Children and young people
Citizenship or residualism?

Terry Carney

The pace of economic and social change has quickened in the last decade; our standard of living - and the associated values of the 'Deakin settlement' - has been under challenge (Kelly, 1992). Social policy frameworks are under stress as a consequence of the challenge to the model which secured a living wage, arbitrated industrial awards, tariff protection and a regulated economy.

It will be suggested that this ought to spawn a new contemporary formulation of the social citizenship rights of children and families. Change provides the opportunities for practical applications of this; and Victorian policy practitioners have the intellectual tradition and capacity to carry that debate. What is at issue is whether there is sufficient energy to avoid slipping back into outdated nineteenth century formulations of residualist policy.

Change - the potential and the peril.

Change can be very unsettling, particularly change associated with widening social divisions: Australia's increased rates of unemployment, and changed labour-market patterns (particularly gender segmentation and the growth of part-time, casual and intermittent work), provided grist for more sensationalist theories such as the emergence of an 'underclass'. Family and child welfare policy is placed under greater pressure at such times. Public and private resources dwindle, the expectations grow, and the system is at risk of being judged in populist terms - by the number of child deaths rather than by the less spectacular achievements of community based preventive or family support services.

Terry Carney, LL.B(Hons), Dip.Crim.(Melb); Ph.D.(Mon); Professor of Law and Head of Department, University of Sydney.

This paper was delivered as the Keith Matheson Memorial Address to the Children's Welfare Association Conference, Melbourne, 18 October, 1993.

Policy can easily regress under such pressures; caseworkers can rapidly become disillusioned; a sense of perspective can be lost; and snake oil remedies may again flourish. At best, sober assessments of the present may be submerged by attempts to recreate some idealised version of the past: whether it be principles of unfettered universalism or of untied government grants.

This is neither the path to take nor a basis for doom and gloom, however.

The overall state of the ledger.

It is argued that it is not the path to take because there is a proper place for the community undertaking a careful scrutiny of the returns on social expenditures. While mindless cost-accounting is properly criticised for its meanness of spirit, there is scope for close examination of the comparative benefits - tangible and intangible - of available policy options. Indeed, to take child protection policy as an example, there is too little appreciation of the reality that most cases are concerned with mobilisation of services and negotiation with families; comparatively few lead to resort to the legal options, much less to court action, removal of the child or 'prosecution' (though a proper place exists for such action, which can be unreasonably delayed). Thus Goddard et al (1993:30) argue that child sexual abuse is 'not always treated by the judicial system with the gravity that the offences merit' partly due to its intrafamilial character, difficulty of proof and trauma for the child, but also in part due to a lack of recognition of the dimension of violence. Indeed one US study found that three times as many children were 'removed' by agreement as were removed by court order (Kassebaum & Chandler, 1992 :55).

One consequence of the public 'mythology' of child protection policy is that:

> No model satisfies public expectations of straightforward social control. This makes it difficult to mobilise public support for a realistic approach to services, to legislate realistic policies, and explicitly train staff in some of the skills they will actually need to do their job.
>
> (Kassebaum & Chandler, 1992:62)

This is true, and it is the reason why the community needs more careful scrutiny of the benefits of particular policies.

But equally it is all too easy to become overly pessimistic, and we are prone to revert to past practices just because resources are tightening. This is misplaced in Victoria at this time however. There is no proper place for pessimism because sound social policy involves a rare coincidence between the resource base and the value base of the system. Victoria is certainly more strapped for funds now than it has been perhaps since the Depression. But what it lacks in physical resources is partly compensated for by the potential tied up in its intellectual resourcefulness.

First, Victoria retains a strong public commitment to the welfare of children and families: a commitment reflected both in government programs and in a vigorous non-government sector. Secondly, it retains a sense of unity of policy goals (Green, 1993; Carney, 1993:8-11) not readily found in better resourced States such as NSW. This is the intellectual base on which this state can construct programs which preserve its leadership position.

Stock-taking.

Child and family policy has always been about such systemic issues, but this has been heightened by socio-economic change.

The unlikely progenitors of change.

Processes of change are not well understood, and positive features are not always adequately recognised as such: at close range the pessimism and the paradoxes dominate.

