

CHAPTER 2

DOMESTIC RAMIFICATIONS OF RATIFICATION

Introduction

2.1 Under Article 4 of the *Convention on the Rights of the Child*, upon ratification, Australia is required to:

... undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

2.2 During the development of the Convention, Australia argued unsuccessfully for the inclusion of the words 'full and effective implementation' of the rights recognised in this Article of the Convention.¹ The United Nations Committee on the Rights of the Child complimented Australia on its firm commitment to implementation of the Convention, particularly in relation to welfare services, the accessibility to education and its advanced health system.² The Committee also noted Australia's efforts on law reform and welcomed the amendments to the *Family Law Act 1975*, and the *Crimes (Child Sex Tourism) Amendment Act 1994*.³

2.3 The Human Rights and Equal Opportunity Commission believed that Australia's full compliance with the Convention is 'both realistic and attainable' and need not entail a large increase in government funding.⁴ It was suggested that this may be achieved through improved coordination and standards, better utilisation of existing funding and improved functioning of existing institutions and services:⁵

Indeed in some areas, compliance with the Convention may well save funds because programs that violate the Convention can be more expensive, for example, in juvenile justice. Some requirements of the Convention may

1 Detrick S (ed) (1992) *The United Nations Convention on the Rights of the Child A guide to the 'Travaux Preparatoires*, Martinus Nijhoff Publishers, p. 151

2 United Nations Committee on the Rights of the Child, *Concluding observations Australia* (CRC/C/SR 403-405), 24-25 September 1997, pp. 1-2

3 *ibid*, p. 2

4 Human Rights and Equal Opportunity Commission, Submission No. 336, p. S 1869a

5 *ibid*

require additional funding in the short term but that must be balanced against the benefits they bring to the long-term well-being of children and society.⁶

Moral ramifications

2.4 Tonti-Filippini *et al* commented that ratifying the Convention should be considered a moral statement above the political and legal ramifications.⁷ They added that it asserts principles that transcend civil law and provides a basis to judge law, policy, institutions and programmes which reflect the fundamental character of the human rights movement.⁸ They believed that:

Too often the domestic implications of the international human rights instruments are understood as being primarily legal, and in Australia that becomes a discussion of High Court judgements and interpreting the Constitution.⁹

2.5 The John Plunkett Centre for Ethics in Health Care stated that international conventions do not create moral rights, but may set standards of good conduct and wise social policy. However, they are 'no more than fallible attempts to express moral realities'.¹⁰

2.6 It was argued that the principles in the Convention are a best practice approach and broadly reflect the direction the Government has moved in any case.¹¹ The Commonwealth Department of Health and Family Services commented that although there was not a cause and effect relationship, the Convention represents a backdrop to policy consideration.¹² The Department suggested that the ratification of the Convention has not had any domestic ramifications as the programs in health and family services comply with the Convention.¹³

2.7 The Department of Social Security agreed that the Convention has not had a marked impact on policy decisions and that the Government's concern to provide assistance to families with children would have been applied

6 Human Rights and Equal Opportunity Commission, Submission No. 336, p. S 1869a

7 Tonti-Filippini, Fleming, Fisher, Krohn and Coghlan, Submission No. 187, pp. S 1262-3

8 *ibid*, p. S 1263

9 *ibid*

10 John Plunkett Centre for Ethics in Health Care, Submission No. 160, p. S 1083

11 Arthur, Transcript of Evidence, 28 April 1997, p. 74

12 Thomas, Transcript of Evidence, 28 April 1997, p. 55

13 Department of Health and Family Services, Submission No. 137, p. S 870

irrespective of the Convention.¹⁴ The Department of Employment, Education, Training and Youth Affairs also explained that there are a number of human rights instruments which, combined with domestic legislation, provide the context for the Department's operations.¹⁵

2.8 The Committee was given a number of examples where the Convention has been useful to policy makers and practitioners in developing and evaluating their programs such as: the introduction of the parenting allowance; the development of the national child and youth health policy; and, more broadly, in policy review and commenting on draft legislation.¹⁶ It has also been cited in debates on female genital mutilation, young offenders legislation, children born from artificial reproduction.¹⁷ South Australia, for example, has a strong child advocacy focus, New South Wales now has an Office of Children, the Australian Capital Territory may look at its child welfare law and changes to the *Family Law Reform Act 1995* addresses the principles in the Convention.¹⁸

