

Teaching Child Law

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The purpose of this paper is two-fold. Firstly, it has the object of documenting the experience of staff at the University of Newcastle Law School in designing and teaching the subject, Child Law. The subject was offered for the first time in 2000. A secondary purpose is to identify and explain factors which contribute to the characterisation of Child Law as distinctive in comparison with some other elective law offerings at Newcastle. This exercise will involve assessments of the subject from the perspective of the lecturers involved, and the students who have participated in it as gauged by formal and informal feedback. The evaluation exercise is significant to the ongoing development and reinvention of the subject in order to promote deeper student learning.

The Genesis of the subject: a team approach

Discussions about the possibility of offering a new subject, to be called Child Law, commenced in late 1999. The first conversations were held informally in the corridors of the law school between Jo Cooper and Katherine Lindsay. Jo suggested the possibility of offering an elective subject which might combine her own interests in the health law area and

* Senior Lecturer in Law, The University of Newcastle. I was vitally assisted in the preparation and presentation of the subject for the first time by Mr Roger West, who was at that time a Visiting Professor in the Faculty of Law at the University of Newcastle. I also gratefully acknowledge the assistance, support and suggestions of Ms Nicola Ross, who continues to show a keen professional interest in this subject. Child Law was not offered in 2003 on account of lack of availability of staff who were on leave and engaged in other teaching duties.

those of other members of staff in the areas of education law and family law. The kernel of Jo's suggestion grew rapidly and luxuriantly after discussions with the Dean of Law and representatives of the Department of Social Work. Meetings quickly became more formal, and Roger West, a recently-appointed Visiting Professor to the Faculty with considerable experience in both legal practice and the community services sector, was included in the planning process for the new subject.

A number of 'brainstorming' sessions occurred in late 1999 and early 2000 in which the contents of the curriculum and the objectives of the subject took shape. During 2000 it became clear that Jo Cooper would not be at the University during semester 2 in which the subject was scheduled to be offered for the first time. Jo's involvement declined from this time and Roger West and Katherine Lindsay undertook the task of developing the curriculum and preparing outlines, reading guides and reading materials for students. From the inception of the discussions about Child Law the approach was of necessity team-focussed. The reasons for this include the breadth of any potential curriculum, the varied and complementary experience of the participants and a firm commitment to using a range of expertise from the Faculty in developing the subject. We were fortunate in the final stages of preparation to secure the assistance of a recent law graduate as research assistant. Robert McCallum located large quantities of primary and secondary material and spent hours at the library photocopier, activities which contributed significantly to the timely preparation of materials.

The teaching team from the outset grappled with the theoretical difficulty that 'Child Law' does not exist as a category of law in the way in which family law and criminal law, for example, are readily accepted as regular classifications within the modern law curriculum. The subject which we proposed to offer would in some sense contribute to the 'construction' of Child Law as an area of study, both for those in a teaching role and certainly for the students who enrolled. One of the many challenges was to maintain flexibility in the curriculum whilst identifying core areas of focus. Early in the process of development the decision was taken to offer the subject contemporaneously to students enrolled in the Bachelor of Laws degree, and also to students in other degree programmes, particularly the Bachelor of Social Work degree. This decision profoundly influenced the crafting of the learning objectives for the subjects and informed the selection of reading materials, classroom practice and the formulation of assessment tasks.

Above all, Child Law has been consciously aspirational in its objectives and assessment, if not entirely in its content. This is particularly true of the desire to work creatively with the opportunity presented by the presence of at least two groups of students attending the same classes and studying the same curriculum. The learning objectives in particular reflect the desire on the part of lecturers to encourage students to think beyond traditional disciplinary boundaries and to acknowledge the significance

of complementary skills and professional perspectives in solving legal and other problems. We sought to enthuse students to work together, learn from one another, and most importantly, to listen actively to one another in the classroom and outside. In choosing and implementing objectives, we not only engaged our own enthusiasm in what was for us a new type of learning environment, we frankly acknowledged that the experiment involved some risk taking. The extent to which these aspirations were realised and risks were accurately anticipated at the time of first offering is analysed later in the paper.

The Learning Objectives

The learning objectives in the subject were developed relatively early and addressed four key issues: understanding of legal content, critical reflection, co-operative learning and the tolerance of differing opinions and perspectives, and problem-solving and teamwork. The learning objectives have remained constant since 2000 and are expressed in the subject outline as follows:

To equip students with a comprehensive understanding and appreciation of the role of law and the legislative framework relating to children.

To reflect critically upon legal material presented in the context of professional practice, professional responsibility and legal risk management for social work professionals.

To promote co-operative learning between students, where students have different but complementary professional specialisations.

