What does government (State and Commonwealth) need to do?

- Establish a Children's Commission to monitor and have guidelines with powers of intervention against police breaches. Other roles and features of the office would include:
 - Independence of decision making;
 - a central location to lodge complaints and education about complaints processes; and
 - monitoring the care and protection system, discrimination against young people and young people's involvement in the legal processes e.g.: children as witnesses, in family law.
- Involve young people in all levels of policy/decision making of justice/ policy/ law reform:
 - young people should have a say;
 - establish regional/youth parliaments on citizenship issues - use school structures;
 - involve young people in services impacting upon young people;
 - lower the voting age; and
 - establish various participation/human rights and decision making options.
- Establish diversion programs focussed upon deinstitutionalisation. Integrated services, policies and money are needed.
- Detention and deprivation of liberty – improve lock up units for young people at risk of harm.
- Co-ordinate the implementation of an educative, relevant and comprehensive set of programs, using a variety of mediums, that teach young people about their rights.
- Provide adequate funding for a specialist State-wide young people's legal and advocacy service that provides a comprehensive casework service, preventative education and policy programs, as well as a State-wide youth lawline, for young people in police custody.
- Improve the methods used to exclude young people from school
- Simplify the PERIN system and incorporate non-financial penalties young people without means to pay.
- Implement an independent police accountability mechanism.
- Establish real protections for young people in police interviews, whereby the independent persons are adults who are independent of police and have been through a coordinated training program.

Issue: Public Spaces

Which Convention Articles relate to Public Space Issues?

- Article 2: Non-discrimination
- Article 12: Expression of opinion
- Article 13: Freedom of expression
- Article 14: Freedom of thought, conscience and religion
- Article 15: Freedom of association
- Article 16: Protection of privacy
- Article 17: Access to appropriate information
- Article 19: Protection from abuse and neglect
- Article 31: Leisure, recreation and cultural activities

What are the Human Rights issues in Victoria relating to Public space?

'At a time when many societies are (re)constructing young people as 'intruders' and a 'threat' in public spaces, there is a need to determine the issues and the impact of aggressive social interventions and exclusionary practices on young people's experiences of urban life.' (Malone and Hasluck, 1998)

Through participatory research techniques the UNESCO *Growing Up in Cities* (GUIC) project has identified four key factors that young people have indicated marginalise and exclude them from public spaces. They are:

- **The physical form of the neighbourhood**
According to Stilwell (1993), the neighbourhood form shapes people's perceptions of society, themselves and the social values they adopt. (Malone and Hasluck, 1998)
Young people generally describe their neighbourhood as boring because there were limited public spaces that catered for their specific needs.
- **Commercialisation of youth spaces**
Young people identified one of the major barriers to them engaging in sporting activities and utilising community and commercial facilities was the cost. Positioning young people as consumers serves to disadvantage and ultimately preclude their access to public spaces as a result of their lack of disposable income.
- **Restricted mobility**
Young people identified the causes of their restricted mobility as: having to stay at home to babysit younger siblings; lack of or expensive public transport; being too young to drive; not wanting to go places with their parents or relatives; streets with high traffic flow; not being able to afford a bicycle or skateboard; nowhere to go; and fears for personal safety.
- **Personal safety, dangers and fears**
The GUIC project identified a number of mediums through which young people's images of danger and fear have evolved, these included: lived experience; harassment and policing of young people by regulatory agencies; parents projecting fears as a mechanism for scaring young people into containment; media sensationalisation of the problems in the western suburbs and young people being stereotyped as perpetrators of violence; and videos, television and games.

Other issues include:

Police and security guards 'moving on' young people who are then forced to find another space.

A comment by a Somali young person is common:

Police often discriminate against us, they pick on us. Once we were walking on the street with a friend and a policeman in a car stopped and asked me my name and address for no reason. He said to me don't speak bloody African language. This made me feel really angry because he didn't respect my language or culture. He pushed my friend over when he came to help me. (Youth Newsletter 1997 cited in Malone 1999)

Community needs are currently understood as adult needs not young peoples; public space becomes adult space and young people are forced to occupy the fringes.

Youth specific space needs – limited places meet young peoples needs of no age restrictions, distance, access to transport and financial constraints.