As a State, Victorian child welfare policy has always had much in common with its Canadian counterpart in the province of Ontario. They also undertook a major review of policy in the late 1970s, leading to the adoption of what was there termed a 'legalistic due process' reform model. And, although it had a much wider sweep, the Victorian review also endorsed this as one of the bases of the reforms for this State.

It is therefore pertinent to reflect on the findings of a recent doctoral student, pondering why the Ontario due process model succeeded when: (a) the indeterminacy of the issues made it very unclear as to what should be done; (b) the number of reformers committed to the legalistic model was very small; and (c) the reform proposals directly affected usually influential organisations of professionals and (non-government) agencies who strongly opposed them? (Barnhorst, 1987)

The answer may well lie in the clarity of the goals (and implications) associated with acceptance of this model. By contrast, a local doctoral study concluded that US policy, through its pursuit of the 'welfare and best interest of the child', served to:

> ...obscure the essential objective of US child welfare policy - the maintenance of established values and interests. This objective inherent in the residualist approach and reinforced by incrementalist policymaking has focused child welfare intervention on the economically disadvantaged.
>
> (Mason, 1986)

Diffuse objectives, while they may be uncontroversial at the level of formal statement of policy, can serve to cloak the reality of a system which in practice is concerned to look after only the 'deserving poor', in ways reminiscent of the Elizabethan Poor Laws.

But neither policy framework may be able to readily deflect the implications of a declining rate of economic growth (or a declining relative standard of living).

Change and the pressure on resources.

As Hodgson so perceptively observed:

> The greatest challenge to the children's rights movement may indeed lie ahead, in terms of securing the political will necessary to effect the realignment of priorities and values. Australian children's rights advocates may find themselves competing for scarce resources, at least in the short term, as federal and state governments strive to balance calls on public revenue in such areas as health care, the rights of the elderly [etc].
>
> (Hodgson, 1992:279)

This point was sharply reinforced in the CWA/Potter Foundation report, *Our Voluntary Homeless*, prepared by Sue Green. The study surveyed non-government agencies and found some disturbing discrepancies between current practice and the widely endorsed principles underlying the Victorian *Children and Young Persons Act* 1989 and the complementary principles for the administration of services. It found unevenness of services, a lack of coordinated planning, too few resources, and too little acceptance of responsibility for the plight of the young people (and their families) affected. The Age Insight report 'Delinquent Justice' graphically reinforced these conclusions (*The Age*, 2-4 September, 1993). More recently, a similar shortfall in resources to meet the needs of children in trouble has been documented in New South Wales (*Sydney Morning Herald*, 11 October, 1993)

There is no doubt about the decline in resources. Resources for non-government agency services stand to fall by 10%, phased in over 2 years (approx $7.4m) ('Cuts put children at risk, says report, 1993). These cuts are expected to bear most heavily on residential care facilities such as St Augustines, Berry Street and Orana - agencies whose services have perhaps changed less rapidly than have those of other agencies. The government states that half of the reduction will be achieved within the Department (Minister for Community Services, Vic, 1993: 5) Despite the level of concern expressed in the Fogarty Report about the adverse implications of such cuts (especially at a time when mandatory reporting is being phased in [Minister for Community Services, Vic, 1993:3]), it is a matter of record that they are to stand ('Kennett firm on cuts plan', 1993). The annual budget of the juvenile justice department reportedly has also declined by $3m (or 12%) (*The Age*, 2 September 1993:8). Competition for, and reallocation of, funds may not be an unmitigated disaster however.

The point is not only that there is a competition between deprived (and not so deprived) groups for scarce resources, but that it is inherently subjective and value laden. Government and the public must be receptive to representations that say the number of places for residential care are inadequate. But it must be retain a healthy scepticism about possible extraneous influences: Victorian agencies for example have not been fully able to seize the opportunities to redeploy resources tied up in residential care, in order to expand community-based and preventive services to the desired degree. (The minister has made a related point: alleging that 400 of the 3000 funded places are not provided, and that a $9m injection of

funds for placement and support services made by the former government did not add to the stock of the places available [Minister for Community Services, 1993:5]).