To build skills in teamwork and problem-solving.¹

As a commentary on these objectives, it can be easily demonstrated that the first is overdrawn, and perhaps even dangerously so. Few single semester elective offerings can claim to instil a 'comprehensive understanding' of an area of law. This is a fortiori true of a diffuse construct, such as Child Law. Throughout the semester in which the subject was first offered, the breadth and depth of the coverage was a constant source of concern for the lecturers. Meeting the learning needs of three identifiable sub-groups within the class is especially challenging. In 2000 a stalwart group of 7 first year social work students had very limited background in either substantive law issues or social work practice, whilst the later year social

¹ In response to the experience of class dynamics in 2000, the following explanatory note has been added since 2001: In order to achieve these objectives students may be asked to participate in activities which challenge their preconceptions and may extend beyond their comfort zone. Please feel free to speak to the lecturers about any activity which you feel is challenging in this way.

work students had both knowledge from other subjects undertaken in the degree and expertise gleaned from placements. These students were interested in hearing and contributing to legal policy debates. The majority of LLB students enrolled in the subject were final year students whose commitment to legal method and analysis was by the time of enrolment fixed. In subsequent years the enrolment also included students studying in the Faculty of Education, who had a different complementary group of professional aspirations and expectations of the subjects. These differing perspectives, interests and methods created certain tensions, which were reflected in some journal entries. This aspect of the classroom dynamic is discussed further below.

Critical reflection was probably the easiest of the learning objectives to fulfil. It was assisted and facilitated by the flow of the classes and team teaching approach. Students observed complementary skills in action, as lecturers supported one another in the presentation of complex areas of law, policy and practice.

In initial reflections on the co-operative learning objective in 2000, it was judged by the lecturers to be a dismal failure. The dynamics of the groups of students enrolled in 2000 seemed actively to work against co-operative learning and tolerance of different perspectives. Some of the students' journal entries reflected this quite keenly. They noted the fact that all the law students sat together at the front of the class. Further, some students indicated that they were intimidated by the presence of law students, who appeared dismissive, patronising and even aggressive, rather than tolerant and inclusive. Some students commented that negative reactions from other students to comments made in class had influenced them not to express their views in class. These comments caused concern in the lecturers and prompted a consideration of how such negativity might be avoided in order to promote the co-operative learning objective more effectively in 2001.

These issues have been addressed annually since 2000 with varying success. The physical layout of classrooms has often undermined the objective of inclusion and open discussion. The clear preference of different student groups to sit with their own professional cohorts has persisted unabated and now includes the growing group of education students. The introduction of an "icebreaker exercise" designed to call on students to focus on the professional contribution of a professional group different from their own has shown ephemeral but not sustained results. Blank copies of this exercise appear in the appendices to this paper. The "ghettoisation" of professional groups has extended to group assignments, in which a group of law students might formalise an approach to a question which ultimately excludes contributions which are not based on traditional legal methodologies.

The use of assessable group projects has been a constant in the assessment since 2000. Attempts on the part of lecturers to assist students to group themselves according to areas of interest, rather than programme

of study, has met with varying levels of acceptance. An initial attempt to divide the class into groups based on the results of a completed Child Law Experience Audit met with complete mutiny on the part of the students. The experience audit is conducted in the first class and attempts to gauge in a general way what skills and experience with children the students bring to the subject. Many students, particularly those enrolled in the social work degree, have previously completed relevant placements with DOCS, Juvenile Justice or other agencies, during which they have had considerable experience of the law in action in respect of child clients and their families. Discussion of such experience can enliven and stimulate class discussion and deeper questioning of existing legal frameworks. A copy of a blank audit form appears as an appendix to this paper (See appendix B).

The objective of building skills in problem solving has been supported through the use of hypothetical problems involving complex family scenarios throughout the subject. The hypotheticals present a range of legal and other issues with which students are asked to engage on behalf of the “clients” in the problem. Examples of these hypotheticals appear in the appendices to this paper. From the very beginning, it has been clear that problem solving skills required formal attention in class time and a number of class exercises have evolved which are designed to draw students’ attention to the involvement of different professional groups in providing appropriate solutions to such problems.

The Content of the subject

The topics covered in the subject are

1. Childhood and Capacity: The Law’s Perspective
2. Family Law and Children
3. Child Protection Law
4. Juvenile Justice
5. Children and the Legal Process
6. Health Law and Children
7. Education Law and Children
8. Social Security Law and Children
9. Homelessness and Children
10. International Law and Human Rights of Children

Upon reflection on the content and emphases in the subject, an additional topic was added for 2001, namely Substitute care, including the law of fostering and adoption. This was in recognition of the significant bridging role this topic played between the family law and child protection law topics, and the interest it held for the students and staff. Legal issues associated with fostering and adoption stimulated lively classroom

debate amongst students in 2002, when some historical and international perspectives on adoption patterns were also considered as a component of the policy and legal discussions.

The important relationship between child protection issues and health law issues is also recognised in the in-class exercise addressing legal and professional issues in handling cases of Munchausen Syndrome by Proxy. Students are required to watch a video programme and observe the professional behaviours of members of the health, social work, legal and other professional groups in dealing with allegations of child abuse allegedly arising as a consequence of a parent having Munchausen Syndrome by Proxy.