Lack of authentic participation in planning, design and development of urban spaces

While some local councils in the Melbourne area have endeavoured to consult with young people about their use of public spaces, for the most part this has been about 'getting them involved' rather than acknowledging their distinct needs. Participation is not about consulting young people about the what colour to paint the youth centre or planting trees in the playground. It's about finding out how young people use public spaces differently and how they would most like these spaces to reflect them and their specific needs. The capacity of young people to contribute to public space planning is often undervalued.

Specific discrimination issues faced by some young people, based on age, race, sex/gender, sexuality, and disability.

What has the UN Committee on the Rights of the Child said about Public space?

The Committee expressed concern that:

- the general principles of the Convention, in particular those relating to the respect for the views of young people (Article 12) are not being fully applied; and
- local legislation allows police to remove children and young people congregating, which is an infringement on children's civil rights, including the right to assembly.

The Committee recommended that:

- an awareness-raising campaign on the right of the child to participate and express his/her views be carried out;
- special efforts be made to educate parents about the importance of child participation, and dialogue between parents and children; and
- training be carried out to enhance the ability of specialists to solicit and facilitate the expression of the views of children and young people.

What have major Australian Reports already found and recommended?

The Alternative Report (Defence for Children International, 1996) recommended that:

- Young people and their advocates must participate in policy planning, monitoring and service delivery to ensure responsiveness and accountability.
- A coalition of non-government organisations committed to the principles and standards set out in the Convention should become the focal point for twice yearly formal consultations with governments, including local councils. The coalition should receive a modest annual grant from government to facilitate its operation as a channel of communication between community and government.
- Arrangements be put in place to formalise, facilitate and support the involvement of young people in the process.
- As part of their social development and due to limited alternatives young people tend to congregate in public areas. Increasingly laws and restrictions are being used to exclude young people from public spaces...children are seldom consulted in the planning of public facilities and recreation area. Security guards frequently restrict access of young people to shopping areas and other public places. To address this, the Human Rights Commissioner should initiate an education campaign designed to ensure that children have ready access to information about their rights and the remedies available to them for complaint and redress.

What's currently happening in Victoria– government and non-government initiatives?

Hanging Out: National Anti-crime strategy (Commonwealth of Australia, March, 1999)

Recognises the needs of young people in relation to public spaces and its guidelines for youth crime prevention include:

- Youth specific space needs;

- Planning and development;
- Management of public spaces; and
- Training for police and security guards.

In terms of realising rights, as articulated in the Convention, what needs to be done in Victoria?

- a) Building neighbourhoods for and with young people should be an urban planning priority. For many planners this will mean diversifying community consultation processes.
- b) Young people must be given the opportunity to take up space in public spaces.
- c) Changes to policing, regulations, monitoring and planning of public space for young people.
- d) Young people in the GUIC project identified their needs in the development of public environments as:
 - Unregulated places where they can congregate without undue harassment or surveillance.
 - A diversity of public to expand their spatial range and interaction with other young people.
 - Safe and secure meeting places that are well lit, private and malleable to individual needs (gender and ethnic differences) and are easily accessible by public or private transport.
 - Authentic input into decision-making concerning the use of public spaces.
 - Variety in dimension, size and malleability of places - indoor and outdoor areas.
 - Secure and safe corridors in urban environments.
 - Facilities to encourage identification with surrounding physical, social and natural environments.
 - Opportunities for young people to engage in discussions about their concerns, needs and aspirations, and to have their views acted on.

Tasks and strategies identified by the workshop

What can non-government agencies and local government do? What does government (State and Commonwealth) need to do?

- Address negative perceptions in sections of the community regarding young people in public areas “hanging around” / congregating.
- Assist young people to feel and be safe in public places.
- Question perceptions of safety which are often unfounded.
- Create youth specific space, to overcome the reduction in play space generally as well as to overcome the increased commercialisation of play / leisure activities.
- Advocate to authorities and other institutions such as business against exclusionary practices and for alternatives to increased regulation and uniformity.
- Discuss the idea/fact that public space is often a place of safety for young people and others because of the proximity to people.
- Work to address the discrimination of minorities occurring as a result of increased visibility.
- Improve the participation of young people in the design and control of public space.
- Work to address problems of policing and regulation.
- Understand that space is gendered.
- Interrogate the contradictions and the intersections of private and public space.
- Encourage the creative use of space.
- Develop information about family friendly public spaces.
- Improve safety and security by:
 - Harm minimisation / regulation of spaces e.g. playgrounds;
 - Perceptions of violence / crime education;
 - 50 km rule - traffic calming;
 - Rural / city divide difference;
 - Providing adequate resources to maintain facilities;
 - Safe houses; and
 - Designing buildings for multiple and constant use.

