

CHAPTER 6

NEED FOR A MECHANISM TO PROMOTE, MONITOR AND REPORT ON COMPLIANCE AND TO IMPLEMENT PUBLIC CONSULTATION PROCESSES

The need to monitor compliance with the Convention

6.1 It could be argued that Australia should be monitoring the well being of its children as an ongoing process irrespective of the ratification of the Convention. The Catholic Commission for Justice Development and Peace expressed the view that children's rights are not about States' rights or political party lines but are about acting responsibly, ensuring compliance with the Convention and improving service delivery.¹

6.2 The Australian Early Childhood Association expressed concern that Australia tended to comply with some treaties and not others and by doing so undermined the efficacy of the international legal framework. They argued that if Australia believed the benefits outweighed the costs, that Australia must be committed to meeting the standards incorporated in the ratified treaties.² It was also argued that the principles in the Convention provide a set of benchmarks against which to assess our progress and provides an opportunity to focus on children's rights and well being.³ The Youth Advocacy Centre commented that in measuring the adequacy of programs and services Australia must ensure that the outcomes do not focus more on their acceptability to adults than a child-oriented approach.⁴

6.3 The Alternative Report to the United Nations Committee on the Rights of the Child stated that no agencies in Australia have been given either the authority, the explicit role or the resources to monitor Australia's compliance with the Convention in an effective way.⁵ It was suggested that there needs to

1 Curran, Transcript Evidence, 9 July 1997, p. 892

2 Australian Early Childhood Association, Submission No. 394, p. S 2209

3 Bayes, Transcript of Evidence, 28 April 1997, p. 78; Jackson, Submission No. 16, p. S 62; Gurr, Transcript of Evidence, 9 May 1997, p. 360

4 Wight, Transcript of Evidence, 1 May 1997, p. 249

5 Defence for Children International Australia (1996) *Australia's promises to children - The Alternative Report*, p. 5

be a monitoring mechanism, funding, political will and evidence of its existence and value in the community.⁶

6.4 The United Nations Committee on the Rights of the Child asked how the Australian Government monitored the implementation of the Convention in the apparent absence of a national and integrated strategy and echoed this concern in its concluding comments.⁷ Ms Rayner commented that the preparation of Australia's Report focused attention on the fact that no body had the responsibility to monitor implementation, that government agencies were not assessing the impact of government policies on children and that children's rights were poorly respected.⁸

6.5 The Attorney-General's Department stated that HREOC already monitors implementation to a limited extent and the Government also relies on this information provided by NGOs, State and Territory governments and Federal agencies to prepare its reports.⁹ The statistical information used in Australia's Report included health statistics from the Institute of Health and Welfare and the Australian Bureau of Statistics, juvenile justice statistics from Institute of Criminology and education statistics from the Department of Employment, Education and Training.¹⁰

6.6 It was argued, however, that it is difficult to determine if Australian children are better off now than they were a decade ago because:

it is very hard to quantify that precisely because there is no real monitoring of the effect of the convention or our compliance with the convention. There is an enormous amount of information available but there is no central focus or responsibility either for collecting that information, for formulating a national action plan or for doing any real analysis of the extent to which we really comply.¹¹

6.7 The Attorney-General's Department commented that there was no national compilation of statistics on children for the purpose of monitoring the implementation of the Convention.¹² The Department added that a

6 Early Childhood Alliance, Submission No. 166, p. S 1107

7 Committee on the Rights of the Child Fifth Session, Pre-sessional Working Group, 27-31 January 1997, *Implementation of the Convention on the Rights of the Child, List of issues to be taken up in connection with the consideration of the initial report of Australia* (CRC/C/8/Add.31), p. 1; United Nations Committee on the Rights of the Child, *Concluding Observations Australia* (CRC/C/SR 403-405, 24-25 September 1997, p. 2

8 Rayner, Submission No. 223, p. S 1474

9 Attorney-General's Department, Supplementary Submission No. 133a, p. S 3355

10 *ibid*, p. S 3356

11 Gurr, Transcript of Evidence, 9 May 1997, p. 356

12 Attorney-General's Department, Supplementary Submission No. 133a, p. S 3356

comprehensive set of indicators based on the principles embodied in the Convention would improve Australia's reporting capacity.¹³