The choice of topics for consideration has been influenced significantly by the research interests of the original staff participants. In particular, this is reflected in the inclusion of topics on health law, education law and international human rights law. There is clear recognition in the content of the course that child protection law is in a sense at the heart of the subject's content. It has important connections with other areas of law, but it is a core area of focus for many social work professionals working with children and their families. However, family law and the law of juvenile justice are also highly significant areas of content for social work and legal professionals. There has been little attempt to avoid potential overlap for law students who may already have studied family law as a separate subject. Rather, these areas of knowledge and experience are called forth in classes for the benefit of the whole group. Thus, the content of Child Law at Newcastle has been "constructed" to reflect both the interests of the potential teachers as well as the needs of the learners. This is a practice which can be found in other elective offerings in the law school and is a reflection of some keen realities in a small school with limited human and other resources.

Learning approach: The use of the hypothetical

The hypothetical involving children and their family forms the cornerstone of teaching in the subject. The complex scenarios endeavour to address issues across all content areas and serve as a focus for class discussion (see appendices C and D below). The hypothetical also offers the opportunity to see the impact of legal regulation upon children in a more holistic fashion than single issue hypotheticals might allow. For example, see appendix E below. Colleagues experienced in working with families in crisis have provided feedback on the realism of the situations presented in the hypotheticals. Although students have periodically commented that the lives of the families presented in the hypotheticals seem extreme and unrealistic, this is countered by the advice from professional colleagues and provides a useful point of departure for student learning. Some students have asked for situations involving more "normal"

families. This has provided a challenge for teachers in framing exercises and learning experiences.

It has become increasingly difficult over time to retain the hypothetical as the central focus of all topics. This is largely on account of the addition to the weekly schedule of numerous class exercises, which use video and other audio-visual resources to highlight key contemporary issues in the area of study. One example of a highly successful class exercise in the area of child protection law, has been the use of a confronting video entitled "Taking Baby" which provides a critique of the UK child protection system in the light of recent legislative changes. The use in 2002 of the Australian video "Putting the Children at Risk", a Four Corners investigation into the operation of the child protection system in New South Wales, proved similarly successful. Each video-based exercise is accompanied by a series of questions which students are asked to answer individually. These answers form the basis of wider class discussion and questioning during class.

Assessment

There are four assessable pieces of work in this subject. They are

1. A contribution to news of the week segment in class (20%).
2. Assessment of a weekly journal kept by each student evaluating the impact of the law relating to children upon professional practice and reflecting the student's changing understanding of the dynamic legal environment (A satisfactory standard is required. Completion and submission of the journal is required to gain a passing grade in the subject).
3. Either
 - (a) (i) *A collection and compilation of multi-media materials exploring the impact of law upon children (15%)*
and
(ii) *An individual critical reflection upon a chosen aspect of the multi-media materials collection with particular reference to professional responsibilities and child law (25%).*
 - Or
 - (b) *A research essay chosen from one of the major topics for study in the subject. Students will be required to reflect critically upon the nature of legal regulation of children in the chosen area and demonstrate knowledge of relevant primary and secondary evidence. (40%)*
4. *A group report which assesses the role of a particular institution in administering aspect(s) of laws relating to children (e.g. within DOCS, juvenile justice, hospitals, schools etc.) and makes and justifies recommendations for legal reform. Details of the group project are provided in a separate document. (40%)*

The assessment of students is the area of the subject which has changed most radically since its first offering. When the subject was offered in 2000 and 2001 differential assessment was mandated for LLB and non-LLB students. Non-LLB students were not permitted to write a research essay on legal issues affecting children. Rather they were asked to make a compilation of multimedia materials reflecting legal issues related to children and to complete an individual critical reflection upon one area of the compilation. The focus of the critical reflection was the professional role and responsibility of social workers and other professional groups in the situations presented in the multimedia collection. In response to considerable feedback from students in the first two years, it was decided in 2002 to offer the same choices of assessment for all students regardless of their programme of study. The criteria of assessment remained the same for each assessment task, however, differing standards of achievement were expected in legal research, in particular, depending on programme of enrolment.

In 2000 the lecturers in the subject presented a “news of the week” segment at the commencement of each class. This segment highlighted the range of laws affecting children, media representations of children and patterns of contemporary reporting of legal issues as they affected children. News of the week always prompted lively discussion in class. In response to positive student feedback and the desire of students actively to be involved in this part of the course, news of the week has been subsequently included as an assessable part of the curriculum. Students are given a free choice of topic, but are also provided with criteria by which their choice of “news” and commentary will be assessed. The news of the week segment also performs an important role in assessing communication skills generally and the ability of students to listen to one another, to formulate relevant questions and comments and to respond to the questions and comments of others in the class. It has proved a highly successful formula for promoting student interaction, far more than mandatory assessable group work.