Perception that Australian children are relatively well off

2.9 A number of witnesses questioned the notion that Australia had achieved all it needed to in terms of compliance with the Convention. Child and Youth Health in South Australia commented that although we act with good intentions, and can be proud of many of our services, we must guard against complacency.¹⁹ There are problems in Australia and while there has been progress in some areas, there may be a danger of significant losses in others.²⁰ Of concern was the fact that many Aboriginal children do not have access to basic standards and quality of living and there are significant problems in the

14 Stanton, Transcript of Evidence, 28 April 1997, p. 56

15 Arthur, Transcript of Evidence, 28 April 1997, p. 69

16 New South Wales Government, Submission No. 652, p. S 3259; Child Health Council, Supplementary Submission No. 151c, p. S 3613; Association of Children Welfare Agencies, Submission No. 281, p. S 1689; The National Council of Women of South Australia Inc, Submission No. 680, p. S 3494; Wigg, Transcript of Evidence, 4 July 1997, pp. 691-2; Doran, Transcript of Evidence, 28 April 1997, p. 55; Turner, Transcript of Evidence, 14 August 1997, p. 1449; Castell-McGregor, Transcript of Evidence, 4 July 1997, p. 693; Les, Transcript of Evidence, 4 July 1997, p. 688; Zollo, Submission No. 673, p. S 3480; White, Submission No. 665, p. S 3456; Schulz, Submission No. 676, p. S 3486; Winefield, Submission No. 678, p. S 3490; Rickard, Submission No. 679, p. S 3492; Galilee Inc, Submission No. 682, p. S 3499; Les, Submission No. 684, p. S 3503; Buchanan, Submission No. 685, p. S 3505; Balfour, Submission No. 686, p. S 3508; National Association for Prevention of Child Abuse and Neglect Hunter Regional Committee, Submission No. 689, p. S 3513; Easling, Submission No. 691, p. S 3517

17 Castell-McGregor, Transcript of Evidence, 4 July 1997, pp. 702-3

18 *ibid*, p. 703

19 Les, Transcript of Evidence, 4 July 1997, p. 683

20 *ibid*

health status of Aboriginal children, the levels of child abuse, neglect and poverty.²¹ It was suggested that these problems cannot be ignored and that the Convention gave 'legitimacy and a voice to our concerns'.²²

2.10 In relation to the situation for Australian children compared to that in some overseas countries, Child and Youth Health commented that the pain and inhumanity of one child cannot be balanced by the comfort of another child:

It is not an issue of 'most children': there are issues of number, degree and quality ... I personally feel very distressed and horrified when I hear some of the experiences that even one or two children, let alone 20 or 100 children, may be experiencing in Australia.²³

International moral obligations

2.11 It was suggested that the way in which individual nations develop and implement their own morally sound laws is open for international evaluation.²⁴ Edith Cowan University also commented that in relation to the difficulties inherent in a Federal system that:

... as a liberal, democratic country we are always open to the scrutiny of our policies and practices by other countries or outside organisations which, for one reason or another, declare an interest in our internal affairs.²⁵

2.12 In relation to the influence of the Convention in other countries, Mr McCorquodale commented on the success of the Convention in acting as a catalyst for change and providing a practical framework for addressing the needs of children particularly in the Asian region.²⁶ Mr Turner expressed concern, however, that Australia's implementation of the Convention contrasts with countries such as India and Sri Lanka where the Convention is having a considerable impact.²⁷

21 Les, Transcript of Evidence, 4 July 1997, pp. 683-4; Community Services Australia, Submission No. 154, p. S 1024; Child Health Council of South Australia, Supplementary Submission No. 151a, p. S 2382

22 Les, Transcript of Evidence, 4 July 1997, p. 683

23 *ibid*, p. 687

24 Tobin, Transcript of Evidence, 5 August 1997, p 1165

25 Edith Cowan University, Submission No. 157, p. S 1057

26 McCorquodale, Transcript of Evidence, 29 April 1997, p. 161

27 Turner, Transcript of Evidence, 14 August 1997, p. 1424

Legislative ramifications

2.13 The reason the Convention has been very widely ratified is partly because it does not set up conflicting legal claims or require domestic legislation on a wide variety of matters.²⁸ Ms Evatt expressed the view that despite the *Teoh* decision:

... there is no way that any child in Australia can enforce any provision of this convention directly in the courts of Australia. Indeed, the convention itself does not require that Australia provide that kind of remedy to a child. By contrast, the Covenant on Civil and Political Rights, article 2, paragraph (3) requires that any person whose rights or freedoms under the covenant are violated have an effective remedy - the right to a remedy to be determined by competent, judicial, administrative or legislative authorities. That is the contrast. The obligation under the Convention on the Rights of the Child on the state is to ensure that those rights are enjoyed by children, not to provide remedies. There is one provision for remedy in the Convention on the Rights of the Child under article 37D. This is the habeas corpus remedy. Of course it is available to children as it is to everyone. The child also has that right under article 9(4) of the international covenant.²⁹

2.14 The previous Government, in Australia's Report to the United Nations Committee on the Rights of the Child, at paragraph 6 stated that:

Australia does not propose to implement the Convention on the Rights of the Child by enacting the Convention as domestic law. The general approach taken in Australia to human rights and other conventions is to ensure that domestic legislation, policies and practice comply with the convention prior to ratification.³⁰

2.15 Mr McCorquodale believed that there are a number of general legal obligations which arise from Australia's ratification of the Convention, although they are not all immediate obligations.³¹ The Law Reform Commission was also of the view that neither before nor after ratification was a thorough analysis of the legal implications of ratification conducted.³²

2.16 Ms Evatt expressed her concern as to how the Convention could be incorporated as an effective part of Australian law and practice because it covers a broad range of civil and political rights and freedoms as well as

28 Caritas, Submission No. 167, p. S 1112

29 Evatt, Transcript of Evidence, 17 April 1998, p. 1565

30 *Australia's Report under the Convention on the Rights of the Child*, December 1995, p. 2

31 McCorquodale, Transcript of Evidence, 29 April 1997, pp. 161-2

32 Australian Law Reform Commission, Submission No. 382, p. S 2155b

economic, social and cultural rights.³³ The Human Rights Commissioner also described the terms in the treaty as very broad but explained that this enabled a 'margin of appreciation' for interpretation and application and that it is the role of Australian parliaments to determine how they should be applied to the specific circumstances of particular individuals.³⁴

2.17 Some saw legislative implementation as the means for meeting Australia's obligations under the Convention. The Catholic Commission for Justice, Development and Peace commented that domestic legislation must be introduced to protect children, and standards put in place including best practice protocols for dealing with children which can be properly implemented and monitored.³⁵ It was suggested that:

Just as education has become compulsory for children for approximately 10 to 12 years of their early lives, so, too, it should be recognised in federal law that children have the right to a standard of health care, legal care, economic care, including housing, nutrition and safety, emotional and social care, cultural care and community care. Disadvantaged children and youths need to be supported within their communities by laws and rights that are universally accepted as fair, equitable and just.³⁶

2.18 The Queensland Government explained that one of the problems with this type of Convention is that it does not maintain a 'prominence' in the public eye and therefore changes are often only made after incidents occur in the media or in courts which highlight a particular problem.³⁷

Breaches of the Convention

2.19 Most of the principles in the Convention are not new and existed long before the Convention was written. Nonetheless, the Australian Law Reform Commission believed that there have been continuing and new breaches of the Convention in all Australian jurisdictions since its ratification in 1990.³⁸ The Youth Action and Policy Association submitted that the spirit of the Convention was not evident in existing or proposed legislation at Federal, State

33 Evatt, Transcript of Evidence, 9 May 1997, p. 400

34 Sidoti, Transcript of Evidence, 5 August 1997, p. 1187

35 Catholic Commission for Justice, Development and Peace, Submission No. 201, p. S 1365

36 Flavell, Transcript of Evidence, 6 August 1997, p. 1362

37 Culbert, Transcript of Evidence, 6 August 1997, p. 1315

38 Australian Law Reform Commission, Submission No. 382, p. S 2155a

or Territory levels and the implementation of the Convention has been extremely slow.³⁹

Political ramifications

2.20 The Youth Advocacy Centre Inc referred to Article 26 of the *Vienna Convention on the Law of Treaties 1969* which provides that 'every treaty is binding upon the parties to it and must be performed by them in good faith'.⁴⁰ At Paragraph 203, Australia's Report stated that:

entering into an international treaty does not raise a legitimate expectation that government decision makers will act in accordance with the treaty prior to its enactment into domestic Australian law ...⁴¹