- Improve and diversify uses and access to public transport:
 - Exclusion modes (i.e. skateboarding as a legitimate form of movement);
 - Cost, including adult prices for 13 and 14 year olds, off-peak fares, concession cards;
 - In rural and regional areas? (links to public transport);
 - Regulation of behaviour and policing powers;
 - Consult young people about how the public transport systems work; and
 - Educate transport companies about the needs of young people.
- Ensure young people's access to public space:
 - Public events – evaluate cost and age eligibility for entry;
 - Conflicts in use of space - ensure that access allows for sharing resources; and
 - Ensure multiplicity of use of existing spaces such as schools.
- Improve planning and design by:
 - Developing a 'children' approach to planning contractual requirement and n
 - Not designing in deliberate exclusion;
 - Ensuring that financial / commercial considerations are not overriding;
 - Involving young people in planning and management decisions; and
 - Acknowledge diversity of housing, uses and population needs / flexibility.
- Policing and regulation
 - Challenge exclusionary practices until they are abolished;
 - Educate police / security / community / local business;
 - Educating young people of their rights; and
 - Advocate for regulation of 'private policing', and an independent complaints mechanism;
- Youth Culture
 - Educate the community, public and parents about youth culture;
 - Youth rights don't sit in isolation i.e. everyone has rights;
 - Multi-national organisation need to play a role;
 - Challenge and educate about stereotypes and community perceptions about young people e.g.: young people are not a homogenous group; risk taking is a normal part of some adolescents development / not all; gangs of young people are not necessarily up to no good; young people are both perpetrators and victims of crime; and
 - Seed money for business to consult- framework including young people and diversity needs.
- Commercialisation
 - Contractual obligations to include participation of young people in all design tenders;
 - Funding / resources - projects developed, controlled and managed by young people; and
 - Ensure performance indicators, evaluation mechanisms and reporting involves young people.

Key Recommendations

General

- All levels of government and the non-government sector to renew their commitment to the Convention and other international instruments affecting children and young people.
- State Government to work with the non-government sector to establish a Children and Young People's Commission as an Independent Statutory Authority. The roles of the Commission would include coordinating and monitoring policy across government and non-government agencies, education, investigation and complaints (not necessarily individual complaints), with the Convention scheduled as part of the enabling Statute.
- State Government to establish the Office of Children and Youth within the Department of Premier and Cabinet, with status similar to the Office of Women's Affairs. The role of the office would include developing a whole of government approach to the insertion of Convention principles in policy across all departments in State Government, including reporting and evaluation mechanisms, such as Child Impact Assessment processes.
- All levels of government to incorporate into policy and tenders for public contracts, commercial or otherwise, a requirement of compliance with Convention principles as part of specified performance criteria and reporting on achievement of criteria. For example, architectural design for public buildings must include a minimum requirement for effective consultation with young people, even if space is not specifically designed for young people. Failure to demonstrate implementation of strategies to comply should preclude any further contracting with the company unless and until change is demonstrated.
- State Government to provide adequate resources to establish a community based, statewide Young People's Legal Service that provides a comprehensive casework service, particularly in civil, discrimination, administration and human rights matters, as well as preventative policy and education programs, including the production and distribution of appropriate and targeted information for young people around their rights.
- Government and non-government sectors to work together to extend *Alphaline* to a statewide 24 hour free legal advice telephone line for young people in police custody.
- Government and non-government sectors to work together to establish a system of accreditation for child advocates and promote their existence, especially to those most likely to need assistance, including young people who have learning difficulties.

Youth participation in decision making

- All levels of government and the non-government sector Governments to develop and implement policies for the involvement of young people in decision making at all levels, including policy development, service delivery and program evaluation. This participation must be genuinely owned by the young people and be more than mere consultation. This will require the allocation of staff and other resources to the task. These processes must acknowledge that children and young people are not a homogenous group and use a variety of means.
- All levels of government to review laws that restrict young people's ability to fully participate in society e.g. age laws such as independent person program (increase from 16), Centrelink means tests (reduce from 21), right to vote in elections (reduce from 18).

Best interests

- Government and the non-government sector to develop a definition of "best interests of children" and a incorporate process for considering "best interests" in decision making at all levels, such as through Child Impact Assessment processes.

Diversity and identity

- Develop a framework for an understanding of issues that affect gay, lesbian and transsexual young people and culturally and linguistically diverse young people.
- Develop school and community cultural awareness activities and cross cultural training in all workplaces.

