
INTERNATIONAL ASSOCIATION OF YOUTH AND FAMILY JUDGES AND MAGISTRATES
ASSOCIATION INTERNATIONALE DES MAGISTRATS DE LA JEUNESSE ET DE LA FAMILLE
ASOCIACION INTERNACIONAL DE MAGISTRADOS DE LA JUVENTUD Y DE LA FAMILIA

CHRONICLE

CHRONIQUE

CRÓNICA

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EDITORIAL

DEAD MEN WALKING

The Bulger Killers Are Released – But To What Future?

Introduction

At 3.39pm, on 12 February 1993, a surveillance camera in the Bootle Strand shopping centre on Merseyside, Liverpool, filmed Robert Thompson and Jon Venables, both aged 10, taking James Bulger, aged 2, by the hand from outside a butcher's shop. With James in tow the pair left the Strand filmed by the CCTV cameras. They then walked two and a half miles to a railway line. The two older boys abused and battered the baby, dropped him on his head, threw bricks at him, poured paint into his eyes, hit him with iron bars and left his body on the tracks to be cut in half by a goods train. There were allegations that they had sexually abused the baby.

Crown Court Trial

In most other European countries such young children would be considered below the age of criminal responsibility and would be dealt with by way of care proceedings. In Britain, children aged ten and over, who are guilty of serious offences, like murder, are tried in the adult Crown Court.

In November 1993, Thompson and Venables, now aged 11, went on trial in Preston Crown Court. In a tabloid frenzy the two were compared to Myra Hindley¹ and Saddam Hussein. They ran a daily gauntlet of enraged crowds shouting "Kill them, Hang them" and hurling stones at the prison vans. The trial judge ruled that, despite their age, their names should be made public. The parents of both boys were driven out of their homes and forced to move

¹ A serial child-killer : Known as 'the Moors murderer' .

to other parts of the country and change their names.

Trial by Jury

The boys were tried by a jury in a public courtroom packed with hostile spectators and the world's media. The judge and the barristers removed their wigs and made other small concessions to the youth of the two defendants. The dock was raised with the intention of letting the boys see what was going on. However, this had the effect of increasing their discomfort as they now sat on raised seats with their feet unable to reach the floor. They felt exposed to the scrutiny of the press and the public.

The European Court of Human Rights was later to rule that the boys found the trial "distressing and frightening" and that "given their immaturity and disturbed emotional state" were in no position to cooperate with lawyers or to give them information on which to build a defence.

Boys found guilty

The boys were found guilty. The trial judge, Mr Justice Morland, compounding his earlier error in ruling that the names be published, expressed the view that the boys were evil, thus reinforcing the tabloid press hate campaign. He sentenced them to life imprisonment, with a recommendation that they serve a minimum of eight years. This was increased to 10 years by the then Lord Chief Justice, Lord Taylor. The then Home Secretary, Michael Howard, reacting to the press campaign, increased the tariff to 15 years. The Law Lords later ruled that Mr Howard had acted unlawfully when he raised the boys' tariff in response to pressure from the media.

European Court Ruled Trial Unfair

On the 15 March 1999, the European Commission Of Human Rights concluded that the trial of James Bulger's killers had been held in a "highly charged" atmosphere, which led to

an unfair judgment. The commission ruled by 14 votes to five that there had been a violation of Article 6 of the European Convention On Human Rights regarding the fairness of the trial.

On the 16 December 1999, the European Court Of Human Rights echoed the Commission conclusion when 17 judges ruled that the boys had not received a fair trial.

What kind of boys were they?

Back in 1993, Robert Thompson and Jon Venables appeared not much different from thousands of other inner-city working-class kids. A senior police officer responsible for arresting more than 60 local boys in the days after the murder, said many appeared more damaged and likely to commit serious violence than either of the guilty duo.

Difficult families

Both were from "difficult" families. Robert Thompson was the fifth of six children whose violent father suddenly left with another woman. His mother, Ann, herself the victim of childhood violence, had become a violent alcoholic. Two of Robert's older brothers were put in care, and one attempted suicide. By any measure, they were a family in crisis.