The learning journal has served as an important source of feedback for the lecturers in the subject. Journals have also offered an opportunity for students to reflect on the depth and breadth of their own learning over several months. The text of the journals is characterized by its raw power and assertiveness. In this space the students can record their anger, boredom, bewilderment and engagement with the people and the material. One feature of the process of reading and assessing the journals has been a consistent acknowledgment of their disarming candour. The journals provide a safe space for students to respond immediately to the classes and their content. There has been little discernible evidence of student rewriting or self-censorship prior to submission for assessment. Indeed, some of the journals explicitly address this issue, commenting that “I had intended to rewrite these passages to remove negative comments, but at the end of the subject I see no need to do this and will let

my earliest entries stand" (paraphrase of student journal entry 2001). As such, the journals are of unique value in acknowledging when and how learning has taken place.

The compilation of multimedia materials and critical reflection exercise has called forth the creative talents of many students. The breadth and depth of research in some instances has been extraordinary. Some compilations include videotapes of television programmes, book reviews and film reviews, in addition to newspaper, periodical and magazine articles. The critical reflection exercise which draws upon this material has been handled with moderate skill by most students. Some have resorted to excessive description of the content of their chosen items, whilst others have engaged effectively with the chosen theme (eg difficulties of implementation of child protection laws). By contrast, the research essay has largely provided a "comfort zone" for LLB students, who are very familiar with this form of assessment. Some have chosen topics which extend their perspective on the role of law in contemporary society, but a majority has chosen narrow topics with a doctrinal focus.

Some issues in respect of the assessable group project have been addressed above. One of the most significant dimensions of the group project is its institutional focus which requires students to consider "big picture" issues about the way in which important institutions (eg courts, government departments, agencies and organs) meet the needs of children in implementing legal regimes. It calls upon a group of students to assess the adequacy of institutional performance and propose reasoned proposals for reform. Differing levels of discomfort with group work have emerged over time. Those most ill at ease with this form of assessment are LLB students. In this assessment exercise they tend to travel in groups (?prides), whether for safety and security or other reasons has never clearly emerged. Whilst the group projects most often reveal the results of much effort and energy, the division of work is often very obvious and there may be little evidence of any attempt to integrate and synthesise individual contributions to the final product.

The Materials

One of the desires of those devising the subject has been to promote independent learning amongst the students. This desire is reflected in the collection of stimulus materials which support students in the subject. They consist of contemporary newspaper articles on themes related to the course content, primary sources in the form of statutory provisions, extracts from government and other reports and flowcharts. There is limited secondary material included, although the weekly reading guide contains references to a range of books and articles which may be consulted. No single textbook or reference work appears to cover the range of topics in the subject at the level or depth required by all students enrolled. However,

the collection of papers published as *In the Shadow of the Law* (edited by P. Swain 2nd edition, Federation Press, 2002) has proved very useful for both staff and students. The compilation of “stimulus materials” has frustrated some students who wished for much more guidance in their weekly reading, and who stated a preference for printed materials which reproduced journal articles from the reading guide.

The students

Each year the class in Child Law consists of a mixture of social work, social welfare, law and students enrolled in miscellaneous programmes. The pattern of enrolment from 2000-2002 has been reproduced below. The enrolment statistics from the first three years of the subject reveal that female students are in the clear majority. This is partly a factor of the social work enrolment which has been almost exclusively female. Male students have generally been drawn from students enrolled in Commerce, Law and Education programmes. The number of LLB students has been modest, with the exception of 2001 in which 16 students enrolled, and unsurprising. However, it is of interest to note that some students enrolled in education courses have begun to choose Child Law as part of a minor specialization in law subjects. These students have been deeply interested in the professional responsibility focus of the subject and have taken the opportunity to reflect on the legal frameworks which impinge on the domain of classroom teachers.

Enrolment statistics 2000-2002

2000

7 LLB

25 Social work + Commerce (1)

1 male

2001

16 LLB

25 Social work + Arts (1) + Psychology (1) + Education (1)

3 male

2002

4 LLB

24 Social Work

6 Education students

2 male

External support: guest presenters

In addition to opportunities for team teaching, the learning in Child Law has been enriched through regular presentations by external guests, either individually or via panels. The juvenile justice panel featuring a lawyer working in the Children's Court, a Children's Court Magistrate and a representative from Youth Justice Conferencing has been an annual event and highly successful. Other guests have included representatives from the National Children's and Youth Law Centre, a solicitor from Many Rivers Aboriginal Legal Service, a retired family Court judge, a lawyer working for the Department of Community Services, a human rights lawyer from the Public Interest Advocacy Centre, experts in the area of health law, and a youth worker from a local charity to speak on the issue of young people and homelessness. All guests have been very generous with their time, often travelling from Sydney to be present at the class (one with a broken arm). Students have benefited immensely from the material presented and the opportunity to ask questions about legal institutions and processes.

Some of the students have commented in written and oral feedback to lecturers that there are too many lawyers amongst the guests. They have suggested that panels which feature professionals from different backgrounds could present wider perspectives on the legal issues. These comments appear sound and will be explored for the future. However, regardless of the current preponderance of lawyers, it is apparent that the range of guest presenters has added an important dimension to the students' learning in Child Law as many of their journal entries have revealed. This external support and expertise has been greatly appreciated by the lecturers. In many instances it has provided further positive stimulus to discussion and study, beyond the confines of the materials, outline and hypothetical.