This is not a message which the sector will comfortably accept. But the identical message has just been delivered by the chair of the NSW Review (Father John Usher), a review which likewise recommended that children in need of protection be cared for in community settings rather than in institutions, the closure of which has proceeded apace ('State-care kids suffer in "rush" to close homes', 1993). On October 12 this year however, Fr. Usher was quoted in the press as saying:

> The government has not done anything wrong .... [t]he only thing that has gone wrong is that we [the implementation committee] have spent too much time looking at the hows and whys without doing it. ('Youth shelter group "failed"' 1993).

Certainly the NSW Government has committed $58m from funds saved by closing institutions, but this self-critical verdict on the causes of the significant under-drawing of these funds ($6.4m in 91-2, 2.5m the previous year [Loane, 1993]) is expressed a mere 2 years after the report came down; Victorian agencies cannot invoke the defence of undue haste.

Government cannot responsibly meet funding requests predicated on the false premise of an outdated pattern of service provision, even though this necessarily leads to the closure or scaling back of existing services; equally there remains a level of government support below which it becomes inevitable that children and families will suffer.

The resource/standards issue is critical then; and we will return to it below. But it is important to realise that there is a hidden strength also: the value base of the system is remarkably well accepted.

A value consensus undermined by 'organisational failure'?

The Green Report for instance found that there was now a very wide acceptance of key principles underlying contemporary legislation and services, such as that:

> ...all families may need support and assistance in parenting at some time; the state role is to lend that upport, irrespective of whether the person lives at home or not, and irrespective of how fragile may be the bonds at the time.
>
> (Green, 1993:4)

Among the more heartening findings is the lack of sympathy for historic policies (and legislation) providing for young people to be brought to court, and admitted to state wardship, on the basis of their social need or vulnerability. Agencies remain strongly opposed to policies which extract children from their families and communities, or which unnecessarily involve the courts. This is notable because those old policies were highly resource intensive (particularly institutional care of wards); they also stigmatised the young and engaged in 'victim blaming'. The principle of voluntary access to the continuum of community, family and individual support services was another of the principles to find support.

If the will (values) are present but the performance is lacking - and this is the record - there are two possible explanations: that there are too few resources (of which more later) or that there is a lack of harmony in the response. The Green Report found evidence of both.

Acceptable service options were lacking:

> rais[ing] questions about how many families and young people may be missing out because there are not multiple entry points for gaining access to these services.
>
> (Green, 1993:27)

Self-referrals, and non-acute emergency cases were particularly affected. (The sub-title of the report conveyed this irony: for too many of the neediest group of young people, the highly unsatisfactory 'state ward' option had been replaced by nothing more than 'voluntary homelessness' or at least undue reliance on thinly resourced services which were not meant for this group of young people). The Department was criticised for contributing to this state of affairs by failing to clearly spell out the criteria for priority access to the intensive services which some young people desperately required. (Green, 1993:34-5)

The Report applauded the almost 50% decline in the use of courts and protective services to deal with so-called 'status offender' (moral danger etc) cases once admitted as wards under protection orders. But the resources thus released were not earmarked for redeployment to the voluntary sector.

In short, the resource base (and service choice) declined sharply and the new access criteria were too vague to serve to 'shoehorn' young people into those agencies which did exist.

Human rights and citizenship.

Discussion of the rights and interests of young children is notoriously prone to succumb to fuzzy thinking and analysis: it was no idle observation when in 1973 in a much quoted passage Hilary Rodham (Clinton) acidly characterised children's rights as being a 'slogan in search of a definition' (Rodham, 1973). This is compounded by uncritical assumptions of benevolent charity (and demeaning patronising of vulnerable groups); add the overlay of reliance on public provision - sometimes parodied as 'all care and no responsibility' - and cynicism about the prospects of clarity of debate is irresistible.

A 'rights' orientation however does reflect an urgent quickening of interest by the international community in the advancement of the position of disadvantaged sections of the community (Hodgson, 1992:252). 'Rights talk' is a way of highlighting the case for rethinking the way in which we respond to the needs of disadvantaged people.

The role of the UN Convention.