Jon Venables's parents had also split up, possibly under the pressure of having two other children with learning difficulties. Jon himself felt he got little attention compared to his brother and sister. He was bullied at school and he began to display very disturbed behaviour, cutting himself and his clothes and tearing work from the walls. When he tried to choke another boy with a ruler, the best the system could do for him was to transfer him to another school. There, Jon made a friend, another outsider who had also been held back a year for under-achievement, Robert Thompson.

In their final term together, Robert and Jon played truant for more than a third of the time.

They were running wild and stealing from shops. Robert would sometimes stay out all night in a secret den by the railway line, well away from the adult world that had failed him. It's an irony that the welfare state only moved to rescue Robert and Jon after they had committed murder.

The one who did not cry

Despite being much the smaller of the two boys many of those close to the case believed that Robert Thompson was the prime mover in the murder. He became known during the trial as "the one who did not cry" as he stared unblinkingly back at those staring at him from the press bench. He refused to accept any responsibility for the murder despite the blood found on his shoes and the confession of Jon Venables. He showed no signs of remorse and failed to react as a confused child leading to the press treating him with the contempt and hatred usually reserved for sex criminals and adult child killers and regarding him as evil incarnate.

Venables, on the other hand, confessed to his part in the murder and cried continuously throughout the three-week trial, pleading for someone to tell the baby's mother that he was sorry.

Calls for punishment

When found guilty of murder, the two boys were still only 11 years of age. Despite the fact that they were barely old enough to face any criminal charge the tabloid press demanded punishment and insisted that the boys be taken to a Young Offenders Centre. Young Offenders Centres are prison-like establishments.

Sent to "Secure Units"

Because of their age, the boys were taken to Secure Units where the focus is on welfare and not punishment. They were held in separate Secure Units and had no contact with one another after leaving Preston Crown Court.

There are around twenty four secure units in England and Wales, run by local authorities, which look after the 300 worst child offenders - many of them more of a danger to themselves than to others. Their mission is not to punish but to prepare children to rejoin society safely.

Unlike other aspects of the prison system, secure units are a shining example of how to deal with the most troubled and troublesome young people. There are comfortable rooms with computers and Gameboys. Some units have swimming pools and gyms. Education is full-time and intensive, with teaching ratios as low as one to four. There are personal care workers and, where necessary, psychiatric help. It's all very expensive: between £150,000 and £250,000 (\$225,000 to \$375,000) per child per year.

Those who refuse to knuckle down are likely to be transferred to the more prison-like regime of a young offenders' institute. But those who respond positively are rewarded: regular pocket-money, cash to spend on birthdays, and at Christmas. More controversially, for a system which maintains that they are punishing child offenders by locking them up, one of the rewards is increased "mobility" - time out of the unit. Robert Thompson progressed so well that he was allowed out under supervision, often once a week, for years.

Research shows most children who commit violent offences are themselves victims of physical or emotional abuse. Inside secure units, often for the first time, they encounter structure, care, consistency and discipline. It builds up their self-esteem and it works. Re-offending rates for those released are lower than for the Young Offenders' Centres. But it's not a success the Government, publicly committed to being 'tough on crime', wants to trumpet.

Both boys made good progress

Thompson was described as verbally abusive and threatening in his first two years but then

settled down, spending a lot of time on the computer and helping staff feed the unit's animals and birds. He became a keen gardener. He progressed well in his education and demonstrated an aptitude for design and the use of textiles. He spent weeks designing and making a wedding dress on a mannequin in his room. It was many years before he could talk about his offence, and not until 1997 that he finally admitted his part in it. He became a thoughtful young man who cared for younger inmates.