Feedback from students

Feedback has been gathered from students in both oral and written form. The learning journals provide a source of significant feedback for staff. The comments contained in the journals are often searingly honest and penned spontaneously after incidents or issues arise in class. As such, they provide a unique insight into both class dynamics and the individual learning needs of students. Because students are not required to submit the learning journals until near the end of the semester, some immediate violent reactions to issues or styles of presentation may be mollified by later reflective comments. Thus, the learning journals permit staff to assess students' reactions and feelings over the course of the subject, and not just at a single point. In some respects, these have provided the most sustained and useful student feedback to staff as the content of journals

is constrained by the students and not by questions or topics chosen by the lecturers.

In addition to the journals, staff elicit oral feedback from students, both formatively (during classes themselves) and in a formal oral feedback session at the end of the subject. Students have responded enthusiastically to the opportunity to give feedback on a number of topics. The most popular topic for discussion in the oral feedback session annually has been assessment. Students stress the importance of providing clear criteria for assessment for all assessable work. This is especially the case, they reason, where the student body consists of those enrolled in diverse programmes of study. The need for clear criteria has been addressed each year in the subject outline. However, students still request precision and clarity. Further, students have made useful suggestions about offering choices in assessment. In response to oral feedback from a large number of students, the mandatory differential assessment regimes for LLB and non-LLB students has been abandoned.

In commenting on the content of the subject, students have highlighted the need for a contemporary focus in some areas covered in the course, especially Juvenile Justice. Some historical material presented in this segment was felt to be overdrawn at the expense of discussion of relevant contemporary issues. Further some students commented unfavourably on what they perceived as the "extreme scenarios" presented in hypotheticals, especially in the area of family law (See appendix E) and called for more "regular" scenarios to be devised. In view of the learning objectives of the subject, students have suggested the inclusion of class participation marks amongst items of assessment.

A Final Reflection

In the introduction to this article, two objectives were outlined. The first descriptive and reflective objective has been dealt with in detail above. However, the second objective which aims in some way to identify the potentially "distinctive" nature of the subject has received little attention. There are a number of ways in which Child Law differs from other elective offerings in the law school. Two stand out clearly. The first is the team teaching environment which has characterised the offering of the subject in the past. The presence of two and sometimes many more teachers in the classroom contemporaneously has heightened the prospects for student learning. Each lecturer or guest has contributed according to his or her area of expertise and professional standpoint. Where one teacher's knowledge and skills end, another's begin. This has meant that the myth of the "guru" lecturer has been laid to rest in numerous practical ways in the classroom each week, and student learning has been both enhanced and challenged by multiple points of reference.

A second distinctive feature of Child Law has been the challenge of

responding to the multiple learning needs of students enrolled in multiple professional programmes (eg law, social work and education). Responding effectively to the dynamics of a classroom in which different needs and desires are being expressed constantly has been one of the great challenges of the subject. In some respects this can lead to frustration for the teachers, but it can also lead to new possibilities for defining who the teachers really are or can be. In an inclusive and supportive environment, students can accept their role as teachers of one another in circumstances where the lecturer cannot hope to meet all the learning needs all the time. This is especially true in respect of the group projects, where a lack of legal research skills may initially hamper efforts to assess the effectiveness of a legal regime in meeting the needs of children. Here, students enrolled in law programmes can bring their legal research skills in aid of the common project, and in turn can be assisted in policy and reform analysis by students from differing professional backgrounds. This relieves the lecturer of providing a short course in legal research, whilst potentially offering opportunities for the students to build co-operative professional and academic relations.

Appendix A

Class Exercise

Week 1

Students enrolled in LLB636 (ie Law Students)

Record your answers to the following questions on this sheet:

1. What is a social worker's primary professional role?
2. What are a social worker's professional responsibilities?
3. What is a social worker's professional role when working with children?
4. When do social workers come into contact with lawyers?
5. What is the relationship between lawyers and social workers when working with children?
6. What is the ideal professional relationship between lawyers and social workers?

Class Exercise

Week 1

Students enrolled in LAW242 (ie non-LLB students)

Record your answers to the following questions on this sheet:

1. What is a lawyer's primary professional role?
2. What are a lawyer's professional responsibilities?
3. What is a lawyer's professional role when working with children?
4. When do lawyers come into contact with social workers?
5. What is the relationship between lawyers and social workers when working with children?
6. What is the ideal professional relationship between lawyers and social workers?

Appendix B

Child Law Experience Audit

What skills and experience do you bring to this subject?