6.8 The Council to Homeless Persons also believed that there is a need to develop economic, social and cultural rights indicators.¹⁴ They suggested that indicators might include measures of children's 'mental well being, their sense of social belonging, social correctness, quality of domestic and neighbourhood environments, availability of leisure and recreational facilities, measurements of social inclusion and rates of participation in decision making and democratic processes'.¹⁵

6.9 A set of indicators is being developed by thirty five international experts and will be available in 1998.¹⁶ The Australian Institute of Family Studies and the Australian Bureau of Statistics are also currently developing indicators to monitor the well being of children and will attempt to measure the children's 'developing sense of responsibility, reciprocity, participation and involvement with their families, their community and with the State'.¹⁷ The data collected should reflect issues from the child's point of view and not that of the parents and service providers as is currently the case.¹⁸ Other initiatives including ensuring that Census data reflects aspects of children's lives could also be included.¹⁹

6.10 The Australian Bureau of Statistics (ABS) collects statistics from the Census of Population and Housing, household surveys and data generated as by-products of the administrative processes of States, such as birth and death registers, educational participation, divorce and police data.²⁰ The ABS is producing a social report on children to be released in 1998 and aims to provide government portfolio and other agencies with accessible statistics for monitoring the effectiveness of child-related policies and programs.²¹

6.11 It was suggested that there need to be a domestic mechanism such as an independent office or officer to monitor compliance with international

13 *ibid*

14 Council to Homeless Persons, Submission No. 74, p. S 372

15 *ibid*, pp. S 372-3

16 *ibid*, p. S 373

17 Australian Institute of Family Studies, Submission No. 363, p. S 2060

18 *ibid*, p. S 2063

19 *ibid*

20 Australian Bureau of Statistics, Submission No. 409, p. S 2429

21 *ibid*

conventions because one cannot rely on government departments or agencies to monitor themselves.²² Ms Evatt also supported the establishment of a permanent body to monitor our compliance and an office of children or children's commissioner could oversee implementation and be responsible for analysing the Convention, its implementation at Federal and State level, receiving submissions and reporting compliance.²³ The Committee believes this role is appropriate for the Office of Children.

Monitoring Federal and State compliance with the Convention

6.12 There have been a number of improvements in compliance with the Convention which are outlined in Australia's report and a number of recent improvements such as the *Tasmanian Children, Young Persons and their Families Act 1997* and the *Youth Justice Act 1997*.²⁴ In South Australia the amendments to the *Adoption Act 1988*, the *Children's Protection Act 1993*, *Consent to Medical Treatment and Palliative Care Act 1995*, reflect the articles of the Convention.²⁵ Although the *Education Act 1972* does not incorporate the principles of the *Convention on the Rights of the Child*, some policies do. Youth South Australia, in the Department for Employment, Training and Further Education, has young people's representation on boards, in local government and participation in the development of a Youth Police Policy.²⁶

6.13 The Parents Rights and Support Group (Tasmania) Inc believed that governments are the main offenders in breaching the Convention.²⁷ The Youth Advocacy Centre Inc also believed that there is very little questioning at the government level in relation to compliance with the Convention unless pressured by the non-government and community based organisations.²⁸

6.14 Suggestions for improvements included a voluntary register for NGOs for inclusion in the consultative progress on compliance, the establishment of an Internet site, formal arrangements for consultation between government, community organisations and young people on the adequacy of the government performance and a permanent body of community organisations to monitor and

22 Burdekin, Transcript of Evidence, 5 August 1997, p. 1291

23 Evatt, Transcript of Evidence, 9 May 1997, p. 400

24 Kaye and Turner, Submission No. 21, pp. S 86-7; Kaye, Transcript of Evidence, 4 August 1997, p. 1078

25 Child Health Council of South Australia, Supplementary Submission No. 151b, pp. S 2583-4

26 *ibid*, p. S 2585

27 Parents Rights and Support Group (Tasmania) Inc, Submission No. 48, p. S 265

28 Wight, Transcript of Evidence, 1 May 1997, p. 249

report on compliance and public monitoring of the administration.²⁹ The current NGO Forum which discusses human rights has no more than 35 members and only one organisation representing a particular interest should be a member at any one time.³⁰ The extent to which this will increase the influence of the NGO community is not yet apparent.