Prior to ratification by Australia of the Convention on the Rights of the Child 1989 (adopted in Australia in December 1990) there was much controversy about its possible impact (Kirby, 1993:4-7). This was because the earlier international instruments - principally the Declaration on the Rights of Mentally Retarded Persons (1971) and the Declarations on the Rights of the Child (1959) and the Declaration on the Rights of the Physically Disabled (1975) - were much weaker instruments of international law.

Being an instrument of international law, the Convention does not acquire the force of domestic law until the relevant jurisdictions (principally State legislatures) pass legislation based on its provisions (an issue treated elsewhere) (Carney 1991a:22-

29; 1991b:53-61; Nicholson, 1993). While general instruments such as the Covenant on Economic Social and Cultural Rights arguably already applied to children as well as adults (Hodgson, 1992:271-274), the Convention both drew together (and enhanced) existing disparate statements of principle in a way which attracted a gratifyingly quick and overwhelming endorsement at the point of ratification, and also created the most effective enforcement and monitoring machinery seen to date in international law (particularly in creating an expert monitoring committee and in providing a monitoring role for non-government organisations) (Cohen & Miljeteig-Olssen, 1991:372-3).

While the implementation obligations of the Convention distinguish between the immediacy of compliance with the Articles conferring civil, political or humanitarian rights (leaving 'social, economic and cultural' rights to be achieved progressively and subject to available resources) (McGoldrick, 1991: 138), it creates more than a mere 'defensive ring' of individual rights to be free of unwanted 'interferences': there are some positive obligations to promote entitlements which are cast on parties (McGoldrick, 1991: 134). (On both grounds, therefore, there are real issues to be considered by State governments when proposing legislation which may not be in full conformity.) (White, 1992; *Sydney Morning Herald*, 5 Feb.1992 :7; *Australian*, 22 Jan.1992:1)

> *...this Convention deliberately changed the tone of debate by 'placing a strong emphasis on the child as an individual with inalienable human rights'.*

It is no doubt true to say that 'an international human rights document such as the Convention is largely designed to pressurize [sic] governments into observing certain common standards' (Walsh, 1991). All the same, the shape (and level of effectiveness) of the domestic laws of Parties also determine the extent to which it is implemented. Indeed, reforms can be realised only through effective implementation strategies which harness the variety of government and non-government bodies with a stake in child welfare. And this Convention deliberately changed the tone of debate, by 'placing a strong emphasis on the child as an individual with inalienable human rights'. Rights which are 'assertive, rather than merely protective' (Cohen & Miljeteig-Olssen, 1991:368). In short, it is a document concerned to specify the positive entitlements of children as individuals, in addition to its other role in identifying connective relationships, and protective responsibilities.

Over recent times, virtually every jurisdiction has engaged in systematic reviews of child welfare conducted by external bodies (Seymour, 1988). But there is both enthusiasm (Carney, 1985) and scepticism about the extent to which the overall system (and its values) have really been altered (Naffine et al, 1990).

Degree and mode of compliance with the Convention.

Given the strong continuities between the values captured in the Convention, and those reflected in prior law and practice however; and given also the fairly high level of conformity of existing law to those precepts (Carney, 1991; Kirby, 1993: 18) some confidence can be placed in the capacity for the system to be changed. One of the more attractive of the reforms have been those designed to empower or to create agencies for advocacy: bodies with some independence, authority, public standing and a wide charter.

The Children's Interest Bureau in South Australia has many of these qualities (though not perhaps the line authority required to win credibility from agencies), but a well resourced Parliamentary Committee may do better. The object would be to prepare a blueprint of the changes needed to bring law and practice into full conformity with the Convention.

The backing provided by legislative enactment (at least as a 'signpost' document), would probably be advantageous, as the Chief Judge of the Family court and others have proposed (Nicholson, 1993:18); while consideration of its conversion into a state 'Charter' might also be considered. One serious weakness though is likely to be the limited ability of this strategy in influencing compliance by non-government agencies with day-to-day responsibilities for areas affected by the precepts in the Convention - particularly those touching on 'social rights'.

Citizenship

Citizenship is commonly advanced as a related measure of the adequacy of services, but the concept is one which, while useful, is somewhat slippery at first.