(Fill out as much or as little as you wish)

Name

Relevant placement experience

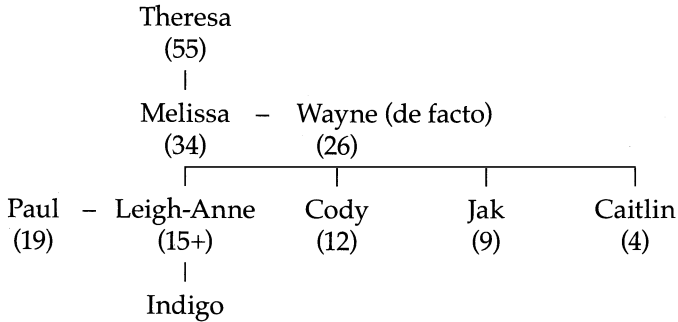
Are you a parent?

Do you or have you worked with children or young people (eg have you been a teacher, involved in youth conferencing etc)? Provide details if you wish.

Areas of law in which you have an interest and which you believe may have particular impact on children and young people.

Appendix C

Child Law Hypothetical 2000



The Barnikel family lives in a provincial town in New South Wales in rented accommodation. There is a long waiting list for Department of Housing accommodation, and the Barnikels have been forced to find private accommodation in a two bedroom apartment. Theresa, who is Melissa's mother, lives in a rented pensioner unit in the same town.

Melissa is the mother of Leigh-Anne, Cody and Caitlin, and the foster mother of Jak. She is 34 years old. She has leaving certificate standard of education and works as a casual barmaid at nights, leaving the children at home where they look after themselves. There is a lot of underage drinking at the Royal Hotel where Melissa works because the licensee does not enforce the requirements under the Liquor Act. Melissa is concerned about this, but she does not complain as she needs the money to pay the rent. She also receives social security and child support benefits. Melissa was married to Giovanni, but divorced him 9 years ago after they had been separated for two years. Melissa has a residence order from the Family Court for Leigh-Anne and Cody. No contact orders have been made which would permit the children's father to have regular communication with them. Melissa was raped by an uncle at the age of 17 and has never told her mother about this incident.

Wayne is the de facto husband of Melissa. He lives with the family periodically, but is often absent pursuing seasonal work. Wayne has a criminal record for theft offences. Melissa has had other de facto partners, but Wayne is accepted as the biological father of Caitlin.

Giovanni is the biological father of Cody. Melissa and Giovanni separated when Cody was around 12 months old, as Melissa was fearful of Giovanni's violent behaviour and abuse of alcohol. Melissa divorced Giovanni after they had been separated for two years.

Theresa is Melissa's mother. She is 55 years old and lives close to the Barnikel family. She is a widow and receives social security. She had been separated from Melissa's father for many years before his death and raised

Melissa on her own without financial assistance from Melissa's father. Theresa was a child migrant from the United Kingdom. She arrived in Australia at the age of 4 and spent most of her childhood in a Children's home in Western Australia. She was told by those who ran the Children's home that her parents were dead. However, she subsequently has managed to trace her family in the United Kingdom. She is quite upset that she was told lies about her family and wishes to explore legal avenues for redress for the emotional pain she has suffered throughout her childhood. Life at the Children's home was very hard and Theresa remembers a lot of physical abuse of children in the home. She suffered both physical and emotional abuse whilst a resident in the Children's home.

Leigh-Anne is the oldest of the Barnikel children. She is 15 years old. She has been sexually abused by Melissa's de facto spouse and is pregnant. She attends a local medical centre to seek advice about a termination of the pregnancy. She is advised against seeking an abortion as the pregnancy is too advanced. She is provided with contraceptive advice by the medical practitioner. When Leigh-Anne's pregnancy becomes obvious she leaves school to avoid embarrassment and moves in with her 19 year old boyfriend, Paul. Paul is violent and Leigh-Anne leaves him as she fears for the safety of the unborn child. She seeks accommodation at a women's refuge. Before the birth of her daughter, Indigo, Leigh-Anne is reconciled with Paul and they plan to marry. Leigh-Anne contacts the Department of Social Security about receiving child support benefits for her daughter.

Indigo is born prematurely, and needs emergency medical treatment. Indigo is assessed by doctors as having a physical disability as a result of trauma associated with the premature birth and the immaturity of her lungs at the time of birth. It is likely that Indigo will require ongoing medical treatment for the lung condition and associated medical problems.

Cody is 12 years old. He has been diagnosed as having ADHD and requires medication to control his violent behaviour at school. The local school has refused to administer Cody's medication during school hours. It is very difficult for Melissa to visit the school to administer Cody's medication. Cody is unhappy at school and exhibits anti-social behaviour. He has a history of truancy and his teachers suspect that he uses illegal drugs. Cody is consistently in the bottom 10% of his class but has never been assessed for special education needs. Cody often roams around the town at night when his mother is at work and has been picked up by police under night curfew legislation. He has been cautioned for a graffiti offence. Cody tries to set fire to the teachers' staff room at his school and is caught by the night security guard at the school. Cody is charged by police and the school begins procedure for Cody's expulsion.

During questioning by police, Cody volunteers information that he has been involved in robberies carried out by Wayne, including a recent night time robbery of the local Seven 11 store where firearms were used. Cody agrees to appear as a witness in the trial of Wayne for armed rob-

bery. Giovanni becomes aware of Cody's behaviour from relatives who live in the town and makes contact with Melissa. He blames Melissa for Cody's bad behaviour and regards Wayne as a very bad influence on Cody. Giovanni indicates that he will seek residence and contact orders from the Family Court in relation to Cody and Leigh-Anne.