2.21 The introduction of the Administrative Decisions (Effect of International Instruments) Bills by both Labor and Coalition governments to overcome the High Court's *Teoh* decision⁴² were cited by the Youth Advocacy Centre as examples of the lack of political will to implement the Convention.⁴³

2.22 National Children's and Youth Law Centre commented that although it is not possible to implement the Convention immediately, Australia must be taking significant steps towards achieving this.⁴⁴ It was suggested that through its active participation in the implementation of the Convention, the Government will send a clear message of its affirmation of children, young people and their families.⁴⁵ However, the Centre added that although the Government should take a leading role, businesses and the media also have responsibilities in considering the Convention in their activities.⁴⁶

Publicising the Convention

2.23 Under Article 42 of the Convention, Australia is required to:

39 Youth Action and Policy Association, Submission No. 130, p. S 721

40 Youth Advocacy Centre Inc, Supplementary Submission No. 14a, pp. S 1031-2

41 *Australia's Report under the Convention on the Rights of the Child*, December 1995, p. 2

42 *Minister for Immigration and Ethnic Affairs v. Teoh* (1995) 183 CLR 273

43 Youth Advocacy Centre Inc, Supplementary Submission No. 14a, p. S 1031

44 Antrum, Transcript of Evidence, 5 August 1997, p. 1140

45 Community Services Australia, Supplementary Submission No. 154a, p. S 2387

46 Antrum, Transcript of Evidence, 5 August 1997, p. 1141

... undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

2.24 Australia adopted a National Action Plan in 1994 for the promotion of human rights.⁴⁷ Further, the Australian Council for Overseas Aid (ACFOA) added that this is the United Nations Decade for Human Rights Education (1995-2004) and Australia is party to the 1993 Vienna *Declaration on Human Rights* which requires members to develop human rights information and education programs for both school curricula and the workplace.⁴⁸

2.25 In response to the question by the United Nations Committee on the Rights of the Child about the measures used to publicise the Convention,⁴⁹ the Government referred to the steps outlined in Australia's Report, the role of the Human Rights and Equal Opportunity Commission (HREOC) and a range of activities at the State and Territory level.⁵⁰ Also in 1989, HREOC and United Nations Children's Fund (UNICEF) Australia issued an information kit and HREOC provides speakers for community groups, and writes articles and letters to journals and newspapers.⁵¹ Save the Children Fund also produced booklets in user friendly language to distribute to the community.⁵²

Lack of awareness in the community

2.26 The NGOs expressed their concern about the current lack of awareness in the community and the governments' failure to specifically allocate resources to publicise the Convention.⁵³ Youth Affairs Network of Queensland commented that as the *Convention on the Rights of the Child* was not widely known, there has been little compliance with Article 42.⁵⁴ The Australian Law Reform

47 Australian Council for Overseas Aid, Submission No. 220, p. S 1458

48 *ibid*

49 Committee on the Rights of the Child Fifth Session, Pre-sessional Working Group, 27-31 January 1997, *Implementation of the Convention on the Rights of the Child, List of issues to be taken up in connection with the consideration of the initial report of Australia* (CRC/C/8/Add.31), p. 2

50 *Australia's response to issues raised by the Committee on the Rights of the Child*, Office of International Law, Attorney-General's Department, August 1997, pp. 10-3

51 Attorney-General's Department, Submission No. 133, p. S 794

52 Dolgopol, Transcript of Evidence, 4 July 1997, p. 663

53 Defence for Children International Australia (1996) *Australia's promises to children - The Alternative Report*, p. 14; Ozchild: Children Australia, Submission No. 413, p. S 2471; Ozchild: Children Australia, Supplementary Submission No. 413a, p. S 3404; O'Reilly, Transcript of Evidence, 10 July 1997, p. 1032; Youth Advocacy Centre Inc Submission No. 14, p. S 57

54 Youth Affairs Network of Queensland, Submission No. 415, p. S 2482

Commission also believed that few children, teachers, parents or bureaucrats are aware of the existence of the Convention, or are aware of its implications.⁵⁵

2.27 Of concern was the fact that most Australian parents and care givers do not realise the Convention exists.⁵⁶ The Presbyterian Church of Queensland commented that attempts to make the community aware of the articles of the Convention had escaped the parents they had consulted.⁵⁷ However, as most Australians did not know we had a Constitution or whether we had a bill of rights, it was therefore unlikely that people would have a detailed knowledge of the *Convention on the Rights of the Child*.⁵⁸