Public reporting on breaches of the Convention

6.15 It was suggested that as part of the monitoring process there should be a mechanism for public reporting of breaches of the Convention.³¹

Public reporting of rights breaches is important in ensuring children, and those who may assist children in protecting these rights, are aware of these processes and educated in the substance of their rights. Public reporting would also assist in educating the general public and those in juvenile justice institutions about the existence and importance of children's rights. This may prevent abuses from the outset as the way our society views what is acceptable treatment of young people changes.³²

6.16 The Scout Association of Australia stressed the importance of transparency and disclosure of information by Government and non-government agencies dealing with the rights of the child.³³ Again the concern was expressed that there is no statutory body responsible for monitoring and reporting publicly on compliance.³⁴

6.17 The Committee envisages that this role would be filled by the Office of Children. We believe that any failure of the Office to fulfil this role would be brought to the community's attention by the NGO groups. The Human Rights and Equal Opportunity Commission has also played a significant role in reporting breaches of the Convention.

29 Executive Council of Australian Jewry, Submission No. 105, p. S 505; Family Support Services of NSW Inc, Submission No. 100, p. S 483; Religious Freedom Institute Inc, Submission No. 103, p. S 495

30 Attorney-General's Department, Supplementary Submission No. 133a, p. S 3367

31 ECPat Australia, Submission No. 13, p. S 52

32 Fitzgerald, Submission No. 562, pp. S 2980-1

33 The Scout Association of Australia, Submission No. 95, p. S 468

34 Defence for Children International Australia (1996) *op cit*, p. 11

Reporting on compliance

United Nations Committee on the Rights of the Child

6.18 Under the Convention, States Parties are required to report on their compliance to the United Nations Committee on the Rights of the Child (CRC). The CRC comprises ten experts representing the international community geographically and culturally.³⁵ Although elected in a personal capacity, current members of the Committee are from Burkina Faso, Brazil, the Russian Federation, Israel, Italy, Indonesia, Lebanon, Sweden and Barbados. The CRC's Chairperson stressed that they are independent of their governments and are totally accountable only to the children of the world.³⁶

6.19 The CRC meets for three months each year to discuss the States Parties reports on compliance and non-governmental organisations alternative reports.³⁷ The CRC has a purely advisory status with little scope to take punitive action against States Parties and it seeks to work with the relevant State Party rather than impose sanctions.³⁸

6.20 Ms Mason, Chairperson of the United Nations Committee commented that:

... the convention was as a result of compromise. It took 10 years for these discussants to reach some sort of consensus on various things. The convention reflects what we call basic minimum standards. It tries to be all things to all people at only a minimum level. How you deal with it and interpret it is entirely up to your own specifications within your own context. Of course, the United Nations Committee on the Rights of the Child are the guardians of those minimum standards. According to the tenets, principles and provisions, if the committee is not of the opinion that those minimum basic standards have been reached, you will be advised.³⁹

6.21 Australia's First Report was submitted to the UN Committee in December 1995, approximately two years late.⁴⁰ The Alternative Report was submitted by the non-government organisations in November 1996.⁴¹

35 Mason, Transcript of Evidence, 3 September 1997, p. 1524; Lamb, Transcript of Evidence, 28 April 1997, p. 8

36 Mason, Transcript of Evidence, 3 September 1997, p. 1524

37 Convention on the Rights of the Child, Articles 43-44

38 Badran H, (Former Chairperson of the CRC) 'A Conventional Approach', *The Progress of Nations*, 1995, p. 29

39 Mason, Transcript of Evidence, p. 1529

40 *Australia's Report under the Convention on the Rights of the Child*, December 1995

6.22 The UN Committee considered Australia's compliance in Geneva on 24-25 September 1997. The Chairman of the Joint Standing Committee on Treaties, Mr Bill Taylor MP, attended the CRC considerations as part of the Australian delegation.