Physical punishment of children and young people

- Initiate consultation within the community about what is an 'acceptable' level, if any, of physical punishment of children. Based on the consultation, develop legislative provisions and/ or improved enforcement mechanisms as well as providing programs that support and educate parents who physically abuse their children.

Non-government Agencies

- Obtain copies of the Convention and conduct training for staff so that all workers and management have an understanding of key Convention principles, especially those relating to participation.
- Incorporate Convention principles into the organisation's business plan and policy manuals. Develop strategies to implement principles, allocate resources, monitor and evaluate implementation and report achievements and areas for improvement in Annual Reports. Ensure that young people are involved in the ongoing management and direction of the service.
- At a service level, clarify policies around who is the client: parents or children?; respect young people's requests for confidentiality (especially when sharing information with their parents) and ensure policies accord young people procedural fairness in decisions made about them.
- Develop education materials about young people's rights generally and specific Convention rights.

Community Education Campaigns

- Educate the broader community and mainstream media about the Convention and young people's rights, towards a shared vision within the community.
- Challenge the adversarial concept of rights: it is not a matter of parents versus kids; but of enhancing human and civil rights for all.
- Specifically, develop strategies in the community to:
 - Better educate parents, schools and young people around young people's ability to make decisions/participate/take responsibility;
 - Experiment with different ways to increase young people's participation/decision making ability within families/government policy formulation/ service agencies; and
 - Better define community's definition of the 'role' of parents of secondary school age young people.

Schools and Education

- Increase resources to school based youth support, including providing access to 'Kids Helpline' or other telephone counseling service within all schools, increasing training and support for Student Welfare Coordinators, and providing schools to access to community based youth and recreation workers, in particular in the playground at recess and lunch.
- Develop young peoples participation in primary and secondary schools by:
 - including rights, participation tools and decision making models in curriculum;
 - ensuring all schools have Student Representative Councils and young people represented on School Council;
 - establishing forums to involve young people in decisions that are important to them;
 - according procedural fairness to young people in relation to decisions made about them.
- Remove the requirement for parental permission for young people's involvement in school and extra curricular activities.

Income support and Housing

- Increase youth and family incomes: current Centrelink levels of payments are inadequate.
- Commit more resources towards housing to meet the identified needs.
- Centrelink to provide a more flexible approach to administrative breaches for the homeless.
- Investigate possible government regulation of the private rental market.

Justice

- State Government to provide adequate funding for a specialist State-wide young people's legal service, as above.
- State Government to improve the methods used to exclude young people from school and ensure that procedural fairness is accorded.
- State Government to work with the non-government sector to develop an improved system of independent persons for young people in police interviews, where the adult is independent of police and has been through a coordinated training program.
 - State Government to work with the non-government sector to develop an independent police accountability mechanism, that is accessible to young people.
- Department of Human Service to develop and implement standards of decision making levels, including review of decisions made and conflicts arising.
- State Government to simplify the PERIN system and incorporate non-financial penalties, such as unpaid community work, for young people without means to pay.
- State Government to improve lock up units for young people and children at risk of harm.

Public Space

- State Government to work with the non-government sector to address negative perceptions in sections of the community regarding young people in public areas "hanging around" / congregating.
- Assist young people to feel and be safe in public places.
- Discuss the idea/fact that public space is often a place of safety for young people and others because of the proximity to people.
- Question perceptions of safety which are often unfounded.
- Create youth specific space, to overcome the reduction in play space generally as well as to overcome the increased commercialisation of play / leisure activities.
- Advocate to authorities and other institutions such as business against exclusionary practices and for alternatives to increased regulation and uniformity.
- Work to address the discrimination of minorities occurring as a result of increased visibility.
- Improve the participation of young people in the design and control of public space.

Employment

- Lobby for funding for research - who's working? where? how many? What is the current situation of child and youth employment.
- State government to establish a proactive Youth Industrial Unit, with adequate resources, to oversee and enforce legislation around youth employment issues.

TAKING CHILDREN SERIOUSLY

Moira Rayner

Director, Office of London Children's Rights Commissioner

Thinking like a child

Because you have come to this conference, I am not going to try to persuade you that children's rights are important. Instead, I want to remind you that taking children's rights seriously is an uncomfortable experience.