Cause for celebration

By all accounts, both boys have matured impressively over the past eight years and four months. Written off as educational no-hopers, both have achieved remarkable educational success. Most important, both expressed genuine remorse for killing James Bulger. Against a backdrop of escalating youth crime and grim young offenders' institutions, the transformation of Robert Thompson and Jon Venables into educated, repentant young men is a beacon of what a decent society should aspire to. This should be a cause for celebration as we release them back into the community. Not in Britain!

Hate campaign

The hate campaign mounted by the media intensified following the ruling by the European Court of Human Rights in 1999. When Lord Justice Woolf reset the tariff at eight years (as originally determined by the trial judge) Michael Howard, who had raised the tariff to 15 years in response to media pressure after the trial, spoke of "unparalleled evil". There were calls for the boys to be allowed to 'rot in jail'. There were threats from vigilantes that, if they were released, they would be 'hunted and hounded'. They would be 'got in the end'.

Granted anonymity for life

In January 2001, Dame Elizabeth Butler-Sloss, President of the Family Division of the High Court, said that there was "a real possibility of serious physical harm and possible death from

members of the public or from the Bulger family". She ruled that the boys should be granted anonymity for life. Her decision was greeted with headlines in the media "Sick!" and "Justice Betrayed!"

Calls for vengeance

The popular press recounted the gory details of how the baby's life had been so brutally brought to an end. This was contrasted with tales of a life devoted to pleasure and luxury over the past eight years with the killers, labelled "two of the most infamous criminals ever known in Britain", permitted to see videos and watch Shakespeare, when natural justice should decree a life spent in some dark dungeon or death at the hands of vigilantes. There were calls for hard men to sculpt their own justice in the face of a state which had gone soft.

No voice raised to support anonymity

The impending release of the two boys should have been a milestone on the road to justice, a triumph for rehabilitation over punishment. It should have been an achievement in which we could all rejoice. And yet, not one political voice – not the Prime Minister, not the Home Secretary – was raised to counter the cries for vengeance in the debate that followed the correct decision to give the boys anonymity on release.

An uncertain future

The detailed preparations for the release of Jon Venables and Robert Thompson were years in the planning. They were called by their new names for several months before their release. They not only have new names but new homes, new passports, new national insurance and social security documents. They also each have a detailed new past, thoroughly researched and finely crafted.

All the arrangements for the release were worked out in painstaking detail by the "dangerous offenders' unit" in the Home Office.

The officials drew on the experience of the police's successful witness protection programme to give the two boys, who will be 19 in August, and their immediate families, a whole new life.

Adjusting to a 'new world'

Once they stepped outside the door of the secure unit where they had been held, their identities as Venables and Thompson, the two 10-year-old boys who murdered James Bulger, disappeared from the public record. They were taken to separate "halfway houses" at undisclosed locations where their transition into the community will continue to be strictly supervised.

At the 'safe house' they will receive counselling, and help with the psychological difficulties of adjusting to the problems of living in the modern world from which they have been sheltered in the last eight years and four months. They may even get help with practical things like shopping. Their visits to shopping centres in Manchester and Sheffield, to football matches and to the theatre which have taken place while they have been locked up in the social services secure units will have helped to prepare them to return to the community.

The years in the secure units have meant that both youths have lost their strong Liverpool accents. In the case of Thompson, the resettlement programme is expected to include a name change and new identity for his mother who has remained close to him. Both Jon Venables's parents, who have also provided constant support during his time inside, will take part in the resettlement process, sharing their son's new identity.

After a period in the safe houses, they will move to new homes to live with their families.

Stringent parole conditions

The legal terms of their parole will mean they will face the most stringent licence conditions for the rest of their lives. They have been banned from approaching the Bulger family as

well as from associating with each other and from returning to Liverpool. They will face almost daily supervision involving some of the most experienced and senior probation officers in Britain. It is thought no more than a handful of people will know their true history.

Their new names will have been flagged on all confidential police computer databases. If they are stopped by the police for any reason the local chief constable and a special Home Office unit at prison service headquarters in London that deals with lifers released on licence will be immediately informed. Ministers will get regular reports on their progress, including on their emotional state. If they commit a serious motoring offence or even start drinking heavily they could face the threat of recall to prison.