6.23 The UN Committee's views are not binding on Australia but are matters for the consideration of the Australian Government.⁴² This differs from the complaints mechanisms under the *International Covenant on Civil and Political Rights* where specific complaints can be made by individuals.⁴³

6.24 Notwithstanding the fact the concluding comments of the United Nations Committee on the Rights of the Child are only advisory, this process is beneficial because it requires the Australian Government to review its progress at regular intervals, ensures that there is consultation with the States, Territories and the NGOs and provides the opportunity for Australia to become aware of best practice models that are being implemented internationally.

Australia's reports to the United Nations Committee on the Rights of the Child

United Nations Committee Membership

6.25 In particular, concerns were raised in relation to the capacity of the United Nations Committee on the Rights of the Child to determine what is best for Australian children.⁴⁴ A number of submissions were critical of the United Nations describing it as corrupt, selectively influenced by NGOs, representing nations with dubious commitment to human rights, including many nations whose governments are oppressive and tyrannical⁴⁵ and members represented countries which were not democracies.⁴⁶

6.26 Professor Triggs was of the view, however, that the UN Committee comprises some of the highest international jurisprudential lawyers that one has in the international community and therefore is of the proper calibre to consider

41 Defence for Children International Australia (1996) *op cit*

42 Campbell, Transcript of Evidence, 28 April 1997, p. 22

43 *ibid*, p. 23

44 Francis, Submission No. 3, p. S 10

45 Francis, Transcript of Evidence, 10 July 1997, p. 1000; Call to Australia, Submission No. 179, p. S 1210

46 Francis, Transcript of Evidence, 10 July 1997, p. 1005; Call to Australia, Submission No. 179, p. S 1217; Phillips, Transcript of Evidence, 4 July 1997, p. 804

these questions.⁴⁷ Action for Children also believed the individual members of the United Nations Committee have a high regard to their duties, a sense of integrity and a real commitment to the issues in front of them.⁴⁸ It was argued that they do not represent countries and are very serious about maintaining their distance from their governments.⁴⁹

6.27 Ms Evatt suggested that a report to the international body at four or five year intervals will not pick up a lot of detail and the UN Committee will tend to focus on framework issues.⁵⁰ The role of the CRC is that of an experienced outside group looking at the application of the treaty in different countries and not as an extra tier.⁵¹ Further, if the Australian Government was dissatisfied with the activities of the UN Committee, it could take the matter to the other States Parties because the power lies with the sovereign entities which have ratified the treaty.⁵² The difficulty lies at the political level in convincing other States Parties to support the view's of the State Party rather than at the legal level.⁵³

6.28 The Department of Foreign Affairs and Trade commented that the United Nations Committee on the Rights of the Child is supported by people with technical expertise to go through the reports and seek further information from other sources such as UNICEF and ILO reports.⁵⁴ The United Nations Committee was put in place to assist governments to meet minimum standards and to note the progress and difficulties in achieving those standards.⁵⁵ Ms Mason explained that the UN Committee is working in the interests of parents and children themselves and the wider community.

The members of the committee are realistic. They recognise that things like poverty, ill-health and unemployment exist in every society. They also recognise that within every country there are certain factors that are special to the country and that prevent it from realising the requirements of the

47 Triggs, Transcript of Evidence, 10 July 1997, p. 1023

48 Dolgopol, Transcript of Evidence, 4 July 1997, pp. 679-80

49 *ibid*, p. 680

50 Evatt, Transcript of Evidence, 9 May 1997, p. 403

51 *ibid*, p. 404

52 Triggs, Transcript of Evidence, 10 July 1997, p. 1025

53 *ibid*, p. 1026

54 Ivkovic, Transcript of Evidence, 28 April 1997, p. 25

55 Mason, Transcript of Evidence, 3 September 1997, p. 1533

convention. As a consequence, the committee looks at each country according to its own problems, according to the resources it has.⁵⁶

