



Book Reviews

Implementing the UN Convention on the Rights of the Child in Australia

edited by J. Harvey, U. Dolgopol & S. Castell-McGregor.

Adelaide: SA Children's Interest Bureau, 1993. 164pp. \$25.00

The UN Convention on the Rights of the Child is the cornerstone of all laws, practices and procedures affecting children throughout the world.

It is a canonical text, embracing the whole gamut of children's rights and interests. Its implications are vast, yet there has been little critical comment in Australia on the ramifications of the Convention.

This book, a collection of papers delivered at a conference organised by the Children's Interest Bureau of South Australia in February 1992, is an invaluable corrective to the lamentable ignorance of the Convention that prevails in Australia.

The many and varied contributions demonstrate unequivocally both that the Convention is not being satisfactorily complied with in this country and that its practical import and potential have been greatly underrated.

The essay by Michael Hogan (p.126) spells out this deficiency in most dramatic fashion. Hogan laments the lack of a national agenda for children, indicating areas in which Australia's nine parliaments have failed to act on the Convention's mandates (p.129). Thus, no Australian parliament has considered the desirability of a Charter of Children's Rights; only one jurisdiction (South Australia) has a children's interests bureau; no Australian jurisdiction has a Minister for children or a specifically designated Court of Human Rights to which children could seek redress.

The lack of a regional court is also lamented in an important essay by Christine Chinkin (p.44), who examines in great detail municipal and international mechanisms for the enforcement of the Convention. She is, I feel, unduly pessimistic when she states that the Convention cannot be the basis of a domestic remedy (p.48). Since the High Court of Australia's endorsement of Nicholson C.J.'s dissenting judgment in *Re*

Marion (1991), this possibility is by no means as remote as might once have appeared. Her citation of *Kias v Minister for Immigration and Ethnic Affairs* (1985) 62 A.L.R. 61 is unconvincing, for this case concerned a *Declaration*, not a Convention. Professor Chinkin's own suggestion of the use of the Optimal Procedure of individual complaint against a violation of an international covenant, seems to offer distinct potential.

Professor Chinkin thoughtfully raises the caution that a doctrinaire enthusiasm for children's rights could lead to clumsy ideological solutions to complex problems (p.46). I certainly agree that children's rights and women's rights may conflict in certain instances - her example of abortion being a clear one. The so-called 'right' of a woman to procreate is another. Must this 'right' be forfeited when it may not be in the best interest of the child to be born? Here, I think, Professor Chinkin and I would disagree. My view is that the rights of a child, even a potential child, should always prevail, in all circumstances. Professor Chinkin tends to suggest that women's human rights should be given a higher priority. This issue becomes practical when the question of IVF of an elderly woman is at stake. And could it be argued that it is **never** in the interest of a child to be born to a woman who is unwilling to permit the child's natural father to assume a full parental relationship with the child? Certainly, the issues raised in this provocative paper demonstrate that some aspects of the Convention are not clear-cut but are capable of raising tensions and conflicts of profound philosophical and practical import.

Ustinia Dolgopol (p.67) provides fascinating background on the history of the Convention and the personalities of the Monitoring Committee. She suggests that this Committee itself may be subject to political persuasion and may not always be relied on to provide the most desirable solutions. Miss Dolgopol is

particularly concerned that there might be a tendency to focus on families rather than children (p.78). As she correctly points out, families cannot ensure that all the rights of the child are met. Children interface with many other adults.

Peter Newell (p.81), Terry Carney (p.87) and Moira Rayner (p.141) highlight methods and problems of translating the Convention into practical reality. Newell's example of his use of the Convention in England as a framework for lobbying against child abuse, by the judicious citation of key articles, is an excellent example of how the Convention may impact on the political conscience. Also, Ian Hassell, the New Zealand Commissioner for Children, describes how he has used its articles in three different situations - in custody/access cases; in a case involving a school to prevent 'strip searches'; in cases involving police procedures. These examples illustrate that the Convention may have considerable potential to affect decision-making and conduct in everyday situations. It has a prescriptive and normative role. It is not simply directed at legislatures and courts.

Most readers will be responsive to, and moved by, several articles which dwell on the lamentable condition of Aboriginal children. Both Brian Butler (p.17) and Brian Burdekin (p.58) point to clear breaches of the key Article 2. There is no comprehensive anti-discrimination legislation in Australia. That Aboriginal children are grievously discriminated against is trenchantly pointed out by Butler, who notes that even the fact that, for most, English is their second language, gives rise to social and legal disadvantages. The appalling 1992 Western Australia legislation relating to indefinite sentencing of juvenile offenders, affects a disproportionate number of Aboriginal children, and, as Moira Rayner (p.141) suggests, might have been motivated by racist prejudices.