2.28 Another issue raised was that it is still evident from newspapers, talkback radio and anecdotal information that there is a great deal of misconception and apprehension about children's rights in Australian society.⁵⁹ Ms Beddoe believed that people must be made aware of their responsibilities as parents, carers, teachers and as individuals within a community which respects and upholds so many democratic principles.⁶⁰

2.29 Ms Beddoe added that the failure to disseminate correct information was part of the reason for the difficulties with the implementation of the Convention because the wider community does not understand what it is about.⁶¹ The United Nations Association of Australia argued that education about the real effect of the Convention will assist in eliminating many of the myths and misunderstandings.⁶²

Education campaign to increase awareness

2.30 Community Service Australia believed that there needs to be an Australia wide campaign to provide information to the community about children's rights and human rights generally and the integrity of those rights within the broader

55 Australian Law Reform Commission, Submission No. 382, p. S 2155d

56 Kuchels, Supplementary Submission No. 29a, p. S 1568

57 Presbyterian Church of Queensland, Submission No. 376, p. S 2124

58 Jones, Transcript of Evidence, 5 August 1997, p. 1208

59 Piscitelli, Transcript of Evidence, 1 May 1997, p. 323

60 Beddoe, Transcript of Evidence, 10 July 1997, p. 960

61 *ibid*, p. 959

62 The United Nations Association of Australia, Submission No. 38, p. S 213

context of the family.⁶³ Greater community awareness would enable people to work together to make significant changes.⁶⁴

2.31 The Early Childhood Teachers' Association commented that many people staffing care and education institutions, services and facilities are unaware of the *Convention on the Rights of the Child* and its implications.⁶⁵ A number of organisations also commented on the difficulty of obtaining information about the Convention.⁶⁶

2.32 Action for Children in South Australia expressed concern at the lack of public education and the extent of misinformation and misunderstanding about the Convention.⁶⁷ Mr Antrum suggested that the fear and anxiety in some sections of the community may diminish if the articles were promoted to give the public some understanding of what the Convention is about.⁶⁸ To fully implement the Convention there needs to be a broad understanding within the community about the Convention and other human rights matters.⁶⁹

2.33 It was suggested that the benefits that the Australian community might derive from the Convention are weakened by the general lack of understanding.⁷⁰ It was submitted that the benefits of promoting the Convention include: children who are aware of their rights are more likely to articulate their concerns leading to early intervention in problems; a more consistent approach to service delivery by decision makers in government, businesses and the community; heightened responsiveness to the needs of children; a single reference for minimum standards; less scaremongering when the community is better informed; and organisations and individuals acting on their knowledge to implement the Convention within their sphere of influence.⁷¹

2.34 A national strategy to implement the Convention must include extensive community consultation.⁷² It was suggested that the lack of implementation can only be redressed if the community understands the 'spirit' of the Convention

63 Community Services Australia, Submission No. 154, p. S 1025

64 Rawson, Transcript of Evidence, 6 August 1997, p. 1405

65 Early Childhood Teachers Association, Submission No. 353, p. S 2020

66 Lady Gowrie Child Centre Inc, Submission No. 147, p. S 973

67 Dolgopol, Transcript of Evidence, 4 July 1997, p. 660

68 Antrum, Transcript of Evidence, 5 August 1997, p. 1138

69 Australian College of Paediatrics, Submission No. 97, p. S 472

70 Wigg, Transcript of Evidence, 4 July 1997, p. 690

71 National Children's and Youth Law Centre, Submission No. 321, p. S 1780

72 Australian Council for Overseas Aid, Submission No. 220, p. S 1464

and is supportive of compliance.⁷³ The Convention should be more widely disseminated as a benchmark document against which service delivery can be measured as well as to counter the misinformation.⁷⁴

2.35 Dr Piscitelli believed an effective approach would be to target groups such as children, through schools and service programs, parents and professionals such as teachers, social workers, lawyers, medical personnel and social policy developers.⁷⁵ Relevant teaching materials need to be developed and published. It was suggested that this could be a joint project involving government, non-government organisations and the private sector.⁷⁶ It was submitted that the information must be appropriate for children and adults and in languages appropriate to Australia's multicultural community.⁷⁷

2.36 It was also suggested that HREOC should produce public information and school kits to ensure the accuracy of the information and publicising of the Convention should not be left to under-resourced legal centres and community groups.⁷⁸ A widespread community education campaign on the principles must address the social circumstances of disadvantaged children and include information on children's rights and welfare.

