

# ADVOCACY FOR CHILDREN: A Problem And Five Solutions

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## The problem of legitimacy

In this brief paper I seek to identify what I see a “problem of legitimacy” for people who might be tempted to call themselves “children’s advocates” or use the phrase “children’s advocacy” to describe what they do. Then I want to discuss some “practical solutions”.

Everyone who has given more than a passing thought to implementing “children’s rights” will realise how controversial they can be. In the context of education, for example, it is not difficult to find people who would argue in favour of children’s rights to freedom of expression, to choose whether to wear a uniform, and so on. But others, equally concerned about what they would call “children’s rights”, would disagree with such liberationist or civil liberties approaches. They might argue that children have the right to a structured environment and to learn to accept discipline and authority. As I learned recently in connection with work for the News South Wales Law Reform Commission, some argue that it would promote children’s rights if adoption were abolished while others argue that children’s rights require adoption to be expanded and developed.

Even apparently obvious arguments about children’s interest seem to get entangled with political views. Thus some would argue that children have a right not to live in poverty, and argue for the improvement of social services. But others would argue that children have a right to grow up in a community that encourages hard work and independence (with a smaller government). We have a familiar debate between liberal economists and economic rationalists. This is an example of the way proposals that seem initially to be a simple issue of implementing children’s rights get enmeshed in political arguments about the kind of society our children should inherit. If so, what can people or organisations mean when they claim to be advocates for children? These people have not been appointed or elected by children to represent them, as a client might hire an advocate to represent a client in court. They are entitled to express opinions about what is

good for children, and try and persuade others to agree with them, but can they claim to be advocating for children, or promoting children’s rights, as distinct from expressing views they think are good for children. I call this the problem of *legitimacy* for children’s rights proponents. In the space available I can only sketch my five “solutions” very briefly.

## **SOLUTION 1 : The UN Convention on the Rights of the Child**

The Convention provides an important basis for a common set of values on children’s rights. Its wide international acceptance, and its ratification by Australia, gives it a special status as an authoritative statement, as the High Court has recognised recently in *TEOH’S* case. If you argue that certain acts violate children’s rights as set out in the Convention, this seems to be based on firm footing, independent of personal political views, and might plausibly be characterised as child advocacy. In my view there is much merit in this view. But the Convention is a complex document which refers to many aspects of children’s right in very different terms. On a particular issue, you can sometimes defend different views by sighting particular provisions of the Convention. The bits you choose to quote, and the points you choose to emphasise must reflect the decisions you make, based on your own views and values. So the Convention does not by any means entirely displace individual views. Thus it is only a partial solution. But it is a valuable one; precisely because the Convention is so multi- sided, it helps to prevent discussion of children’s rights from taking simplistic forms. A debate about some children’s issues in which the protagonists rely on the Convention as a starting point may not lead to a resolution of the issue, *but it is likely to be a better debate*, one more likely to lead to a richer understanding of children’s rights and interests, than a debate which ignores the convention.

## **SOLUTION 2 : Information and Expertise**

This refers to the strategy of basing one’s view on some specialised or authoritative body of knowledge or expertise. For example many years ago an

organisation called the Society for the Welfare of Children in Hospital made a major impact on hospital design and practices by acquiring expertise on the needs of children in hospital (eg for parents to visit), and persuasively advanced reform proposals based on that specialised knowledge. This approach is valuable where there is such a body of knowledge. It has less effect where the experts differ, and where there are arguments about which body of expertise is the most relevant. There is also a danger that this approach might tend remove children's issues from the compassion and common sense of ordinary people, and make the topic dangerously technical, and thus the preserve "experts".

### **SOLUTION 3: Enforcing Public Responsibilities for Children**

This approach applies pressure to public bodies to do their work properly. The simplest example is putting pressure on the Australian Government to take the elementary step of lodging Australia's report as required by the Convention - it is about two years late! A related approach is to require relevant Government Departments and other bodies to actually carry out and show that they have carried out, their responsibilities in relation to children. To the extent that a body has an articulated commitment for doing something for children, it seems easy enough to treat those who put pressure on the body to deliver the goods as engaged in child advocacy. The limitation here is of course that many areas are not covered by public bodies which have an easily identified and explicit commitment to do something for children.

### **SOLUTION 4 : Hearing the Kids**

This solution is to pay attention to what children say: to watch them, to listen to them and to respond to their views and perceptions. A number of organisations such as the Australia Association of Young People in Care, and the National and Children's and Youth Law Centre, are committed to this approach. Many legal developments, such as the representation of children in the Family Court and Children's Court proceedings, and the use of family reports and other techniques, ensure that their perceptions and wishes are put before the court in custody and similar cases. There are limitations on this approach. It has a limited application in problems relating to babies and young children. Sometimes, it is difficult to explore "the child's voice" without causing further distress to the

children. An example is the dilemma of whether to carry out interviews and examinations when children are alleged to have been sexually abused. One needs to respect children's right to silence, for example when they choose not express a preference, in family breakdown, as to whether they should live with their mother or father.

### **SOLUTION 5 : Raising the Quality of Public Discussion of Children's Interests and Needs**

Two of the main things "children's advocates" can do is raise peoples consciousness about children's interest and needs, and improve the quality of the debate and discussion about them. Children do not have the vote and often do not have resources, common knowledge and skills to put their own interests and needs on the public agenda. As mentioned above, the Convention on the Rights of the Child is a valuable tools for those who wish to contribute to children's rights by raising consciousness and improving the quality of debate.

### **CONCLUSIONS**

I believe that promoting children's rights is a task of great importance and urgency. But is it possible to distinguish between those who advocate for children and those who merely use children as another topic on which to advance their particular views about society? I am not sure that there is a pure or absolute way of making the distinction; perhaps ultimately all such activities relate to ones personal views and view of the world. However, in this paper I have attempted to identify five ways in which activities can plausibly be characterised as advocacy for children, or the promotion of children's rights. These are activities in which , *at least broadly speaking*, the value to children is clear and not dependent on the views of the relevant personal body. They are activities which have a great potential value for children and which Defence for Children International has been carrying out for many years. It is a privilege to have been invited by DCI to say something about this work in the Australian context.

**LONG MAY IT FLOURISH ! ☼**