Janusz Korczak wrote:

Know yourself before you try to get to know children. Become aware of what you yourself are capable of before you try to outline the rights and responsibilities of children. First and foremost you must realize that you too are a child, whom you must first get to know, to bring up and to educate.

Korczak was as a paediatrician, writer, broadcaster and educator who wrote in Polish; died anonymously, in 1942, as did millions of others, and who wrote the first version of the UN Convention on the Rights of the Child more than 60 years before the UN got round to it, and got around to it because of him. His real name was Henryk Goldszmit and that was the name recorded by the clerks who, in 1942, authorised his being loaded onto a cattle truck to nowhere. Under Korczak, his nom de plume, this skinny, child-fixated, lonely and unprepossessing man was the best-loved children's writer and broadcaster in Europe of his day.

Let us remember why Korczak was important. He devoted his life, as a young doctor, to caring for street- and slum-children, because *'a spoon full of caster oil is no cure for poverty and parentlessness.'* He became the Director of a new Jewish orphanage and spent the rest of his life working in it for no salary, living in the attic. When they restored it, about 20 years ago, in his memory the architects got rid of the 'unsightly' attic. His most important work, How to Love a Child, a profoundly spiritual and practical book about nurturing children, was written while he served in the army in the First World War. In 1922 he set up another orphanage for unwanted 'Polish' - Catholic - children. In the 1930s, as anti-Semitism thrived, he was forced to hand it over to Christian Management because he was a Jew. He was a columnist and broadcaster and the author of two novels - King Matt the First, a story of a little prince who inherits the crown of a utopian kingdom, battles the world's injustices (especially those inflicted by adults on children) and is almost executed, which ends with the children governing while adults go back to school - and If I Were Small Again, the story of a grown man turned back into a child. They were widely popular and translated. In 1926 he founded The Little Review, the first ever newspaper produced and edited by children. For many ears he enthralled adults and children with his newspaper columns and weekly broadcasts. He was loved, and he was influential, and he was a pioneer in promoting children's rights to be taken seriously.

Why was Korczak so important? Because he taught that it is necessary to respect the child, to learn from children, and to teach children by example that they can trust and rely on adults for respect, love and care. *'A child's life', he wrote, 'has an importance of its own: it is not a preparation for 'real' life later. A child must be appreciated for what they are now, not what they will become. We must respect and understand a child's way of thinking, not observe them from an adult perspective.'*

He put these theories into practice. His orphanages were run according to laws developed by children and adults as equals, enforced by a court to which adults and children had equal access and infringements were dealt with by child judges to whose edicts teachers and staff as well as children were equally subject. This, he taught, is the way to teach children respect for the law and individual rights. This was nearly 80 years ago.

He was important because of his extraordinary example. In 1940 he was forced to relocate his remaining orphanage to the Warsaw ghetto. Starvation and disease made him abandon all pride, begging daily for food and medicines for his children. Then he took over the orphans' refuge and cared for the ghetto's dying children: a hospice in hell. He was repeatedly offered and urged to take the opportunity to escape, because of his fame: he refused, saying that, 'You can't leave children at a time like this.' He continued to believe in the goodness of human nature, in the face of growing evidence of crimes against humanity and institutionalized cruelty. When he was asked how to respond to inhumanity, he said that, '*One must act even more humanely.*'

But they could. His final act was remarkable. On 6th August 1942 he led a procession of 200 children, singing, behind the orphanage flag - the flag of King Matt - onto the cattle trucks destined for Treblinka. None came back.

He wrote:

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. They should be allowed to grow into whoever they were meant to be - the unknown person inside each of them is the hope for the future.

After the War's end, the Polish government persuaded the United Nations to proclaim and dedicate the International Year of the Child to Janusz Korczak. His life-long championship of a children's charter led to the United Nations Convention on the Rights of the Child.

Developing a child-rights culture

We have to put our composure and ease on the line, if we are to promote and protect the rights of children. There is no one right way to put children's rights at the heart of what we do, and there is no guarantee that we will not mess it up. There are plenty of precedents, about how to change a culture that does not respect the rights of vulnerable people. We don't have to look further than the decided cases about employers' liability for occupational health and safety, sexual harassment and unfair dismissal. When there is a legal obligation or a sanction, organisations do know how to change the way they do things.

