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The Non-Government (Alternative) Report to the UN Committee on the Rights of the Child

Australia was one of the first countries to ratify the UN Convention on the Rights of the Child just over 15 years ago, in January 1990. Countries which have ratified the Convention are required to report on their implementation and compliance with the Convention. Non-government organisations also have the opportunity to present their own 'shadow' or 'alternative' non-government report to the UN Committee. Defence for Children International (Australia) has standing with the UN and Helen Bayes led the preparation and presentation of the first non-government report to the UN Committee in 1996. The Australian Government presented its first periodic report to the Committee in December 1995.

DCI-Australia has again played a key part in preparing and presenting the second Alternative Report to the UN Committee in response to the Australian Government's *Combined Second and Third Reports* (March 2003).

"The Non-Government Report on the Implementation of the Convention on the Rights of the Child in Australia" was presented by a delegation, led by Dr Judy Cashmore, President of DCI-Australia, to the UN Committee on the Rights of the Child in Geneva on June 9 2005.

Decision to prepare a separate Non-Government Report

In 1998, a group of peak non-government organisations convened as the UNICEF Australia Taskforce on Child Rights (the Taskforce) chaired by Justice Marcus Einfeld. The purpose of the Taskforce was to assist the Australian Government in the preparation of its second report on the Convention to the Committee. Some members of the Taskforce raised concerns about the process and the Government's responsiveness to the non-government contributions and criticisms.

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As a result of the concerns raised by members of the Taskforce, DCI-Australia and the National Children's and Youth Law Centre decided to jointly coordinate the preparation of a separate Australian non-government report to be presented to the Committee.

Consultation Process – “What’s up CROC?”



Robert Ludbrook drafted the initial consultation document and his work formed the basis of two key materials released in February 2004: a Consultation paper and a Background Briefing paper. These papers identified the relevant Articles of the Convention, highlighted issues arising under the Convention in relation to Australia, and detailed aspects of the Government report and the concerns noted by the Committee about Australia.

Consultations were conducted with a wide variety of people in South Australia, Tasmania, Queensland, New South Wales and Victoria. These were organised by National Steering Committee members in conjunction with locally based non-government organisations. Further consultations were conducted with a range of individuals and organisations throughout Australia, in person, by telephone, by email, both directly and auspiced through other agencies.

Submissions

National Children's and Youth Law Centre and DCI-Australia received many submissions responding to the CROC consultation materials from children and young people, academics, organisations that work with children, Indigenous and ethnic organisations, churches and charities and workers in schools, early childhood centres, foster and residential care, youth centres and legal centres. These addressed a range of issues including immigration law, child protection, Indigenous children and family law.

The Report

The Non-Government Report represents the contributions of hundreds of advocates and workers and young people across the country. It was written by a team of volunteers, academics and authorities drawing on the material gathered and the issues identified.

The coordinating activity and report preparation was managed by the National Children's and Youth Law Centre and Defence for Children-Australia with the support of a Steering Committee and a National Advisory Group of prominent Australians.

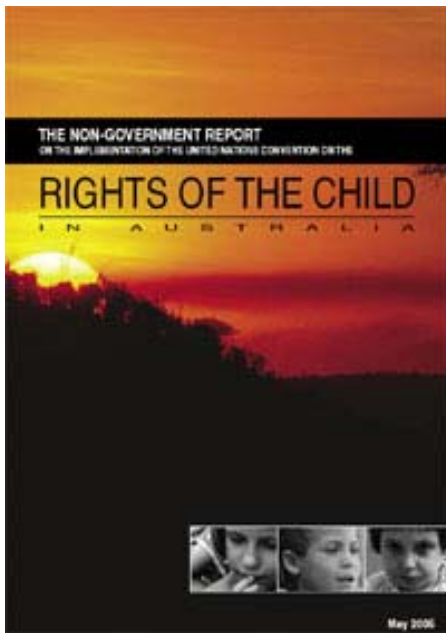
While the Report acknowledges the positive gains, it is clearly critical of Government policy and practice in a number of areas and of the material presented in the Government report. The major issues were:

- The over-representation of Indigenous children in many problem areas eg child protection, youth suicide, substance abuse, juvenile justice, etc and their under-representation in many positive areas eg completing high school, positive health and well-being etc;
- The continuing detention of children in immigration centres in breach of the Convention;
- The inequity and uncoordinated provision of services and resources in many important areas eg mental health services for children and young people, child care, and education especially for disadvantaged and vulnerable children and their families etc., and
- The lack of 'real' participation for children and young people in many areas that affect their lives.

The Report makes a number of recommendations (a hundred and five in all) designed to draw on the knowledge and resources that already exist for Australia to improve its care, support and protection for its children.

Delegation to the UN Committee in Geneva

The Non-Government report was presented to the United Nations Committee on the Rights of the Child in Geneva on 9th June 2005 by a delegation of young advocates led by Dr Judy Cashmore.