6.29 Notwithstanding the advisory capacity only of the UN Committee, there were still community concerns about the pressure that will be exerted on Australia to comply with rulings from a foreign committee.⁵⁷ Some saw the questions from the UN Committee as a challenge to Australia.⁵⁸ Festival of Light supported a model of declarations which states a set of values but is not an attempt at enforcing at international law rather than a binding Convention.⁵⁹

6.30 Ms Mason added that:

I have not got the feeling that any country has been uncomfortable with anything to do with the convention. What I certainly have recognised is that every country wants to do right by its children and every country has done something in relation to the Convention on the Rights of the Child. There is a sort of avid enthusiasm that I perceive when the various countries come in contact with the committee and we get an opportunity to discuss. Countries, after having that face to face discussion, recognise that here are 10 persons who are genuinely interested, who are not policing any state in relation to their obligations under the convention, but that there is a genuine interest to reach the same goal that those politicians, those NGOs, those people, those children within the country seek for the children of their country.⁶⁰

6.31 Professor Kolosov explained that the State Parties' delegations had the final say after the preliminary oral concluding comments were made and could refer to anything that may not be accurate, or if there was a misunderstanding, or if further discussions were needed.⁶¹ He added that the last word in meetings was from the delegations and there was the possibility of continuing the discussion if the delegation was not satisfied.⁶²

Australia's First Report

56 *ibid*, p. 1541

57 Phillips, Transcript of Evidence, 4 July 1997, p. 801; The Community of Family Rights Council, Submission No. 416, p. S 2493

58 Eglinton, Submission No. 414, p. S 2473

59 Phillips, Transcript of Evidence, 4 July 1997, p. 804

60 Mason, Transcript of Evidence, 3 September 1997, p. 1539

61 Kolosov, Transcript of Evidence, 3 September 1997, p. 1539

62 *ibid*

6.32 Australia's report is the largest so far submitted to the CRC⁶³ and the UN Committee commented that:

The Committee expresses its appreciation to the State Party for its extensively detailed report, which has been prepared in full conformity with the Committee's guidelines, and for the submission of written replies to the list of issues ... The Committee notes with satisfaction the constructive and open dialogue it has had with the delegation of the State Party, and the detailed replies it received from the delegation during the dialogue. The Committee also notes the supplementary information provided by the delegation during and following the consideration of the report. The Committee regrets, however, that the State party did not include full information in its report on the External Territories that are administered by it.⁶⁴

Lack of consultation

6.33 The report was written by the International Human Rights Section (now in the Office of International Law) within the Attorney-General's Department. The process involved the Standing Committee of Attorneys-General and a hundred different State, Territory and Commonwealth agencies.⁶⁵ The UN Committee questioned the Australian Government about the extent to which the non-governmental organisations were involved and the work undertaken by the forum for NGOs.⁶⁶ The UN Committee's guidelines for country reports requires a process that encourages and facilitates popular participation and public scrutiny of government policies.⁶⁷

6.34 Throughout the Inquiry, the Joint Standing Committee on Treaties was told that a number of organisations were not involved in the preparation of either the Government or the NGO reports.⁶⁸ The Ethnic Child Care, Family and Community Services Co-operative Ltd commented on the lack of consultation with people from Non-English Speaking Backgrounds in the preparation of Australia's report and that there is no mention in the General Measures of Implementation of the cultural, linguistic and religious needs of the

63 Mason, Transcript of Evidence, 3 September 1997, p. 1526

64 United Nations Committee on the Rights of the Child, *Concluding observations Australia* (CRC/C/SR 403-405) 24-25 September 1997, p. 1

65 Campbell, Transcript of Evidence, 28 April 1997, p. 14

66 Committee on the Rights of the Child Fifth Session, Pre-sessional Working Group, 27-31 January 1997, *Implementation of the Convention on the Rights of the Child, List of issues to be taken up in connection with the consideration of the initial report of Australia* (CRC/C/8/Add.31), p. 1

67 The United Nations Association of Australia, Submission No. 38, p. S 210

68 For example Whitaker, Transcript of Evidence, 1 May 1997, p. 311; Ozchild: Children Australia, Submission No. 413, p. S 2469; Barnardos Australia, Submission No. 101, p. S 486