2.37 The Organisation Mondiale pour l'Education Prescolaire (OMEP) Australia stressed the importance of teaching children's rights and suggested a nationwide educational strategy.⁷⁹ This could include different groups at many levels including: children in programs; children's services personnel; pre-service, in-service and professional development programs; program administrators and service delivery personnel; policy makers; families and communities. They believed that this was central to the implementation of the Convention.⁸⁰ Another suggestion was the circulation of a factsheet to State, Territory and Federal members of parliament, heads of relevant government departments and peak childrens' service agencies, outlining the importance of

73 Creche and Kindergarten Association of Queensland, Submission No. 81, p. S 398

74 Early Childhood Teachers Association, Submission No. 353, p. S 2019; Australian Early Childhood Association, Submission No. 394, p. S 2213

75 Piscitelli, Supplementary Submission No. 107a, pp. S 1118-8a

76 *ibid*, p. S 1118

77 Executive Council of Australian Jewry, Submission No. 105, p. S 506

78 Dolgopol, Transcript of Evidence, 4 July 1997, pp. 663, 666; National Children's and Youth Law Centre, Submission No. 321, p. S 1779

79 OMEP Australia, Submission No. 98, p. S 476

80 *ibid*, pp. S 475-6

the Convention and the relevant obligations of the Federal, State and Territory governments.⁸¹

2.38 The United Nations Committee on the Rights of the Child in its concluding observations on Australia commented on the lack of understanding of the Convention in some quarters of the community although the concept of rights appeared widespread.⁸² The United Nations Committee recommended awareness raising campaigns with a particular focus on the general principles and the importance the Convention places on the role of the family.⁸³ The UN Committee suggested that:

... the Convention be disseminated also in languages that are used by Aboriginals and Torres Strait Islanders, and by persons of non-English speaking backgrounds. The Committee also suggests that the rights of the child be incorporated in school curricula. It further recommends that the Convention be incorporated in the training provided to law enforcement officials, judicial personnel, teachers, social workers, care takers and medical personnel.⁸⁴

2.39 There was considerable support within Australia for a broader public education and awareness program about the Convention.⁸⁵ The role of the media was seen to be important in this regard but must be positive.⁸⁶ The Children's Commissioner of Queensland commented that media campaigns similar to the 'Norm' health promotion character and the breast cancer television advertisements could be used to achieve greater acceptance of the Convention.⁸⁷ Other suggestions included public forums, public discussions, public information sessions and educational programs across the community.⁸⁸ Public consultation processes could identify what the community wants and needs and where children's experiences and perspectives may be different from those of people who are trying to protect their rights.⁸⁹

81 Jeremy, Submission No. 87, p. S 417

82 United Nations Committee on the Rights of the Child, *Concluding observations Australia* (CRC/C/SR 403-405), 24-25 September, p. 2

83 *ibid*, p. 4

84 *ibid*, p. 5

85 For example ECPat Australia, Submission No. 13, p. S 52; Bayes, Transcript of Evidence, 28 April 1997, p. 85; New South Wales Government, Submission No. 652, p. S 3257

86 Ingram, Transcript of Evidence, 6 August 1997, p. 1397

87 Children's Commissioner of Queensland, Submission No. 25, p. S 154

88 Whitaker, Transcript of Evidence, 1 May 1997, p. 310

89 Fitzgerald, Submission No. 562, p. S 2981

Children's Awareness of the Convention

2.40 A number of groups have found that children and young people are not generally aware of the provisions of, or even the existence of the Convention.⁹⁰ The Youth Advocacy Centre commented that in schools around Brisbane very few children are aware of the Convention and it is not regularly discussed and certainly not promoted.⁹¹ Mr Doyle, of the Queensland Law Society and the Family Law Practitioners Association, has never had a client mention the Convention and he has mentioned it twice in practice in 14 years.⁹² However, the Youth Affairs Council of South Australia believed that the Convention has raised consciousness in the youth sector.⁹³

2.41 The United Nations Association of Australia suggested that information be provided to teachers in a more educationally sympathetic form.⁹⁴ Mr Sheppard supported the dissemination of appropriate information to schools.⁹⁵ It was suggested that:

When the NCYLC [National Children's and Youth Law Centre] released its Education Rights Kit in each Australian state, some Principals banned the document despite its format being educational and non-confrontational. This is not in accord with UNCROC [Convention on the Rights of the Child] which states that children have a right to education and information and to form their own views.⁹⁶

2.42 The Youth Advocacy Centre Inc believed that the education authorities appear to be more enthusiastic about 'responsibilities' than 'rights' although this was not universal.⁹⁷ The Committee noted that in a workshop of 50 children from the Asia Pacific region, in preparation for their presentation at a Conference, they listed their responsibilities first.⁹⁸

90 Victorian Council of Civil Liberties, Submission No. 23, p. S 116; Reid, Transcript of Evidence, 6 August 1997, p. 1401; Youth Advocacy Centre Inc, Supplementary Submission No. 14a, p. S 2032; Osmand, Transcript of Evidence, 19 April 1997, p. 145

91 Wight, Transcript of Evidence, 1 May 1997, p. 255

92 Doyle, Transcript of Evidence, 1 May 1997, p. 276

93 Handshin, Transcript of Evidence, 4 July 1997, p. 714

94 Purnell, Transcript of Evidence, 29 April 1997, p. 114

95 Sheppard, Transcript of Evidence, 1 May 1997, p. 299

96 Youth Advocacy Centre Inc, Submission to the ALRC and HREOC *Speaking for ourselves Children and the legal process* Issues Paper 18, July 1996, p. 15

97 *ibid*

98 Reid, Transcript of Evidence, 6 August 1997, p. 1408

2.43 There also needs to be a media campaign to address the anxiety of parents and professionals who need to be pressed to apply information about the Convention and use it in developing policies and legislation.⁹⁹

2.44 Most sources of legal rights education are not geared to the needs of young people with poor literacy skills and many young people do not have access to information about their legal rights and responsibilities and the services available to them.¹⁰⁰ The publicising of the Convention would need to be in an appropriate form. Broad mass media campaigns often do not include images and language that disadvantaged young people can identify with.¹⁰¹

2.45 For example, Streetwize comics are designed to provide information to young people generally, particularly those with low literacy skills, Aboriginal and Torres Strait Islander and Non-English Speaking Background (NESB) children and those who are socially and economically disadvantaged, in a manner that appeals to them.¹⁰² The comics have covered legal issues relevant to young people such as discrimination, legal and consumer rights, rights in the school system, land rights and civil and citizenship issues.¹⁰³

2.46 There have been a number of mechanisms suggested for improving this situation such as the example of Mexico where a children's election was conducted in which children voted for their rights at the same time as their parents voted for politicians.¹⁰⁴ The purpose of the exercise was to educate children and adults about the rights of children.¹⁰⁵ The Kids Help Line suggested a system of peer counselling where children are taught the skills to help each other because kids in trouble cannot talk to their families.¹⁰⁶ Kids Help Line receive 400 000 calls annually of which 100 000 have significant immediate problems.¹⁰⁷

99 Piscitelli, Transcript of Evidence, 1 May 1997, p. 324

100 Streetwize Comics Ltd, Submission No. 169, p. S 1127

101 *ibid*, p. S 1128

102 *ibid*, p. S 1125

103 *ibid*, p. S 1126

104 Australian Institute of Family Studies, Submission No. 363, p. S 2070

105 *ibid*

106 Reid, Transcript of Evidence, 6 August 1997, p. 1401

107 *ibid*, p. 1404

The Committee's views

2.47 The Committee acknowledges the considerable work being done by government agencies and non-government organisations in enhancing the well being and development of our children and notes that there has been considerable progress in many areas. There are also, however, many areas where more needs to be done and these will be discussed throughout the Report.

2.48 The Committee supports the introduction of a program to enhance the awareness and understanding of the Convention in the community. There needs to be a heightened awareness in some professional sectors to ensure that the balance presented in the principles of the Convention, including the importance of the family as the fundamental unit of the Australian society, are given practical effect. The Committee sees this as a means of improving the well being of Australian children and an effective way of disseminating accurate information to children and families. A prerequisite to this is the development of appropriate information kits and improved accessibility to information on children's rights and family support services. These issues are addressed throughout the Report, in particular in relation to the establishment of an Office for Children in Chapter 5.