Homelessness makes a nice illustration of this point, because - despite being bandied about in social policy debates - it is not at all easily defined (Chamberlain & Mackenzie, 1992:274). Originally seen as coincident with membership and residence in skid row areas of population (marked by 'disaffiliation'), more radical definitions came to look to subjective attributes such as the perceived inadequacy of the affectional 'identification' of the person with their place of living, while conservative definitions counted only those without shelter and those living in emergency accommodation (thus excluding long-term residents of single room accommodation) (Chamberlain & Mackenzie, 1992:280, 283).

Chamberlain et al argue that none of the three positions is acceptable, preferring cultural relativity as a benchmark, as with contemporary debates on the meaning of poverty. From this stand-point, homelessness is the point where the person falls below accepted community standards of minimum entitlements to shelter: the point when resources drop to a level which dictates 'a sudden withdrawal from participation in the customs and activities sanctioned by the culture' (Townsend, 1979).

Turner (1991), writing on modern concepts of 'social citizenship' looks at the degree of access to citizenship over the lifecycle, and suggests that the 'underclass' may be fortunate to enjoy its fruits at all. He observes that:

> ...[t]here are variety of structural and historical factors which produce social exclusion through the life-cycle of individuals; indeed stigmatization of this underclass may well have produced an 'exclusive' society'. (Turner, 1991:216)

Heisler (1991) contends that this is possible only if the overall allocation of resources for deprived groups is boosted.

The dividing line below which citizenship is denied is inherently subjective, but it remains one of the touchstones in assessing the adequacy of policy responses.

It remains to consider what some of the practical implications of all this may be at this point in the history of children's policy in Victoria.

Some concrete proposals

The gap between community aspirations and grass roots realities is a perennial one of course. As a community we endorse acceptable statements of social goals, and may legislate to give those goals added weight. But often our organisational will (and commitment of resources) is lacking.

Sadly this is all very predictable; yet solutions are hard to find. Governments are always very reluctant to cede their prerogatives to assign resources; and in recessionary times it is even less attractive. So where is the leverage to come from?

A court of 'stature and authority'?

In the late 1990s, I wrote of my profound regret at the failure to act sufficiently on the proposal that the Children's court should become a 'specialist court of stature' (Carney, 1991a). The justifications advanced at the time bear repeating:

> (i) to lay down minimum (specialist) qualifications for appointment to the Court (including tenured appointment by the Governor-in Council on joint recommendation of the A-G and the Minister for CSV);
>
> (ii) to provide uniform coverage across Victoria;
>
> (iii) to place the leadership of the Court in the hands of a person holding the position of Judge of the County Court;
>
> (iv) to create a specialist Appeals Division (in place of appeals to the County Court);
>
> (v) to establish separate Family and Criminal Divisions; and, finally,
>
> (vi) to constitute the Family Division as a multi-disciplinary 'panel'.
>
> (Carney, 1991a:25-6)

While the two separate Divisions of the Court were quickly put in place, (Children's Court (Amendment) Act 1986) and the new post of Senior Magistrate was clothed with some limited managerial authority, this did not extend to the allocation of adult Magistrates to the Court (a decision for the Chief Magistrate), or the issue of practice directions (also requiring the blessing of the Chief Magistrate). Nominally a Governor-in-Council appointment, the appointment is on the recommendation of the Chief Magistrate, and it carries no tenure of office. 'Regard' must be paid to the qualities of the people assigned to the court, but appointments can be revoked at any time without cause.

All of this stands poor comparison with other States. Western Australia was influenced by the Victorian recommendation when it followed South Australia in heading the court with a judge, and Queensland has now followed suit with the *Juvenile Justice Act 1992* and *Children's Court Act 1992*. In light of the (somewhat counter-intuitive) success of the 'legalistic' model of reform in Canada (Barnhorst, 1987) there is an added reason to press for this. Not only is it a way of giving more adequate standing to the importance of the justice, welfare and service provision needs in this area, but it also may be a prime symbol of progress towards clearer goals and objectives in the field.