Well, there is a legal obligation. Respecting the rights of children is a treaty obligation: Australia ratified the UN Convention on the Rights of the Child in 1990 (the year that Prime Minister Hawke promised that child poverty would disappear). It may not be a part of Australia's domestic law, but it is, as the High Court said in the Teoh case, a binding promise that Governments are expected to consider when its instrumentalities are making discretions and choices affecting children. It shapes the law of natural justice, because a government taking into account the rights of children under the UN Convention is a 'legitimate expectation' of both children and those caring or advocating for them. If you don't intend to consider a child's rights, your procedural unfairness could have legal ramifications.

So how do we make that step-change, from running along as we always have, with good intentions and a desire to do the best for children, to actually putting their rights at the heart of what we do?

The UN Convention on the Rights of the Child does not present ready-made methods or solutions. It does set 'standards' - for example, that all decisions made about and affecting children must have 'the best interests of the child' as their point of departure. This is not the case when governments pass mandatory sentencing laws or fail to fund lawyers for children in trouble with the police, or when agencies decide to cut services for children because they don't or can't complain. Another Convention standard is, that in all matters affecting a child, the child must be given the opportunity of stating their opinion, and have those opinions taken into account. In other words, the UN Convention is the starting point of a systemic policy perspective that starts with the child, not the organization, or the workers, in working and decision-making processes for activities that affect children.

Barriers to success

Recently the Swedish Children's Ombudsman reviewed the progress that country had made in implementing the UN Convention¹⁷. I think we can learn from this. There were six difficulties:

1. Lack of definitions

We do not have a working model for what the UN Committee on the Rights of the Child recommended; Child Impact Assessments. It said that implementing the Convention requires that, when developing policies and proposals, decision-makers should have an accompanying assessment of its impact on children, so that decision-makers can be better informed when formulating policy on the possible or probable effect on the rights of the child. Obviously one must also have a way of measuring whether those predictions were right or not. But how do you know? Some use checklists, others children's budgets - but very few have done more than provide 'tick-the-box' options that do not stand up to the detailed analysis they require to compete with other fiscal evaluations - e.g. health impact assessments on defined populations backed up with evidence-based programs.

2. Lack of evaluation

The effect of the UN Convention can only be guessed at, so far, by looking at the language used in policy, planning and 'visioning' documents. Even the 'checklists' that have been published haven't been developed or their success reviewed. Early equal opportunity policies were not reviewed, either, until the test cases started to bite.

3. Lack of a long-term strategy

Many Swedish agencies had adopted one method of implementing the Convention - a children's budget for example - without first analyzing the problems thoroughly. In the Swedish Ombudsman's view, successful working based on the Convention meant changed attitudes and working approaches - cultural change - rather than adopting a single tool.

4. Lack of self-criticism

Too many agencies were self-satisfied - i.e. being pleased, that they had reviewed the impact of their activities on children after the event rather than, as the Convention requires, prioritizing according to the Convention, and considering - before the decisions are made - both the positive and negative consequences of the choices proposed. Ex post facto review invariably focuses on feel-good positive outcomes, not the positive outcomes foregone in the choices abandoned.

5. Lack of debate about conflicts of interest

There may be conflicts between the best interests of some child, and the cost to the 'best interests' of others: ask any teacher of special needs children to mediate those, and the desires of parents for children for their time and attention. There can be conflicts between the child's and their carer's interests; the parents' best interests and those of the common good or the national interest - nobody, it seems, has asked Elian Gonzales, though they have consulted his father about the Cuban boy's 'tug of love' experience between Cuba and the US last year. There may be a conflict between the child's 'best interests' and their Convention right to be given a hearing - i.e. the influence of the child's wishes and opinions. These all have to be made clear if children's rights are to be planned for, and the plans evaluated.

6. Finally, and most damning: the lack of participation by children themselves

Even in Sweden, adults talk children's rights better than we walk the walk. Would employers implement an 'equal opportunity' policy with a male-only committee in charge? Would government departments get away with affirmative action programs for ethnic minorities, without involving the affected communities in at least identifying the barriers?

Why do we do this differently with children?

¹⁷ Child Impact Assessments. Swedish Experience of Child Impact Analyses as a tool for implementation of the UN Convention of the Rights of the Child. Ministry of Health and Social Affairs, and Ministry for Foreign Affairs, Sweden, 2001.

What works?

As we know from our eradication of discrimination against women, and developing Action Plans to comply with the Disability Discrimination Act, the only way is to commit to a strategy to change organisational culture and assumptions, and operationalising our values.

That takes commitment we must change the ways we think and make decisions, and we must hear what children have to say. It must be commitment from operational management, not merely the specialists, nor even merely the chief executive.