NESB children and young people who constitute 20 per cent of the population.⁶⁹ Further, they added that Australia's Report:

... does not include any information or services which are provided by the NGO often without any government assistance ... It does not reflect or provide some of the programmes which are funded by various State and Federal government departments to make the services relevant and accessible to special needs groups.⁷⁰

6.35 It was suggested that an Office for Children could take over the report preparation role that currently lies with Attorney-General's Department.⁷¹

Lateness of the report

6.36 Concern was expressed by a number of groups about the lateness of Australia's Report. The Family Law Council commented that the 2 year delay in preparing Australia's Report suggested that a low priority is given to the Convention in Australia.⁷² Ms Rayner described the delay as a disgrace and indicative of the Commonwealth's lack of acceptance of real responsibility for our obligations to children.⁷³

6.37 The Deputy Chairperson of the UN Committee explained that the majority of States Parties reports were submitted late.⁷⁴ As of 6 June 1997, the CRC had received 107 initial reports and examined 77 of these.⁷⁵ The Committee notes that in February 1995, 35 countries were more than 2 years late in submitting their reports and 21 were more than a year overdue.⁷⁶ The lateness of reports varied from a few months to several years.⁷⁷

69 Ethnic Child Care, Family and Community Services Co-operative Ltd, Submission No. 125, p. S 663

70 *ibid*

71 O'Reilly, Transcript of Evidence, 10 July 1997, p. 1036

72 Family Law Council, Submission No. 178, p. S 1190

73 Rayner, Submission No. 223, p. S 1474

74 Kolosov, Transcript of Evidence, 3 September 1997, p. 1540

75 Attorney-General's Department, Supplementary Submission No. 133a, p. S 3351

76 United Nations background note, Children's Rights, <http://www.un.org/rightsdpi176se.htm>

77 Attorney-General's Department, Supplementary Submission No. 133a, p. S 3351

Dissemination of Australia's Report

6.38 Under Article 44 of the Convention Australia is required to make its report widely available to the public. Twelve hundred copies of the report were printed and 900 have been distributed.⁷⁸ The Report is also available on the Internet. The Ethnic Child Care, Family and Community Services Co-operative Ltd believed the reports should be made widely available to youth, welfare, health, social and other organisations and encourage input into the drafting process.⁷⁹

Contents of the report

6.39 The Children's Commissioner of Queensland described the Report as a comprehensive document:

... which, while providing avenues for criticism in some areas, provides an excellent vehicle for future development and alignment with the Convention. It provides a detailed account of each element of social and economic impact, which each major Department or instrumentality of Government has on the life of 'the child' in Australia. In a chronicle context, it lists some 235 Federal and State Acts of Parliament, which could be impacted, in some manner, by the Convention.⁸⁰

6.40 A number of groups were critical of Australia's Report stating that it was not 'user friendly'. It was also criticised for describing the *status quo*, lacking analysis, commentary, critical assessment and indications of the shortcomings in performance, being devoid of input by children and serving the interests of governments rather than children.⁸¹ Professor Charlesworth described the report as peculiarly bland with absolutely no analysis at all which was deficient in comparison with some of our other treaty reports which are first rate and are quite critical and self-reflective but this Report does not acknowledge that there are any problems in Australia.⁸²

6.41 The Human Rights Council of Australia Inc described the Report as descriptive with no independent collection of material, no involvement of non-

78 Campbell, Transcript of Evidence, 28 April 1997, p. 15

79 Ethnic Child Care, Family and Community Services Co-operative Ltd, Submission No. 125, p. S 664

80 Children's Commissioner of Queensland, Submission No. 25, p. S 135

81 Defence for Children International Australia (1996) *op cit*, p. 14; Defence for Children International, Submission No. 120, p. S 594; Turner, Transcript of Evidence, 14 August 1997, p. 1425; Jackson, Transcript of Evidence, 3 July 1997, p. 584