Their new homes will have a hotline to the local police station in the event of any signs of vigilante action. Any fears that their new identities had been in any way compromised could result in the whole process starting all over again with new names, new life histories and new homes and jobs.

Protection is limited

How long can the shield of anonymity be maintained in the face of organised groups discussing how to track them down and publishing their details on the Internet? The High Court injunction against their identification will exist for as long as it is necessary to keep their new identities secret, but it only covers England and Wales. It does not extend to Scotland or Northern Ireland. And, of course, it does not cover the Internet. A "Justice for Jamie Bulger" web site drew 2000 signatures on its first day with messages and threats that the two would be hunted until they were either killed or killed themselves.

Nor does the injunction extend to the foreign media. There is enormous interest in the Bulger case abroad and newspapers and magazines in Europe and the United States are not bound by the strict legal rulings that control the British press. Magazines in France, Hol-

land, Italy and Spain are offering up to £35,000 (\$52,000) for a recent photograph of either of the two boys. These magazines will easily find their way into England.

Freedom is no soft option

Freedom is no soft option for these boys. They face many problems in building a normal adult life - living with the constant fear of discovery.

Living a lie

Having spent eight years being encouraged to become honest young men and exhorted to face up to their responsibility for James's death, they will now be forced to lie about who they are and what they've done - because dishonesty about themselves is the only way in which they can survive in a society where there are people who have said that they should die.

Any relationship, from friendship to romance, will always be tainted by their need to conceal their past for fear of exposure and the murderous hostility it might trigger - or simply from fear that the relationship, no matter how loving, could never survive such a revelation.

The authorities will monitor their every move closely, despite all we've heard about them being given new identities and "disappearing". They are highly unlikely ever to kill again - the serial killer is a very rare being and more than 80 per cent of those convicted of murder never kill again. The authorities, however, will take the view that not the slightest risk should be taken if they ever come in close contact with children - even their own.

So, a lifetime of constant fear, of friendships based on lies, of no family or roots to return to and a possible marriage where the essential ingredient of trust will always be lacking - it's hardly the stuff that dreams are made of. There will be times when they will wish that they had been locked up for the rest of their

lives. Instead they are forced to live in a mental prison, from which they will never be able to escape. Fear and deceit will now be their jailers.

Civilised Britain prides itself in not having the death penalty and shudders at America's lack of clemency as an endless stream of prisoners make their way to the death chamber. We tut-tut at the public execution of Timothy McVeigh and express our horror at George Bush's ignoble record as Governor of Texas.

Does the absence of the death penalty make us any less barbarous? Not when a brutal and misguided minority sees Robert Thompson and Jon Venables, punished now and hopefully redeemed, as 'dead men walking'¹. Any civilised nation, anywhere in the world, would cringe over the punishment we are inflicting on these young men.

A leading campaigner for "Justice for Jamie", said "There will be a witch hunt. There will be someone out there of the mentality to say 'I will be the one to kill the Bulger killers' because that is the kind of society we live in".

We are, deep down, happier with the concept of evil than redemption. Wickedness, whether bred-in-the-bone or a contagion affecting the troubled and the deprived, is a convenient, catch-all notion that masks any need to explain the inexplicable. Unable to understand what drives 10-year-old boys to murder we brand them 'evil' and lump them in with the gallery of the tainted from Pol Pot to Slobodan Milosevic, grateful that we, and our children, are immune to such poison. Redemption is an anathema

The real test of our society will come when, as seems inevitable, Thompson and Venables are unmasked.

Willie McCarney, Editor

¹ Percy's obscene words in the film "The Green Mile" which graphically tells the story of America's 'death row'. Percy led a prisoner into death row crying "dead man walking".

