

Policies, Obstacles and Opportunities for Children of the A.C.T. in the 1990's

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April 1988 heralded a new direction for children's welfare services in the ACT: in that month the vast bulk of the *Children's Services Act* was implemented for the Territory. The Act replaced the Child Welfare Ordinance 1957, an Ordinance now viewed as steeped in outmoded notions of the State as moral arbiter and as bound up by administrative difficulties. The law owes much to a wide-ranging report of the Law Reform Commission on child welfare law and practice in the ACT (Report No. 18, 1981).

Perhaps the major institutional reform wrought by the Children's Services Act is the creation of the office of the Youth Advocate, a statutory official independent of the government bureaucracy. Modelled on the Scottish precedent of 'reports', the Youth Advocate is responsible for deciding whether 'care proceedings' should be initiated in respect of a particular child: in discharging this obligation, he is required to bring together the views of different agencies. His is also the role of monitoring informal strategies put into place to meet a child's needs, and instituting regular statutorily required reviews of dispositional orders made by the Court. Legislative 'teeth' in support of these functions take the form of specific provisions requiring both government and private welfare authorities and agencies in the A.C.T. to provide the Youth Advocate with information, advice, assistance and services. Initial reports of child abuse and other circumstances rendering appropriate court action in respect of a child are directed to the Youth Advocate (although mandatory reporting by professionals of abuse in the children's arena has not yet been implemented).

The categories of 'care' children in respect of whom court proceedings should be taken have been dramatically pruned and focused, with the introduction of the Children's Services Act. Gone are such antiquated categories as 'neglected' or 'uncontrollable' children, together with the procedures which require that children be 'charged' with these offences. No longer is the State

in the role of moral judge: the focus now is on actual or likely *harm* to a child arising out of his or her circumstances, and it is only such harm which will justify coercive intervention in the life of a child and his or her family. Broadly speaking, care proceedings now are justified only where it can be shown that a child has been physically injured or sexually abused, has suffered health impairment or psychological damage by reason of his or her living circumstances, is engaging in harmful behaviour, has been abandoned or has no guardian, suffers from a serious incompatibility with a parent, or is persistently truanting and this is harmful to the child. Action may also be justified where there is a *likelihood* of abuse, health impairment etc. In addition, the Act directs that account be taken of the degree of seriousness of alleged abuse etc.

Self-government in the A.C.T. presents the perfect opportunity to establish new policies in welfare services and, indeed, affirm an intention to provide adequate, effective welfare programmes and services.

A further innovation is the Act's focus on informal, non-court strategies to redress a child's 'care needs'. Informal solutions may often involve a child remaining within his or her family while strategies for improvements in relationships and so on are put into place and monitored; or, alternatively, short periods of 'respite' care with extended family while immediate family needs are addressed. The Act's thrust is that court proceedings to assist children in need of care should normally be a last resort. Consistent with this approach is the Act's requirement that orders, when made, be time-limited and subject to automatic 12-monthly review by the court to determine whether intervention in the form of a court order needs to be maintained.

Despite the undoubted improvements the Children's Services Act has brought to children's welfare generally in the A.C.T., much still remains to be done. The major

task for the early 1990s is addressing concerns about a still unacceptable degree of fragmentation in services brought about in part by confusion as to role differentiation under the Act. The boundaries between the roles of the various arms of government welfare and the Youth Advocate are unclear, and there are ongoing (and often heated) arguments as to whether the Act has struck an appropriate balance between children's and parents' 'rights' (and, indeed, as to where the balance actually lies). Ongoing education of workers and the community in the fundamental changes the Act has wrought remains a high priority for government.

The direction of welfare policy in the A.C.T. clearly indicates a commitment to the provision of a wider range of welfare services for children in need of care or at risk, in line with the intention of the Children's Services Act. The Act recognises the importance of strengthening and preserving the relationship between the child in her or his own home. This mirrors the United Nations Convention on the Rights of the child which considers that the family, as the fundamental group of society and the natural environment for the growth and well being of children, should be afforded the necessary assistance and protection so that it can assume its *responsibility within the community*.

Historically, the range of services available for the care and welfare of children in the A.C.T. has been limited. The residential services, although of good quality, were inadequate in that maintaining high standards of care meant that only a limited number of children could be catered for with the available resources. Many children have been taken into residential care despite the lack of clear necessity for such dramatic measures. Unfortunately, alternatives have not always been available. The A.C.T., however, is making great strides towards rethinking and reinvigorating the welfare services available to its children.

It is now recognised that residential care is appropriate only in particular cases or circumstances and, in fact, is often wide of the mark of the needs of the child and family. Assessment of the family under stress will, in future, consider the family situation as a

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whole and steer away from concepts of parental inadequacy and personal pathology that might have previously resulted in radical intervention and added traumatising. In many cases of family stress, support services such as long day care, home help services, respite care and/or family mediation are more appropriate forms of intervention necessary to alleviate stress and resolve family crisis. Such intervention will minimise trauma for children and provide an opportunity to capitalise on the family's strengths and special circumstances.

In those circumstances where the child must be separated from her or his immediate family the support of the extended family, friends and local community networks will be tapped in order to provide the best continuity of care to the child. Where extended family care is unavailable the child will be placed in a family type environment, through foster care programmes, unless her or his needs cannot be met within such an environment. In this case, traditional residential care will continue to provide a valuable community service. Links to the

child's immediate family will be maintained where possible and every effort will be made to return the child to her or his immediate family following intervention whether it be extended family care, foster care or therapeutic residential care.

The A.C.T. has a diverse range of community services already offering family support programmes. By rethinking welfare directions the A.C.T. government welfare agency in partnership with the non-government sector will broaden and 'professionalise' these services with negotiation for contractual agreements which will define responsibility for care, accountability, programme function, case responsibility and other standards of service delivery. By removing the over-emphasis in the A.C.T. on staffed residential care, resources will be directed at providing the range of family support options necessary to meet the needs of children in the A.C.T.

Self-government in the A.C.T. presents the perfect opportunity to establish new policies in welfare services and, indeed, affirm an intention to provide adequate,

effective welfare programmes and services. Ministerial commitment to welfare issues ensures continued enthusiasm for the improvement of services in both government and non-government and sectors and, very importantly, in their combined activities. Where the profile of services available has been more the result of historical circumstances than the product of long term planning, major review can take place to ensure that the A.C.T. is offering services which really do meet children's and families' needs.

An important lesson which has emerged since the introduction of the Children's Services Act in 1988 and the subsequent development of policies and programmes within that legislative framework is that the commitment of the major stakeholders in both policy formulation and service delivery is essential. The government, the statutory welfare areas and the non-government sector must work together to ensure that the needs of the most vulnerable of our community children at risk of abuse, neglect or maltreatment are well met.



Malo Songalolo — South Africa

U.N. CONVENTION PRIMER

Foster Parents Plan International and Defense for children International - U.S.A. have combined to produce a primer on the U.N. convention on the Rights of the Child.

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