

### **The Paramount Consideration**

A new paper by Family Court Judge and DCI-Australia Advisory Board Member Justice Richard Chisholm explores the meaning and application of the most fundamental principle of all in children's matters: that the child's best interests must be regarded as the paramount consideration.

Does the principle mean that the court makes whatever orders it thinks will be best for the child? He argues that the cases speak with a forked tongue. Two distinct views are identified, which he calls the strong and the weak views and he examines the extent to which one or other view can be preferred having regard to (i) the language of the principle; (ii) the relevant High Court decisions, or (iii) the nature of the decision to be made.

He then considers the application of the principle since the Family Law Reform Act 1995 (Cth), which provides that it specifically applies to some decisions and not to others. If the paramount consideration principle is regarded as the ground on which children's law is built, the strong and the weak views may be seen as tectonic plates: mostly unnoticed, but at times, and in some situations, tending to cause eruptions and wreak havoc with the structures built on them. He suggests that relocation cases can perhaps be seen as the San Andreas Fault of children's law. The paper is at:

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

## **More Websites !**

### **[www.dsf.org.au/nyc](http://www.dsf.org.au/nyc)**

Introducing the National Youth Commitment Website! During 1999, a collaborative partnership involving education, employment, training providers, government and community agencies evolved in the City of Whittlesea, Victoria. Since then 10 other regions across Australia, working with ECEF and DSF, have created unique partnerships to implement National Youth Commitment projects. The key goals of a national Youth Commitment are to provide access for all young people with particular support for early school leavers or those facing other disadvantages to obtain Year 12 or its equivalent, or obtain a full time job which is linked to education/training. Visit the new website to: find out more about the National Youth Commitment, share in the Regions' stories, contact those involved, access practical information and resources, or join the Youth Commitment Online Community.

### **[www.antislavery.org](http://www.antislavery.org)**

This website offers useful information on child trafficking, by providing definitions of the phenomenon, details on research projects, human rights instruments, reports and photographs.

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### **Research into Children in Prisons**

On 1 March 2001 DCI-Netherlands started a research programme in order to record and highlight violations of the rights of the children whilst in detention, institutions, prisons and other facilities. The study consists of national surveys in different countries organised around a standard questionnaire administered worldwide. The project is supported by Plan International, The Netherlands. After Katharina Tomasevski's book "Children in adult prisons" (London, 1986), this research study is the second DCI-study, which focuses on children in prisons. The study is divided into two phases. Initially, relevant literature etc. was identified and reviewed along with an examination of key actors involved with children in institutions. Experts (individuals as well as international organisations) were approached to create a network. An international expert meeting took place 22 and 23 February 2002 in Amsterdam, where some study results and recommendations were discussed (see INJJ Newsletter No.11). During this meeting much discussion focussed on the dilemma of working towards the improvement of the prison conditions or concentrating on the overall avoidance of children in prisons. Around 25 countries will be and partly have already been reviewed (i.e. Albania, Kyrgyz Republic, Pakistan, Mauritius, The Netherlands) in relation to aspects such as: the existing legislation of the respective country, minor detainees in national prison systems and in specific juvenile institutions, conditions of housing, food, hygiene, health, education recreation, disciplinary systems, At the end of the second phase, a report will contain recommendations for steps that need to be taken by the various actors involved with children in institutions in order to improve the living conditions of detained children.

The Study will be finalised in September 2002. For more information, contact DCI-Netherlands: [dcj-nl@wxs.nl](mailto:dcj-nl@wxs.nl)