It takes staying power, because cultural change will not come in a two-day session with a whiteboard: it takes time, interaction between different parts of an agency and other agencies interacting with it.

Change on this scale requires information (everyone needs to have a clear understanding about what it means to have a child-centred approach - not child focussed - in decision-making and working).

It takes knowledge - we need to know about children's experiences and lives, about child development and local conditions, and what is happening in other parts of children's lives that might affect what we can do.

It requires a clear understanding of terms, such as 'participation', and 'best interests': we use this term in so many emotion-charged ways. Justice Brennan of the High Court once famously described the term as 'an unexaminable discretion' depending on the state of a judge's prejudices. I have, less famously, dismissed 'best interests' as the expression of a pious hope that such will be the outcome of our adult judgment.

We also need to define what we mean by 'neglect', 'abuse', 'maltreatment', 'prevention' of the above, and 'child perspective': what do we mean by 'child centred', or taking an 'holistic' view of a child, or co-operation, multi-agency collaboration, or (in the UK) a 'joined up' approach? We need, in other words, a common language and framework.

Practical steps:

1. Have a policy. Issue it from the very top of the organization.
2. Develop a strategy to implement the policy. Announce that you're going to do it, and set up a steering committee. Make sure you have children on it from the very beginning and take their advice on how it should meet.
3. Draw up a short, Plain English paper on what you think is necessary to make children's rights part of the cultural norms of your agency. Give examples that others have used. Start an educational process about what you are hoping to achieve.
4. Consult with your own staff and the people they work with: get them on board.
5. Adopt that strategy as part of your business or strategic plan, and make sure it's on every wall, and induction procedure, and part of the measures of success - organizational, individual and professional.
6. Make sure you have a review or grievance mechanism so that children and their advocates who feel it isn't working have a way of making that known, effectively.
7. Review and measure its operation, and be honest about the outcome. Keep it living, and keep children involved.

Sounds simple, doesn't it? We all know that it isn't. So these are a few 'hints' for effective cultural change that I would suggest should go with these, fairly standard, policy development suggestions.

A few suggestions:

- Analyse the role and responsibilities of your agency. How do 'rights' fit into it?
- Check your culture. What makes you think - or hope - that there is a culture of respect for rights in the organization? Are you being realistic? What will it do to your support for this, if you're wrong?
- Aim for an overview, and get someone other than you – you're too close to it - to check that 'culture' and tell you how it really is.
- Make sure you have the unequivocal support of management - nothing will happen without commitment from the top.
- Make sure you have a commitment of human and financial resources to do it, short and long-term.
- Inform and educate – win hearts and minds through not only a policy statement from the top, but an information, communication and training program that cuts through the entire organization.
- Draw up an action plan with goals, strategies, timeframes and named people responsible for real results.
- Make sure you have an advisory group of children from the start, who can give you a good, clear idea of whether your language and concepts are child-friendly, realistic and likely to satisfy what they hope for. Make sure they can contribute at their own pace, on their own terms.
- Work the principles of the Convention into all your business and strategic plans and policies, and modify your codes of conduct, performance and management policies to fit the new policy and the new proposed measures.
- Prioritise: don't try to do everything at once.
- Before you even issue policy, train up key people to explain it, and its consequences to other people - in and outside the organization.
- Look for learning partners, so you're not doing it on your own, particularly if you are in the voluntary sector. It takes time to do it right: share your experience and policies.
- Evaluate, with rigour. Did it work out as you hoped?
- Report on it, annually, in the same way as you report on your business plans and objects.

Parting words

I do not imagine this is going to be easy, but it is so important. It is all-important, if we are to make a difference to the quality of children's lives.

I have the great privilege of working in a child-centred, children's rights-based organization, as an independent children's rights advocate. Our office has developed a special relationship with the new regional government of one of the great cities of the world, the Greater London Authority. It has decided to take children's rights as seriously as its statutory obligations.

On universal Children's day last year Mayor Livingstone adopted a children's policy:

London should be a child-friendly city.

The Greater London Authority is committed to respect for the human rights of children. The UN Convention on the Rights of the Child recognizes children's fundamental rights to the provision of the necessities of a decent life; protection from all forms of violence and exploitation, neglect and cruel or inhuman treatment; and participation in the decisions that affect them and in the life of their community.

The policy framework underlying the Children's Strategy is the UN Convention on the Rights of the Child.