82 Charlesworth, Transcript of Evidence, 29 April 1997, p. 166

government agencies or public consultation, not freely available to the public and with inadequate resources available for its preparation.⁸³ Australia's Report does not provide an analysis of the success or otherwise of the legislation and policy relevant to children's rights.⁸⁴ It was suggested that there should be adequate and publicly accountable reporting mechanisms which involve the non-government sector and children themselves.⁸⁵

The Alternative Report

6.42 Non-government organisations can deal directly with the United Nations Committee on the Rights of the Child and may provide an alternative report.⁸⁶ The Alternative Report was prepared by the Defence for Children International (DCI) and submitted to the CRC in October 1996 and was considered at the same time as Australia's Report. Over 200 individuals representing 114 Australian NGOs participated in the preparation of the Alternative Report.

While this Alternative Report may be demonstrative of a level of frustration and concern at the level of consultation with the non-government organisations, entered into by the Federal Government, in preparing their Report to the UN on the Convention on the Rights of the Child, the predominant issue is, that Australia has two major participants in the delivery of service and justice to children, the public and the private sector, ready and willing to make a full and professional contribution to the reporting process as well as the implementation of the Convention.⁸⁷

6.43 The NGOs considered the Alternative Report was necessary because of the lateness of Australia's Report; the lack of community consultation; and the frustration at the perceived lack of the Government commitment to the Convention.⁸⁸ National Legal Aid believed that the Alternative Report presented the necessary distinction between 'political debate on, and the reality of, children's rights and responsibilities'.⁸⁹

6.44 The Alternative Report was strongly supported throughout the Inquiry by the NGOs, but some others were also critical of this report. Professor

83 Human Rights Council of Australia Inc, Submission No. 122, p. S 616

84 Australian Catholic Social Welfare Commission, Submission No. 124, p. S 651

85 Human Rights Council of Australia Inc, Submission No. 122, p. S 617

86 Attorney-General's Department, Supplementary Submission No. 133a, p. S 3349

87 Children's Commissioner of Queensland, Submission No. 25, p. S 135

88 Defence for Children International Australia, *op cit*, p. 9

89 National Legal Aid, Submission No. 106, p. S 515

Charlesworth was disappointed that the Alternative Report only made general comments and that it did not work through the Convention in a systematic way.⁹⁰ The Australian Family Association (Western Australia) did not agree with the Alternative Report and objected to the Commonwealth Government providing \$12 000 to Defence for Children International to 'dump' on Australia.⁹¹ They submitted that some of the statements in the report were inaccurate such as claiming that no government departments have the words 'child' or 'children' in its title.⁹²

6.45 Australia's Report and the Alternative Report were considered together and in conjunction with information from a variety of other sources such as special rapporteur, information from UNICEF, and ILO reports on child labour.⁹³ It was suggested that both reports had a particular and legitimate role to play as the Australia's Report reflected a top-down perspective, while the Alternative Report reflects a 'bottom-up or coal face derived understanding'.⁹⁴

6.46 The Ethnic Childcare, Family and Community Services Cooperative expressed the view that the presentation of Australia's Report and the Alternative Report makes Australia look uncoordinated internationally.⁹⁵ Professor Triggs commented that Australia has voluntarily chosen to allow the UN Committee to consider and report on the position in Australia and we are within our rights to withdraw that power on the part of non-government organisations and individuals in Australia to do so.⁹⁶ She added that the resulting possibility of criticism of Australia is a consequence of that process, and that Australia's continual exposure to that kind of reporting and criticism is a matter of policy.⁹⁷

6.47 In its concluding observations on Australia, the United Nations Committee on the Rights of the Child recommended that Australia's interactions with the UN Committee be made widely available to the public in order to generate debate and awareness of the Convention, its implementation and

90 Charlesworth, Transcript of Evidence, 29 April 1997, p. 166

91 Barich, Transcript of Evidence, 3 July 1997, p. 644

92 *ibid*, p. 643

93 Ivkovic, Transcript of Evidence, 28 April 1997, p. 25

94 Children's Commissioner of Queensland, Submission No. 25, p. S 136

95 Germanos-Koutsounadis, Transcript of Evidence, 9 May 1997, p. 371

96 Triggs, Transcript of Evidence, 10 July 1997, p. 1022

97 *ibid*

monitoring within the Government and public, including concerned non-government organisations.⁹⁸