The delegation comprised Dr Cashmore, Megan Davis, Louise Pounder, Thao Nguyen and Jason De Santolo.

Judy is the veteran of the group, an Associate Professor in the Faculty of Law at the University of Sydney and Honorary Research Fellow at the University of New South Wales. She is also President of Defence for Children International-Australia and a member of the Board of the National Children's and Youth Law Centre.

Megan Davis is a Research Fellow at the Jumbunna Indigenous House of Learning, University of Technology Sydney, has held a United Nations Fellowship with the Indigenous Project Team of the Office of the High Commissioner for Human Rights and has been working in international human rights law for eight years.

Thao Nguyen is a 5th year law student at the University of Sydney. As Australia's 2004 Youth Representative to the United Nations General Assembly, she already has had experience in a representative role with international processes and advocacy. She is now building on that experience and advocating on the issues of youth participation, culture and community in the context of a human rights framework. She has continued to consult with young people around Australia on their concerns and draws on her own experience and background from a Vietnamese refugee family.

Louise Pounder is a young lawyer with a strong interest in human rights and in particular the rights of children. In addition to her time at the National Children's and Youth Law Centre, working with Louise Goodchild on the report, Louise has been an intern at Wurringa Baiya, a legal centre which focuses on protecting Indigenous women and children from violence. Louise was also involved in an international pilot study on unaccompanied child refugees, focusing on the experiences of separated refugee children in Australia.

Jason De Santolo is a descendent of the Barunggam and Garawa peoples. He works in the legal-policy and creative research realms and has collaborated on various projects with Indigenous peoples in Australia, Aotearoa (New Zealand) and more recently the United States. Jason is currently a research fellow within Jumbunna UTS.

Carolyn Hardy, CEO of UNICEF, and Les Malezer attended as observers.

DCI-Australia and National Children's and Youth Law Centre very much appreciate the funding for the delegation provided by Oxfam, UNICEF and several anonymous donors.

The delegation also had great support from the Secretariat in Geneva for the NGO Group for the Convention of the Rights of the Child which provided preparatory materials, briefing, and de-briefing and advice about following up on the meeting with the Committee; and from the support group in Australia coordinated by James McDougall at the National Children's and Youth Law Centre and Sarah Lendon of UNICEF.

The Follow-Up Process

The UN Committee has asked that the discussion and the questions asked of the Non-government delegation at the pre-sessional working group be confidential. The Committee has prepared a List of Issues that it would like the Australian Government to provide responses to both in writing and then at the Government's meeting with the Committee on September 13 2005. This list is a public document and is posted on DCI-A's website at <http://www.dci-au.org/html/news.html>.

Non-government representatives can attend the September meeting in Geneva as observers but they do not actively participate in the meeting. Following the September meeting, the UN Committee prepares its Concluding Observations in which it comments on Australia's performance in implementing and complying with the Convention and makes recommendations in areas where it sees changes to be necessary. The Concluding Observations are also a public document and again will be posted on DCI-A's website.

The Report and the Concluding Observations will provide the basis for further advocacy work. Examples of how other countries have used the Concluding Observations are available at the Child Rights Information Network (CRIN) website:

http://www.crin.org/docs/resources/publications/ngocrc/CRIN-NGOCRC_WP2_en.pdf

The Non-Government Report is available on the websites of a range of organisations including those responsible for the coordination of its production:

Defence for Children International (Australia) <http://www.dci-au.org/html/news.html>

The National Children's and Youth Law Centre <http://www.ncylc.org.au/croc/consultpaper.html>

Hard copy printed versions of the Report are available (for \$25) from the National Children's and Youth Law Centre (See enclosed flyer).

The Australian Government's *Second and Third Reports*:

http://www.ag.gov.au/agd/WWW/attorneygeneralHome.nsf/Page/Latest_News_Current_1_October_2003_-_Australia_presents_Report_on_Rights_of_Child

The Concluding Observations of the UN Committee following its last consideration of Australia's implementation of the Convention in 1997 as a guide to the likely concerns of the Committee :

<http://www.unhcr.ch/tbs/doc.nsf/0/3d744477ea59fdaf8025653200508bb8?Opendocument>

The Non-Government Report draws heavily on the work of earlier Reports - particularly of those of the Human Rights & Equal Opportunity Commission that highlight the plight of children:

http://www.hreoc.gov.au/human_rights/children/seen_and_heard.html

http://www.hreoc.gov.au/human_rights/children_detention/index.html

http://www.hreoc.gov.au/social_justice/stolen_children/index.html

A Summary and Key Issues Table is also available on the Centre's website.



L to R: The Team Thao Nguyen, Louise Pounder, Megan Davis, Jason De Santolo, Judy Cashmore - with Les Malezer