

# FAMILY LAW REFORM

The Commonwealth Attorney-General, Mr Michael Lavarch has foreshadowed changes to Australia's Family Law which move away from the notion of children as property of their parents.

Mr Lavarch has indicated preference for the system in England since the Children Act, 1989.

The following amendments to the Family Law are suggested:

1. Each parent is assigned specific responsibilities for the care, education and development of children.
2. Each parent (and other family members) may have a significant contribution to make to the child's care and development after the parent's separation.

Children are individuals, who have rights and interests separate from their parents. They should be the starting point in an inquiry into their care and welfare. The National Children's and Youth's Law Centre suggests that the wishes and feelings of the child should be ascertained as soon as possible after the separation and parents should be assisted to draw up a parenting plan which best meets the child's wishes and needs. The child should be separately represented at any mediation conference and court proceedings and the child's wishes should be followed, except where there is clear evidence that to grant them would be contrary to his or her welfare. Parents should only be allowed to take disputes about children to the court in cases of physical violence, sexual abuse or unilateral removal of the child from a settled home or where authorisation is given by the child's representative or the judge. Instead of providing a platform for parents to fight their own battles, the court should be a last resort.

Law and practice should emphasise that it is an important parental responsibility to make suitable arrangements for children after the breakdown of a relationship. If arrangements immediately before separation have worked well and the child is happy to continue, then parents should organise their lives to cause as little disruption as possible.

Florence Rankin  
Wollongong

## OUTRIGHT

### THE CONVENTION ON THE RIGHTS OF THE CHILD

#### Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

## CHILDREN'S RIGHTS COMMISSIONER FOR AUSTRALIA

The single, most-effective step that the Australian Government could take to implement UNCROC in Australia would be the creation of a Children's Rights Commissioner. This office would provide the focus and stimulus of children's rights work throughout Australia.

We have a Human Rights Commissioner, an Aboriginal and Torres Strait Islander Social Justice Commissioner, Privacy and Race, Disability and Sex Discrimination Commissioners. These Commissioners all deal with children's issues as part of their mandate, but the coverage of children's rights is thereby fragmented and incomplete.

One of the most disturbing aspects of the recent Budget was the complete absence of funding for a comprehensive children's rights programme at the national level. Sure, there were allocations for child protection, youth unemployment, Aboriginal health and mental health, all critical elements of the protection and support of children and youth. They will undoubtedly benefit. But again, the Government's material response to its obligations to children remains fragmented and incomplete.

A Children's Rights Commissioner would have a comprehensive mandate to promote children's rights in Australia, to examine proposed legislation for its consistency with international children's rights instruments, to consult with children and young people, to conciliate individual complaints, to report on widespread priority issues and to undertake children's rights education in the community.