THE SISTER FAMILIES PROJECT

LATIN AMERICAN JUDGES

SEEK SUBSTITUTE FAMILIES FOR YOUNG CHILDREN

Lloyd Young

UNICEF reports there are over 100 million abandoned children in the world, probably 40 million of these are in Latin America. For over 300 years it has been the tradition of the juvenile justice system to automatically send even young children into institutions. Here, for lack of a vital maternal presence, the young child will be permanently, emotionally damaged.

Under an international project sponsored by European and North American Rotary and Lions Clubs, and by the Rotary Foundation, Brazilian, Central American and Mexican children from 0 to 5 years of age are being effectively placed under guardianship with families drawn from Latin American church communities. Latin American Rotarians and Lions are helping Juvenile and Family Courts to find quality substitute families, qualifying them by sending professional social workers to prepare social studies of candidate families who also periodically confirm the well-being of the child to the court. Volunteer Rotary and Lions Attorneys and physicians help as well.

For twenty years, it has been my privilege to work with juvenile and family court magistrates in Brazil and more recently in Central America and Mexico. Not being a judge nor lawyer, I bring to this experience only a layman's perspective. However my Rotary colleague Loren Harper and I do care very much about abandoned children and we have been trying to work closely with the juvenile/family courts to find substitute Latin American families for some of these young children.

In 1997, arising from the vision of Rotary International's President, Luis Vicente Giay of Argentina and that of Lions International's

President Augustin Soliva of Brazil, an agreement was signed calling on the world's two largest service club organizations to work together in volunteer social projects. SISTER FAMILIES is the first international project to receive such broad support.

When I was asked to prepare a report for international juvenile and family court judges, it was my feeling that judges themselves would be best able to understand the inner turmoil of Latin American magistrates of family and juvenile courts as they seek to transform a long tradition of institutionalising young children who have been separated from their families. It is important to acknowledge that this report does not claim to be an exhaustive study. Our work with Latin American juvenile justice systems has been limited to relatively few jurisdictions in Brazil, Central America and Mexico. We have sought to assist dedicated jurists who earnestly wish to improve the plight of young children who are presently being warehoused in institutions.

The judges are themselves working with technical court staffs who were educated in schools oriented to institutional care of children. Even if a judge decides to provide substitute families instead of institutionalising them, a major task he or she then faces is to convince his or her staff to change their habitual ways of responding to cases which come to their attention, which means automatically sending the child into an institution.

In Latin America, the juvenile or family court judge is a victim of a 300-year tradition in which he or she is expected to cooperate with a huge system of government and private institutions who care for children who have been

separated from their original families. These institutions receive very substantial budgets to warehouse children in institutions. At times these institutions are threatened by a judge's vision of placing young children with substitute families.

When a young child falls under the jurisdiction of a family court, in most cases, the judge's staff routinely prepares a judicial order sending the child into an institution. The judge, whose actions are sometimes controlled by his staff, due to heavy work schedules, is not expected to question the document placed on his or her desk for signature. Once a child is institutionalised, it is not easy, even for a judge, to secure release of the child under guardianship (which is the judicial order we seek, under the SISTER FAMILIES project).

The institutions are part of a huge bureaucracy with enormous financial and political resources. Even though judges gain their appointments through competitive examinations, and theoretically "separation of the powers" exists, the judge is not immune to professional, political and financial pressure to "not fight the system." There are many jobs and a great deal of money at stake in the institutional network.

Without exception, we have found in each of the countries in which we work, the laws are very clear regarding the right of the child for a substitute family ("guarda, tutela or cuidado personal") whenever the original family is absent or ineffective. Yet, today thousands of young institutionalised children remain warehoused in "orfanatos" throughout Latin America.

Most juvenile/family court magistrates are well aware that institutions are destructive places for young children to spend their formative years. What holds juvenile court judges back from taking more vigorous action on behalf of these young children, placing them under guardianship with qualified substitute Latin American families?

1. Fear of the return of the natural parents, even though these may not have even visited their institutionalised child for many months or even years. Many young children are in a legal "trap." Because there is the name of a natural parent in the child's file, even though these people have not responded to court notices, nor has the child been visited in the institution by either parent for years, the judge is hesitant to terminate parental rights and declare the child as adoptable.