Australia's next report

6.48 In relation to Australia's Report, Ms Mason made the comment that Australia's First Report outlines the status quo and subsequent reports will reflect the progress.⁹⁹ The Attorney-General's Department commented that it will take on board suggestions to improve the reporting process for the next report which will be due 5 years after the first report was submitted. The second report will be confined to significant changes in law, policy and practice.¹⁰⁰

The Committee's views

6.49 The Committee believes that the reporting process could be greatly improved by introducing a coordinated system in which the report could be developed by a task force, or committee comprising the relevant government officials at the Commonwealth and State and Territory levels, NGOs and young people. We believe that Australia's second report should not merely be a compilation of material supplied by government departments. This revised process would provide an opportunity to assess the success of a number of initiatives that have been introduced or will be introduced before the report is due and to provide a national focus on services and opportunities for children.

6.50 Notwithstanding that the UN Committee's findings are advisory only, we believe that Australia should be monitoring the well being of its children as a matter of course. Much of the monitoring must be performed in assessing the adequacy and performance of government and non-government programs and policies. We note that much of the information is already available from government departments, statutory authorities, research institutions and non-government bodies. It is a matter of collation and analysis of this material in a manner which is useful at the national level for the development of policies and strategies which meet Australia's obligations under the Convention.

98 United Nations Committee on the Rights of the Child, Concluding observations Australia (CRC/C/SR 403-405) 24-25 September 1997, pp. 5-6

99 Mason, Transcript of Evidence, 3 September 1997, p. 1524

100 Attorney-General's Department, Supplementary Submission No. 133a, p. S 3350

Recommendation 27

The Joint Standing Committee on Treaties recommends that the Government develop a coordinated mechanism for ongoing monitoring of the implementation of the Convention.

6.51 An assessment of this type will provide an opportunity to determine the adequacy of data collection and the appropriateness of indicators of children's well being. We support the view that Australia's reporting under the Convention would be greatly improved if there was a comprehensive set of indicators drawn from statistical sources. An assessment can also be made of the improvements in terms of a national approach in many portfolio areas. This information would provide a sound basis for developing strategic plans and measuring the effectiveness of programs and policies at the national level.

6.52 There was a concern expressed, however, that some parents believed that monitoring the implementation of the Convention extended to the relationship between parents and their children. This issue would need to be clarified if a monitoring body was to be established.

6.53 The evidence to this Inquiry indicated that there needs to be greater cooperation and coordination between various government and non-government agencies at State, Territory and Federal levels, providing services to children in the preparation of Australia's next report. The involvement of non-government organisations and children in a review of Australia's progress will provide a forum for discussion and interchange of ideas on important aspects of Australia's implementation of the Convention.

6.54 Although the final responsibility for the contents of the report lies with the Federal Government, we believe that a single report from Australia incorporating the concerns of the NGOs is desirable and achievable. Greater input into Australia's reports from the NGOs and young people should lead to greater consensus and may remove the need for an alternative report. An improved monitoring process should also alleviate the need for two reports as this will quantify the improvements and the difficulties thus reducing the opportunities for perceptions on both sides to result in subjective conclusions.

6.55 Once this information is available, we consider therefore that the provision of a report to the United Nations Committee on the Rights of the Child will add little additional burden on Australia. The National Children's and Youth Law Centre commented that Australia should accept the requirement

of the *Convention on the Rights of the Child*, to critically analyse our performance and avoid technical obfuscation and political point scoring.¹⁰¹

6.56 The Committee believes that there should be a public reporting mechanism to publicise breaches of the Convention. This could be a function of an Office of Children, or could be specifically assigned to the Human Rights and Equal Opportunity Commission.

6.57 The Committee believes that the availability of adequate statistical information and the monitoring of appropriate indicators of children's well being will enable the next Report and future policy development to be based on a thorough analysis on the improvements and difficulties in relation to Australia's compliance.

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