Cody is threatened by associates of Wayne and, after giving evidence, runs away from home. After stealing money from his mother, he travels by train to Sydney where he tries unsuccessfully to find lodgings in the inner suburbs. He is offered work in Kings Cross, which involves drug distribution. Cody becomes involved in prostitution to support his developing drug habit. He is arrested by police for drug-related offences and appears before a Magistrate.

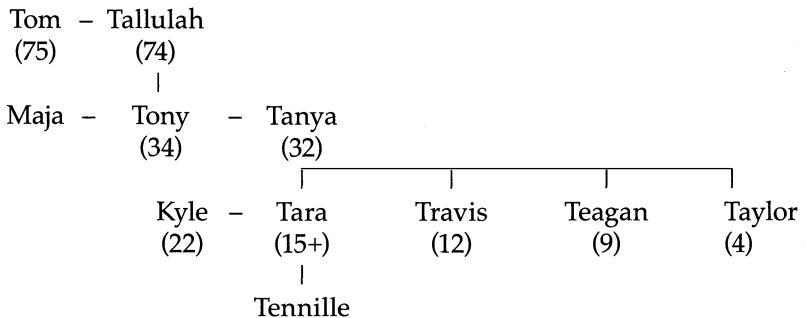
Jak is nine years old. He is the son of Melissa's cousin, Amy and her partner Robbie, who is an Aboriginal person. Amy feels unable to cope with Jak and organises an informal fostering arrangement with Melissa. Melissa would like to adopt Jak. Jak suffers a broken leg when falling from a flying fox at the annual school camp and requires medical treatment, including anaesthetic during the setting of the leg. After Melissa informs Amy and Robbie of the incident at the camp, Robbie abducts Jak from the hospital and takes him to Melville Island. Robbie informs Melissa that Jak needs to grow up amongst his own people.

Caitlin is 4 and is the child of Melissa and Wayne. She is a sickly child, and underweight for her age. A child health nurse has noticed that Caitlin is often unkempt and is unresponsive for a child of her age. These characteristics have also been observed by the mothers at the local playgroup. They suspect Caitlin is being neglected, but nobody questions Melissa or Wayne about this. The child health nurse advises Melissa on Caitlin's general health and recommends improved nutrition and hygiene, but does nothing further.

Appendix D

Child Law 2001 Hypothetical

Meet the Monkhouse family.



The Monkhouse family lives in a provincial town in New South Wales in rented accommodation. There is a long waiting list for Department of Housing accommodation, and the Monkhouses have been forced to find private accommodation in a two bedroom house. Tom and Tallulah, who are Tony's parents, live in a rented pensioner unit in the same town.

Tony is 34 years old. He has leaving certificate standard of education and runs his own gardening, landscaping and fencing business. Tony is married to Tanya who is the mother of Tara, Travis, Teagan and Taylor. The couple have separated several times in the last 15 years. Periodically Tanya lives for extended periods away from the family, in the last case for two and a half years. The four children have continued to live with Tony. Tony has the daily care and exercises control over the children. He is assisted from time to time by his girlfriend Maja, who is a teacher at the local primary school. As Tony runs the gardening business himself he is often in need of assistance. On days when there is a lot of work to be done he takes Travis and Teagan with him to assist. Travis and Teagan have missed 35 days of school this year because they were assisting Tony with landscaping and fencing work. Maja is aware that Tony often needs help with his business in order to 'make ends meet' and she has spoken to the School Principal about the family's difficulties. She has persuaded the Principal not to take any action against Tony in relation to the children's absences.

Tanya has problems with the use of drugs and alcohol, and Tony is concerned about her influence on the children. After discussing the matter with Maja, Tony decides that he should divorce Tanya and try to stop her from seeing the children. On her last visit to the family at Christmas and whilst she was drunk, Tanya told Travis that Tony was not his father. She also indicated that Tony is not Taylor's father either. Tanya suggests that

Travis and Taylor should come and live with her at the beach in Coffs Harbour. Travis is very distraught at the news and tells Tony that he hates his mother and will never leave Tony and his sisters.

Tara is the oldest of the Monkhouse children. She is 15 years old. She lives in a caravan in the backyard with her de facto husband, Kyle who is 22 years old. She left school when she discovered she was pregnant. Prior to leaving school, Tara's attendance was poor as she often stayed home to look after her younger brother and sisters, especially Taylor who has always been a sickly child. Tony relies on Tara to assist with the younger children and arranged for the caravan so that Tara and Kyle would have some space for themselves.