The policy includes these operative principles:

In developing its strategies the GLA will:

- *Consider children's rights and how its decisions may affect them;*
- *Make sure that children participate fully in strategic decision-making;*
- *Make itself accountable to children as well as citizens of voting age; and*
- *Promote positive and challenge negative attitudes to children.*

He has engaged the Office of the Children's Rights Commissioner for London to develop his Children's Strategy, and established a steering committee that includes the Government Office for London, the brand-new Children's and Young People's Unit in the Cabinet Office, the Association of London Government representing the 32 London boroughs, representatives of the key Departments of Health and Education and of the all-party Parliamentary Committee on Children, members of the Greater London Assembly and his Cabinet - and, most importantly, three children as full and equal participants.

In the office of the London Children's Rights Commissioner, we work to an Advisory Board of children, who were appointed before any staff, wrote our job descriptions and appointed us, and continue as our effective Board.

We can make a difference. I can't give you a template: I can't even guarantee that we will succeed, but we have a vision, and we share that.

I'd better finish and fittingly, I hope, with Janusz Korzcak's farewell speech to each child leaving his orphanage:

Unfortunately I can give you nothing but these few words. I cannot give you God, for you must find God in quiet contemplation, in your own soul. I cannot give you a homeland, for you must find it in your own heart. I cannot give you love of humanity, for there is no love without forgiveness, and forgiving is something everyone must learn to do on their own. I can give you but one thing only - a longing for a better life; a life of truth and justice: even though it may not exist now, it may come tomorrow. Perhaps this longing will lead you to God, homeland and love. Goodbye. Do not forget.'

Appendix 2 – Project Evaluation

Conference participants were asked to complete a feedback sheet. The following is a summary of the responses.

1. The material provided before the conference was helpful and informative

Strongly Agree	9 (28%)
Agree	18 (53%)
Neither Agree nor Disagree	5 (15%)
Disagree	1 (4%)
Strongly Disagree	0

Sample of remarks:

- People with ESL as me, could have a better idea about the Convention
- Case examples could have been stronger to assist workshops focus
- Would have been useful to include more info on the Convention
- Website - so to spare a few trees

2. The conference achieved its objectives:

(a) Bringing together relevant agencies impacting upon young peoples' rights

Strongly Agree	11 (32%)
Agree	23 (68%)
Neither Agree nor Disagree	0
Disagree	0
Strongly Disagree	0

Sample of remarks:

- good opportunities to hear other stories and to network
- Provide list to everyone of participants (x2)
- Broad spectrum of agencies and viewpoints represented
- smaller workshops next time
- Did not appear to have representation from police, ethnic community councils, cultural organisations and local government. More school principals and bureaucrats, more reps from policy/legal areas of government.
- I felt rather irrelevant coming from children's services (childcare).

(b) Develop strategies to enhance young people's rights in Victoria

Strongly Agree	6 (18%)
Agree	20 (59%)
Neither Agree nor Disagree	5 (15%)
Disagree	3 (8%)
Strongly Disagree	0

Sample remarks:

- Discussion often turned into

- comparatives and story telling
- Good start
- There is still a lot of work to be done but we got off to a good start
- There are problems with trying to solve high end problems without considering universal services or the needs of the general population.
- Input from above needed.
- Became bogged down with ideas rather than practical strategies.
- Subject areas were too broad for specific strategies to be developed.

(c) Improve your understanding of the Convention and young people's rights.

Strongly Agree	11 (32%)
Agree	18 (53%)
Neither Agree nor Disagree	2 (6%)
Disagree	3 (9%)
Strongly Disagree	0

Sample remarks:

- It was great to have a chance to apply it in specific areas.
- Enhanced my view of the work I do.
- A fantastic day filled with fantastic people and ideas.
- Moira Rayner's speech was eye-opening, inspiring and informative.
- Hard time understanding some of the jargon.
- Focus was more on how to implement/improve rights and awareness not on what these rights actually are...this was very positive.

3. Suggestions:

- Well structured. Good and practical. Ran very smoothly.
- Structure was excellent, venue was terrific, admirable.
- Moira's presentation was excellent.
- Food great.
- Could have been more variety of guest speakers.
- Good introductions and summing up - added some balance to day.
- Too short ... could have been 2 days.
- to be informed of follow up...would be most appreciated, in terms of the report and other activities

“I do not imagine this is going to be easy, but it is so important. It is all-important, if we are to make a difference to the quality of children's lives.”

Moira Rayner

Director

Office of London Children's Rights Commissioner