Related recommendations of the Fogarty Report are under the active consideration by the Attorney (Minister for Community Services, 1993:8); it is to be hoped that there will be an early, positive announcement on these issues.

A 'resources watch-dog'?

It is a matter of record, that the 1985 Child Welfare Report identified resourcing (and associated public and private sector service planning) as the foundation for contemporary practice.

Comparative data on outlays on families were tabulated to found indicative funding targets and a new independent statutory body was proposed, charged among other things with reporting to the public and the Parliament on the degree to which service needs were met. Ultimately the then Government did constitute a Council (with a limited charter) but it did not give it any real role in influencing government decisions about budget allocations or in contributing to informed public debate over resourcing levels. This is a very regrettable omission; one which is not easily remedied elsewhere. The decision of the incoming Government to take away the remaining role played by the Family and Children's Services Council was a retrograde step, which has be rightly criticised as removing a forum of consultation (Children's Welfare Association, 1993).

The newly funded National Centre for Children and Youth Law is another possibility of course. A consortium of the Law Faculties at Sydney, the University of NSW and the Public Interest Advocacy Centre), backed by a three year grant from the Australian Youth Foundation, it has a specific charter to bring test cases and to lobby for policy change. It will have an impact - more than a marginal one it is to be hoped - but it is unlikely to be able to redress under-resourcing single handed.

Better leadership from statutory services?

The bureaucracy is another possibility. The Green Report was very critical of CSV (now H&CS) for its 'ad hoc' approach, its reliance on short-term project workers, its:

> lack of co-ordination at state and regional levels and a serious lack of commitment to redevelop youth services through redeploying resources and reviewing models of practice and service delivery.
>
> (Green, 1993:45)

The evidence of this inability to plan with the voluntary sector to effect the goals of the Act is telling enough. Identical concerns have been expressed more recently in NSW (*Sydney Morning Herald*, 11 October 1993)

But does the blame lie principally at the feet of the bureaucracy, or is not the real culprit a public policy framework which marginalises the needs of young people and families? And is it not in part a product of the subordination of social policy to the dictates of economic analysis?

The then Victorian Opposition quite correctly pointed out that approximately $10 million dollars was required to properly resource the services and objectives mapped out under the new legislation. This was the order of magnitude identified in the report on which the legislation was based. Nothing approaching this was provided, and nothing approaching the desired standards of service and practice have eventuated. Nor could they: in the real world of social policy, silk purses are not made of sows ears.

Certainly better planning could have anticipated, and taken steps to circumvent the shunting of young people into refuges for the homeless (Green, 1993:55); this contradicted the promise of access to a diversity of community and home support services envisaged as being funded from the savings when inappropriate institutional care for 'state wards' was phased out.

Better balance between public and private services?

The Report concludes that difficulties were compounded by the Department reaching the conclusion that the non-government sector had 'indicated it was unwilling and unable to respond to increased work demand' should the Department withdraw from supporting youth in crisis (Green, 1993:59). The survey disclosed a strong commitment by the sector to the position that non-government services are the optimal service providers for families and youth, and it therefore proposes that state government resources should be redeployed to this end (Green, 1993:61). It is recognised that part of the problem is also that relations between the two sectors have been fraught - 'telling "war stories" at each others expense' Green, 1993:64).

But is this cause or consequence? The report implies it may be the former (while recognising that intersectoral coordination and service planning is one of the greatest challenges for practice) (Green, 1993 :85ff). This is true. But much of the tension is arguably no more than a product of lack of resources: families are not the only ones to fly apart at the seams under economic adversity; service systems are likewise prone to friction - friction which can compound an already difficult task of targeting limited services to the areas where they are needed most.

Confidence to diversify services?

The shift in the style of practice required to translate the new principles into reality cannot be underestimated.

What is called for is a 'continuum of care'. This is to replace the long (historically conditioned) pattern of 'categorisation' of services: services which specialised in catering to a particular sub-group, or on delivering a particular type of service; services which were often of very high quality, but without linkages to related services which serve other needs or other groups (Green, 1993: 85-89).

This new framework is not easy to engender. One can only agree with the report that this is one of the twin challenges for the future. Not only is there the challenge of garnering sufficient resources, but there is also the challenge of how to harness the government and non-government sectors (and its diverse constituent elements) to produce the network of accessible services which young people and their families so desperately need.