Tara attends a local medical centre to seek advice about a termination of her pregnancy as she thinks that she cannot look after a new baby in addition to her existing responsibilities to her father and siblings. Tara is advised against seeking an abortion as the pregnancy is too advanced. She is provided with contraceptive advice by the medical practitioner. Kyle is angry with Tara when he hears that she has been seeking advice about an abortion. He tells Tara that she needs to have the baby because he knows people who will pay big money for a healthy baby. Kyle negotiates with a childless couple who wish to adopt Tara's baby. The couple advance \$2500 to Kyle to cover Tara's medical and maternity expenses. Kyle spends this money renovating his motor cycle. When the baby (Tennille) is born at home in the caravan she has a small head.

When the couple see baby Tennille they tell Tara that they are no longer interested in the adoption agreement because the baby is not what they expected and they believe she is not healthy. Further, they indicate that Tara must return the money which she has been given for medical and maternity expenses. Tara is very scared as she has no way of complying with the request. She is very concerned about the baby and leaves her on the steps of the local hospital as she thinks Tennille needs urgent medical attention. Tara is frightened of Kyle's reaction to the failed adoption agreement and borrows money for a train fare from Maja. Tara catches the train to Melbourne without informing Tony. She tells her grandparents but swears them to secrecy in the matter. She has no money and no accommodation on arrival in Melbourne and lives in a park.

Travis is 12 years old. He consistently performs in the lowest 10% of his class at school. He has never been assessed at school. He is happiest when he is working outdoors with Tony. He has a very low literacy level which is not assisted by his frequent absences from school. During his early childhood Travis suffered from a large number of ear infections, many of which went untreated, and he has an undiagnosed hearing impairment. Travis is frequently on licensed premises with his father after work, although he has never consumed alcohol on these occasions. He has bought tobacco in local shops at his father's request. Travis is encouraged by Kyle to have Harley-Davidson tattoos placed on his forearms. The tattooing is carried out by a friend of Travis. Tony has no knowledge of the

tattooing until it is complete. He is upset about the tattooing as he thinks it is inappropriate for a boy of Travis' age.

Teagan is nine years old. She is very unhappy that she is required to help in her father's business. She does not like missing school and has spoken to Tom and Tallulah about living with them. Tallulah is very keen to seek custody of Teagan as she believes she should have the opportunity to finish her education. Teagan is detained by a local shopkeeper who alleges that Teagan is guilty of shoplifting some clothing. The shopkeeper opens Teagan's backpack and discovers adult clothing and 2 video tapes with labels from the local video shop. The shopkeeper calls the local police who interview Teagan without an adult present. Teagan is frightened by the uniformed officers and confesses that she took the clothing as a present for her grandmother's birthday as she didn't have any money for a present. She will not say anything about how the videos came to be in her backpack.

Taylor is 4 years old. She is a sickly child, and underweight for her age. She has been looked after since birth by Tony and Tara as Tanya has never shown much interest in Taylor. Daily care of Taylor has been carried out almost exclusively by Tara. Tara takes Taylor to the local medical centre as she is concerned about her breathing. The receptionist and medical practitioner at the medical centre notice that Taylor is unkempt and unresponsive for a child of her age. These characteristics have also been observed by Tom, Tallulah and Maja. The doctor and receptionist suspect Taylor is neglected, but nobody questions Tony or Tara about this. The doctor diagnoses Taylor as having asthma which requires medication. The doctor writes a script for medication and gives Tara instructions for its use. The doctor also gives Tara some pamphlets about good nutrition. Tara takes the script home and informs Tony. Tony tells Tara that there is no money for medicines and that Taylor will have to cope without the medication. The same evening Taylor has a serious asthma attack and cannot breathe. She is admitted to the local hospital in a serious condition.

Appendix E

Family Law Scenario 2002

Tam is the only child of Trish and Tim. Tam's parents separated when Tam was 18 months old. Subsequently they divorced. Tam is now 7 years old. Tam has always spent the weekends and all school holidays with Tim, whilst living during the week with Trish. In the last two years, Tam has got to know Tim's friend Tom who shares Tim's house. Tim has explained to Tam about future plans, including Tim's intention to undergo gender reassignment surgery. Tim is currently undergoing hormone treatment prior to the surgery. Tam speaks to Trish about Tim's plans. Trish is angry and upset about the plans. Trish calls Tim on the telephone and angrily tells Tim that Tam will not be coming to see him any more at weekends or on holidays. Trish tells Tim that she has taken advice from her religious adviser and that he told her that Tim's plans were completely perverted and that Tim was not a suitable influence for Tam.

Tim is devastated at losing contact with Tam and wants to maintain the previous warm and close relationship with the child. Tim responds angrily to Trish's phone call and indicates that he will seek advice from his lawyer, Tom. Tam is deeply unhappy and thinks that the denial of contact with Tim is a punishment and that Trish and Tim will blame Tam for what has happened. Tam wants to maintain close contact with both Trish and Tim as always. Tim's parents are also upset at the loss of contact with Tam who has always been an integral part of family gatherings and celebrations. They want to safeguard their relationship with their grandchild and wish to stop Trish.

- Who is right in the scenario?
- Who should decide who is right and who is wrong?
- Who should decide what should happen to Trish, Tim and Tam?