Roberta Sykes (p.132) points out that many Aboriginal children are malnourished and have lower educational standards than Europeans. Although they tend to be good linguists, they also suffer from the 'tall-poppy' prejudices against high achievers! Alf Bamblett (p.150) and Lola Edwards (p.154) highlight effective advocacy programs for Aboriginal children.

Margaret Hamson (p.119) considers methodological problems of research into children's issues, and Bill Guy (p.109) delivers a hopeful essay on the media's acceptance of responsibilities

to Article 17, citing a campaign by the *Adelaide Advertiser* to encourage young writers to highlight concrete issues raised by the Convention.

Finally, in perhaps the most perceptive and visionary essay in the whole collection, Patricia Harris (p.102) emphasises that the Convention is for the benefit of **all** children. Therefore, young people themselves must be involved in decision making. While she is pessimistic in the face of growing economic inequality and the dominance of a political élite committed to individualism (p.105), she presents a vision of a society in

which children are not merely regarded as worthy of special protection, but are accorded the dignity of some political influence.

This collection is required reading for a all who legislate for, raise, educate or make decisions on children. It should be read by children themselves. In other words, it is essential reading for all Australians.

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Fathers edited by Jodie Kewley and Hannah Lewis

Melbourne: McPhee Gribble, 1993. 212pp. \$16.95

Kewley and Lewis's book, *Fathers*, is a collection of sixteen short reflections by Australian men on being fathers. These men talk openly and freely about some of the joys, frustrations, challenges and rewards that fatherhood has brought them. It is an eminently readable book, spiced with a variety of interesting, unusual and often amusing accounts, such as the following:

My eyes have been removed and I have plastic inserts which I sometimes take out at night to give my eye-sockets a rest. Daniel has been curious to discover why everyone else's eyes don't come out also. When I take my eyes out at night, I place them in a glass of saline solution. One morning, the boys were helping me to squeeze the oranges for our breakfast juice. As I was pouring it into glasses, I forgot that the glass containing my eyes was nearby. As I happily poured the juice, Gerard became quite agitated and said "Don't pour the juice into that glass Daddy. I don't want mine with eyes in it!" (pp87-88)

I have chosen to open this review of *Fathers* with the above amusing yet trivial account since it encapsulates what, for me, is my central difficulty with the book - it is a pleasant, easy-to-read book which does not add, in any substantial way, to our knowledge about fathers and fathering. This would be fine had not the editors made claims for *Fathers* beyond that of producing an amusing 'light' read. As justification for the absence of any theoretical perspect-

ive or analytical frame of reference for organising and illuminating the personal accounts, the editors 'noticed that neither bookshops nor libraries offered material on [fatherhood] - a strong contrast to the shelves full of books about motherhood.'

Now, whilst Demos's (1982) lament that 'fatherhood has a very long history but virtually no historians' remains true, it is also true that in recent times, a great deal **has** been written about fathers in the Australian context. For example, two of the fathers interviewed by Kewley and Lewis were sole parents, about which this reviewer has himself undertaken extensive published research, as well as documenting a significant history of earlier published research about single fathers. Given the literature and research that **does** exist, it seems a shame that, to use their own words, Kewley and Lewis 'merely provided a vehicle through which these men could express themselves' (p.5). Despite their limited, and some might say post modern, intentions, themes do emerge from the text that could have been illuminated by reference to relevant literature and research.

On the one hand, the text identifies clearly many of the relationship building, communication and daily living skills necessary for effective fathering. There is a real danger, however, of these being lost or, worse, dismissed, when no effort is made to isolate and disengage them from the text for separate reflection and analysis. Indeed, concluding

comments by interviewees such as: 'the person who receives [a] child with his heart can do no wrong' (p.151) or 'You never learn to be a father. No one does. Sometimes you're on, sometimes you're off. It's just part of life, isn't it?' (p.191) suggest that nothing can be learned, nor skills acquired, to assist one in effective fathering. The lack of any analysis leads the editors inevitably to the position that 'we do not feel there are enough common threads for us to draw any general conclusions'. Sadly, they can only then offer the reader the rather trite comment that 'all fathers interviewed seemed genuinely to love their children and were enriched by being fathers...' (p.5).

The second major difficulty I have with *Fathers* has to do with the selection of interviewees. The editors claim to have included 'fathers from a diverse range of backgrounds, occupations, financial situations and type of families' (p.3) and that their 'intention was to give voice to a broad cross-section of men' (p.5). The latter they have certainly not achieved. Two men, Tim Watson and Angry Anderson, were obviously included with an eye to the sales market. The group of fathers chosen for inclusion in the book are far from representative or 'ordinary' as claimed. At least half the group have tertiary qualifications for example. Nine of the sixteen are in their early to mid forties (the oldest being forty-eight). One consequence of this, of course, is that very few of these now have adolescent children