Conclusion.

American commentators are perhaps more willing than most to look at shifting historical paradigms for capturing the values of their society. Drawing on the work of Arthur Schlesinger and noting that the interests of children had featured in each of the previous movements, Miringoff recently asked whether they would feature in the coming to power of the 1990s generation (Miringoff, 1992). He is not entirely optimistic, given the recent trend in US policy for alleviation in poverty among the elderly at a time of greater poverty for children over the last decade or so. While Australia by comparison has held a much stronger focus on dealing with child poverty and the economic well-being of families, there is substance in his main message that:

> we must tell the bad news as straight as we can. We must show that the problems of children are not just problems of the poor, but also of the middle class, whose children are becoming the first generation of Americans to mature into a state of downward mobility.
>
> (Miringoff, 1992:4)

The magnitude of the challenge presented in social policy fields, such as the services for young people reviewed in *Our Voluntary Homeless*, should never be underestimated. Practice depends almost entirely on the level of resourcing, the goals pursued and the quality of the planning of service delivery. Law is almost entirely irrelevant. Historically it once served to authorise the admission into state care of 'troubled youth' - including those in conflict with family, school or society: runaways, truants, and 'exposure' cases. But social policy now focuses on developing family and community supports which minimise reliance on admission to state care. Courts, police and other authority figures no longer serve as the gatekeepers brokering provision of state resources (such as residential care and other structured service responses).

Contemporary social policies of voluntary access to services breeds a fresh dilemma, however: how to ensure that services are adequate, appropriate, flexible and accessible - in no small part an issue which turns on the retention of the resources and the organisational will to develop an integrated policy network. This was taken for granted to an extent under the since superseded historical model: the state had a level of responsibility for the standard of services offered to those in its direct care. But this can all too easily be reneged on when a policy of supporting community-based or family-based service alternatives substitutes for direct state care. In straightened economic times, the temptation to reduce expenditures rather than redirect them has proved overwhelming; and it is temptation which is unlikely to abate as State deficits remain under pressure.

It is of course totally unacceptable for social policy to present as Buckleys choice: a choice between the quite unpalatable 'court wardship' model, and the barely less unpalatable option of leaving young people to fend for themselves, with a little assistance from services for the homeless. Once, we tolerated this for adult skid-row men: they went to gaol (for short 'revolving door' terms) or fended for themselves on the street. There are now other options for this group.

What we must ask is whether welfare practice for young people is not at risk of recreating Buckleys choice in the youth social policy arena. ♦

References

Barnhorst R. (1987) *Children, Legalisation and Public Policy: A Case Study of Ontario's Child and Family Services Act* (abstract of JSD thesis, Stanford Univ.).

Carney T. (1985) 'Reforming Child Welfare: Diverting by-ways on the road to Utopia' *Australian and New Zealand Journal of Criminology*, 18, pp237-256.

Carney T. (1991a) 'The Convention on the Rights of the Child: How fares Victorian law and practice?' *Children Australia*, 16(1) pp22-29.

Carney T. (1991b) 'Social Security: Dialogue or Closure?' in P. Alston & G. Brennan (eds) *The UN Children's Convention and Australia*. Canberra: HREOC, ANU Centre for International and Public Law, ACOSS, pp53-61

Carney T. (1993) 'Our Voluntary Homeless: The Practice or the Ideal?' *Newslink*, March, 8-11.

Chamberlain C. & Mackenzie D. (1992) 'Understanding Contemporary Homelessness: Issues of definition and meaning' *Aust. Journal of Social Issues*, 27.

Children's Court (Amendment) Act (Vic) 1986 [Inserting new ss.4A-4C Children's Court Act 1973; Commencement: 1 July 1986, *Government Gazette*, 48, 18 June 1986, p2066. [Subsequently: Children and Young Persons Act 1989 (Vic) ss.8(3),15,16,82, 87, 135-139.]

Children's Welfare Association (1993) *Press release*, September 29, p1.

Cohen C. & Miljeteig-Olssen P. (1991) 'Status Report: United Nation Convention on the Rights of the Child' *Journal of Human Rights*, 8.

