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In these days of 'mutual obligation', 'zero tolerance' and the 'war on drugs', the language of human rights hardly gets a look in.

The recent controversy about the excellent *Know Your Rights at School Kit* (National Children's and Youth Law Centre, February 1999) illustrates the public hysteria that erupts whenever young people's rights are mentioned. We have all heard the populist catchcry 'What about responsibilities?'

Indeed, what about responsibilities? *Youth Street Rights: a Policy and Legislation Review* does not ignore this issue. In fact, this report is part of a 'Youth Rights and Responsibilities Project', and is firmly based on the principle that rights and responsibilities are complementary.

populist notion of rights and responsibilities [which] effectively presents rights as some sort of privilege expended by society, a privilege which may be withdrawn if particular individual responsibilities are not being met (p 13).

They argue that:

this view stunts the development of responsible adult behaviour in young people and contributes to social irresponsibility by fostering a general disrespect for the rights of others (p 13).

To put it simply:

Denied rights, a young person will not become responsible (p 9).

In this context, *Youth Street Rights* focuses on the rights and responsibilities of young people in public space. In recent years, of course, public space has been fertile ground for new laws which affect the rights of young people in New South Wales.

*Youth Street Rights* takes a critical look at these new laws and their policy foundations, measuring them up against the United Nations *Convention on the Rights of the Child* (CROC), which Australia ratified in 1991. Not surprisingly, the conclusion is that most of these laws and policies leave a lot to be desired in terms of their compliance with Australia's international human rights obligations.

Before embarking on the law and policy analysis, *Youth Street Rights* summarises some of the important literature concerning young people's street rights and responsibilities. This covers about a dozen publications, ranging from localised studies such as *Anh Hai: Young Asian Background People's Perceptions and Experiences of Policing* (Maher L, Dixon, D, Swift, W & Nguyen, T, UNSW, 1997) to reports of major national inquiries such as *Seen and Heard: Priority for Children in the Legal Process* (ALRC/HREOC 1997) and *Bringing Them Home: National Inquiry into the separation of Aboriginal and Torres Strait Islander Children from Their Families* (HREOC 1997). I would probably have also included the

Burdekin Report on *Our Homeless Children* (HREOC 1989), which highlighted the special vulnerability of homeless young people in many situations, including those involving the police and the criminal justice system.

The common theme running through most of the literature is the over-policing of young people (especially those from indigenous or non-English-speaking backgrounds) and the poor relationship between young people and the police.

A considerable amount of discussion is devoted to *Kids in Justice: A Blueprint for the Nineties* (Youth Justice Coalition 1990). This was a 'consumer and community review of the New South Wales juvenile justice system', and several of its recommendations were adopted by the state government. For example, we now have a pre-court diversionary scheme and police youth liaison officers. However, *Youth Street Rights* points out that many of the recommendations have not been carried through and that:

It seems as if there have been two divergent trends post Kids in Justice. One trend is towards considered, inclusive and rational progress in the Juvenile Justice System. The other trend is of ill considered law and order populism which has been given legislative voice since 1990... (p 24).

The literature review is followed by chapters on the international recognition of human rights, young people and crime, and police youth policy. *Youth Street Rights* reinforces the gulf between the public perception and the reality of juvenile crime. Statistics have repeatedly told us that we are not in the midst of a crime wave, let alone a *juvenile* crime wave. Police, with their broad discretion as to when and how to intervene, are effectively the gatekeepers of the juvenile justice system. It appears clear that discriminatory policing is at least partly responsible for the over-representation of indigenous, NESB and other disadvantaged young people in the juvenile justice system. In addition, over-zealous policing creates rather than prevents crime in many cases - the large number of young people charged with nothing other than offensive language or resist arrest is testament to this.

The current police youth policy, which was adopted in 1995, attracts some positive comments. According to *Youth Street Rights*, its principles are sound and broadly compliant with CROC, but the policy does not go far enough in terms of recognising and protecting young people's rights. Of greater concern is the fact that the police youth policy seems to be honoured more in the breach than the observance, and has been undermined by the latest legislative measures and by the adoption in some areas of 'zero tolerance' type policing practices.

