

President's comments:

The rights of children in Australia to identity – and one which they can live with – and to fair and humane treatment when they are in this country seeking asylum, either as unaccompanied minors or with their families, provide the main themes for the articles in this issue, together with the rights of children and young people to participate and express their views on issues that concern them.

The Human Rights and Equal Opportunity Commission's report on its national inquiry into children in immigration detention has finally been released, and has recommended that all children in detention should be released as soon as possible, and that Australia's detention laws be changed as a matter of urgency to comply with the UN convention.

There are currently 86 children in detention: 12 on mainland Australia and another 74 on Nauru under the "Pacific solution". At its height in 2000-2001 there were 1,923 children in immigration detention. Without this inquiry and the commitment of a number of mental health professionals and child advocates, the stories of these children may have been hidden from public view. Certainly the Pacific solution has made it easier for the Howard government to keep the press away from Australian detention centres, and to keep the Australian public uninformed as to the reality and the experiences of children in immigration detention. While the Howard government claims no responsibility for the torture of Iraqi prisoners, it clearly has full responsibility for the cruel, inhumane and degrading treatment of children in immigration detention.

The HREOC report details instances of inhumane treatment of children which include guards attempting to put leg-cuffs on child detainees; families with small children imprisoned in solitary confinement cells for days at a time; and the failure to take special measures to protect children from water cannons and tear gas. There should be resultant public outrage and international pressure applied in response to the emergence of the HREOC report.

Clearly, Australia's inhumane detention of children is likely to feature strongly in the consultations for the NGO shadow report on Australia's implementation of CROC, which will be considered by the UN Committee on the Rights of the Child in 2005. As previous reports have indicated, DCI and the National Children's and Youth Law Centre are collaborating with other non-government groups to prepare the alternative report, alternative in the sense that it will present an uncompromising but balanced picture of the extent to

which Australia has and is complying with the UN Convention on the Rights of the Child. A background report and a consultation paper have been prepared and are available on the National Children's and Youth Law Centre website at <http://www.ncylc.org.au/croc/home.html>. The website also has background information on CROC itself, an online survey for children and young people, and links.

Consultation meetings have been held in some cities already, and others are still to come: eg in Sydney on June 3. If you can attend one of the consultation meetings, your participation will be appreciated. If you cannot attend, please read the Consultation Paper and give us as much feedback as you can.

The other important and interesting articles in the current issue concern the case of Alex, recently determined in the Family Court of Australia, and the concern of young people that their voices are not being heard in forums allowed by the Howard government for limited and structured feedback. In the case of Alex, Danny Sandor discusses the key issues and the media coverage surrounding the court decision and the analysis of the child's right to have some say over his sexual identity: "Sex and Drugs and Media Roll – The Family Court's Decision in *Re Alex*". Rachael Wallbank provides a very thoughtful analysis of the human rights issues for children, young people and adults with transsexualism — through the eyes of a woman with a transsexual background, a parent and an Accredited Specialist in Family Law. Rachael conducted the *Re Kevin*¹ case against the Attorney General for the Commonwealth of Australia in a case determined by Justice Chisholm, whose widely respected judgment was upheld by the Full Court of Australia.

There are many continuing children's rights issues in Australia – the alternative report is your opportunity to contribute your view. As members and subscribers of DCI, you are encouraged to have your say about issues that concern you locally and internationally and to make sure that they are considered.

Judy Cashmore, President, DCI Australia

Footnotes

¹ *Re Kevin* (validity of marriage of a transsexual)

[2001] Fam CA 1074 and The Attorney General for the Commonwealth & "Kevin and Jennifer" & Human Rights and Equal Opportunity Commission [2003] Fam CA 94 (*Re Kevin*)