'Cuts put children at risk, says report', *Sunday Age*, Sun. 19 Sept. 1993, p1.

Goddard C. & Hiller P. (1993) 'Child Sexual Abuse: Assault in a Violent Context' *Australian Journal of Social Issues*, 28, p30.

Green S. (1993) *Our Voluntary Homeless: Strategies for change*, Melbourne: Children's Welfare Association.

Heisler B. (1991) 'A Comparative Perspective on the Underclass: Questions of urban poverty, race and citizenship' *Theory and Society*, 20, p462.

Hodgson D. (1992) 'The Historical Development and "Internationalisation" of the Children's Rights Movement' *Australian Journal of Family Law*, 6.

Kassebaum G. & Chandler D. (1992) 'In the Shadow of Best Interest: Negotiating the Facts, Interests, and Interventions in Child Abuse Cases' *Sociological Practice*, p55.

Kelly P. (1992) *The End of Certainty*, Sydney: Allen and Unwin.

'Kennett firm on cuts plan' *The Age*, 20 September, 1993, p16

Kirby M. (1993) *The UN Convention on the Rights of the Child as Part of International Law and Municipal Law* A paper presented to the First World Congress on Family Law and Human Rights, Sydney, 6 July.

Loane S. (1993) 'Child Abuse: When the system is guilty' *Sydney Morning Herald*, Tuesday, September 21, p9.

McGoldrick D. (1991) 'The United Nations Convention on the Rights of the Child', *International Journal of Law and the Family*, 132.

Mason J. (1986) *An Historical Policy Analysis of United States Child Welfare Policy* (abstract of Ph.D thesis, UNSW).

Minister for Community Services, Victoria (1993) *Press Release* 24 September.

Miringoff M. (1992) 'Guest Editorial' *Social Policy* p1-4.

Naffine N., Wundersitz J. & Gale F. (1990) 'Back to Justice for Juveniles: The rhetoric and reality of law reform' *Australian and New Zealand Journal of Criminology*, 23, pp192-205.

Nicholson A. (1993) *The Medical Treatment of Minors and Intellectually Disabled Persons - UN Convention on the Rights of the Child Article 23* A paper presented to the First World Congress on Family Law and Human Rights, Sydney, 6 July.

Rodham H. (1973) 'Children Under the Law' *Harvard Educational Review*, 43, p487.

Seymour J. (1988) Dealing With Young Offenders. Sydney: Law Book Co.

'State-care kids suffer in "rush" to close homes' *Sydney Morning Herald*, Monday, October 11, 1993, 3.

Townsend P. (1979) *Poverty in the United Kingdom; A Survey of Household Resources and Standards of Living* Harmondsworth: Penguin Books, p57.

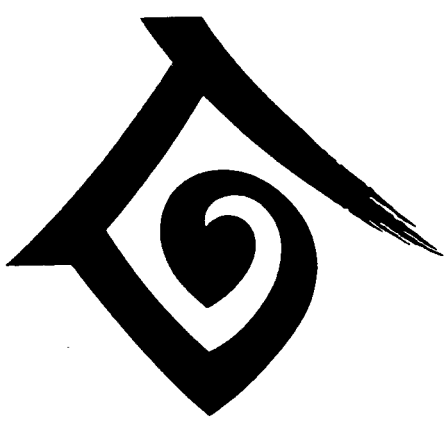
Turner B. (1991) 'Further Specification of the Citizenship Concept: A Reply to M L Harrison' *Sociology*, 25.

Walsh B. (1991) 'The United Nations Convention on the Rights of the Child: A British View' International Journal of Law and the Family, 5, p170.

White R. (1992) 'Tough laws for hard-core politicians' *Alternative Law Journal*, 17, pp58-60

'Youth shelter group "failed"' *Sydney Morning Herald*, Tuesday, October 12, 1993, 5.

The International Year of the Family



"A heart sheltered by a roof, linked by another heart, to symbolise life and love in a home where one finds warmth, caring security, togetherness, tolerance and acceptance - that is the symbolism conveyed by the emblem of the International Year of the Family, 1994"