There is also some discussion of the increasing incidence of 'policing' by security guards, especially in shopping centres, where the line between public and private space is blurred. *Youth Street Rights* suggests that there is a need to regulate the powers of security guards and to ensure that they comply with CROC.

The review of new laws is detailed and includes anecdotal evidence of the impact these laws are having on young people. Five New South Wales Acts are singled out for review: the *Children (Protection and Parental Responsibility) Act 1997*, the *Crimes Amendment (Detention After Arrest) Act 1997*, the *Young Offenders Act 1997*, the *Summary Offences Amendment Act 1997* and the *Crimes Legislation Amendment (Police and Public Safety) Act 1998*. Apart from the carefully-formulated and well-received *Young Offenders Act*, most of the legislation illustrates the latter of the two diverging trends mentioned earlier - that of 'ill considered law and order populism'.

*Youth Street Rights* shows that much of this legislation is flawed in principle and even worse in practice. Breaches of CROC are numerous. To cite just a few examples, the *Children (Protection and Parental Responsibility) Act* breaches the right to freedom from arbitrary arrest and detention by allowing police to detain children who they suspect might be about to commit a crime. The increased search powers in the *Police and Public Safety Act*, and the failure of the *Detention After Arrest Act* to limit the police practice of routine strip searches, permit degrading treatment and arbitrary interference with privacy. Even when the legislation accords rights to young people, the lack of readily available legal advice means that many of these rights are illusory. The recently-funded Legal Aid Hotline for Under 18s is a welcome initiative, but does not go far enough.

Why this rash of legislation curtailing young people's rights in public space? When did the powers-that-be decide that the streets were not the place for young people to be, and why? *Youth Street Rights* traces the history of the legislative changes and attempts to provide some answers. There is, of course, a widespread notion that there is a 'gang problem' and that groups of young people in public space must be up to no good. I would also suggest that, with a growing awareness (though not necessarily understanding) of youth homelessness, there is an out-of-sight, out-of-mind strategy at work. Is the public presence of homeless, abused and neglected children too much of a prick to our collective conscience? *Youth Street Rights* suggests that the 'war against crime' is a political tool to deflect attention from more difficult problems such as depression, unemployment, homelessness, poverty and child abuse.

We must all accept that young people are members of the public, and use public space accordingly. The way they use this space may be different to that of other citizens, but does that make it any less legitimate? The majority of young people who hang out on the street, in parks and in shopping centres are neither criminals nor homeless - in other words, they don't require police or welfare intervention (and of course, even those who do are entitled to be treated with fairness and dignity). Most of the recent legislative and policy initiatives are blunt instruments applied in a heavy-handed way against large numbers of young people, making them feel 'criminalised, outcast and unworthy' (p 13).

*Youth Street Rights* concludes by making four recommendations. Firstly, it is suggested that both state and federal governments should take clear steps to recognise, accept and implement CROC. Secondly, CROC should be codified in law, preferably in the form of a *Bill of Rights Act* which should also incorporate the *International Covenant on Civil and Political Rights*. Thirdly, our government should appoint human rights monitors to provide guidance on the compliance of legislation and policy with international obligations including CROC. Finally, there is a need for widespread public education on human rights, and particularly on children's rights:

Without a strong general understanding and culture of rights, right across the community, many of the misconceptions about children's and young people's rights and responsibilities are bound to persist (p 99).

No discussion on this subject would be complete without a reference to the recent NSW state election. While the campaigns of both major parties were full of law and order rhetoric, it was the Coalition that advocated particularly draconian and humiliating measures for dealing with young offenders. Can their resounding defeat be interpreted as a signal that our community does not support such a vengeful and punitive approach? Or did it have more to do with personalities and privatisation? Unfortunately, probably the latter. However, now that the pressure of winning votes is off (at least for the next three and a half years), there is perhaps some chance that our government will take a more considered approach to

policing and juvenile justice. We are soon to have a Children's Commissioner and a new *Children and Young People (Care and Protection) Act*, both of which are a significant step forward in recognising young people's rights and interests. If our government is committed to making these initiatives work, it must re-examine its law and order agenda. I would propose that reading *Youth Street Rights* would be a good way to start.

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