For this reason we seek guardianship rather than adoption at the outset, then provide the court with periodic professional visits by social workers to confirm the well-being of the child. In Brazil, we have secured formal adoption by the substitute family after a year or so of such reports in about 96% of the cases.

2. The politically well-positioned administrators of the huge institutional systems have gradually, but surely assumed powers which really belong to the judge, under the law. When the police find a young child without family, they deliver the child to the prosecutor or directly to the institution in some countries. Then a judicial order is presented for the judge's signature, who is expected to approve, routinely, without ever meeting the child!

When I have asked judges "Why do you sign the order, without more information?" The response sometimes is, "We are expected to". Yet, these same judges acknowledge that only they have legal authority over the child separated from its family. Sometimes judges appear hesitant to exercise their legal authority.

It brings to mind the case of a juvenile court, with a very large staff, in a large Latin American city. One day the presiding juvenile court magistrate accepted our suggestion that institutions in his jurisdiction be required to report quarterly to the court the number of visits by family members each young child received. Court staff was asked to implement his order. Three months passed with no reports, so I visited the magistrate and inquired about the matter. A staff attorney was called into the judi-

cial chambers, while I was there and was reminded of the judge's order. To make a long story short, after weeks of further delays, a staff social worker confided to me that the staff had no intention of requiring such reports, in spite of the judge's order, because, as she said, "These institutionalised children have families!"

Because of these experiences I am increasingly convinced that the judge's own sense of identity as strong defender of the child may be the key to mounting a judicial revolution across Latin America, releasing thousands of young children to live with substitute families, which is the child's legal right.

In 1998 the Rotary Foundation financed the *First Interamerican Judicial Seminar On Substitute Families*, held in Belo Horizonte, Brazil. Keynote speakers were Hon. Stephen Herrell and Hon. Leonard Edwards, who shared their views about the values of substitute family care, rather than institutional care for young children. When someone asked Stephen Herrell, "What should be done with the existing institutions?" His reply was, "They should be closed." Silence hung heavy over the room. He added, "For the child, there should not be one day without a family."

Regarding the future, it is difficult to generalize because every jurisdiction is different. State laws and local traditions govern the magistrate's situation. Hopefully, juvenile and family court judges may be able to influence public policy and also persuade state and federal officials of the strong advantages to a young child to be in a substitute family rather than in an institution. The fact that a substitute family program is distinctly less costly per child than keeping them in institutions, may be perceived by government leaders.

Opportunities for Latin American Juvenile and Family Court Judges to be in contact with colleagues can greatly encourage them in their struggle on behalf of the child. It has been a pleasure to respond to the invitation of Hon. Lucien Beaulieu to offer to Latin American judges applications for membership in the International Association of Youth and Family Judges and Magistrates. The application forms were gladly received.

Report prepared by
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DATE FOR YOUR DIARY
CHILDREN AND WAR
SION, SWITZERLAND
16-20 October, 2001

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CHILD SOLDIERS

The widespread use of children in armed conflicts is one of the most horrendous and cynical trends in wars today. Compelled to become instruments of war, to kill and be killed, child soldiers are forced to give violent expression to the hatreds of adults.

Today, over 300,000 young persons under the age of 18 - some as young as seven or eight, girls as well as boys - are taking part in hostilities in over 30 countries. They are often abducted from schools, refugee camps or their homes. Girls are subjected to sexual abuse and rape, often on a systematic basis.

The reasons behind the participation of children in armed conflict - in which they are routinely exposed to injury and death - are many and various.

In protracted conflicts - witness 40 years of conflict in Colombia, 25 years in Angola, 20 years in Afghanistan - recruitment of adults becomes ever more difficult, even as armed groups with no allegiances to central authority seek to exercise their total control over local civilian populations. Youngsters may join armed forces or groups because socio-economic breakdown has eliminated any viable alternative. Others are lured by the appeal of political, religious or ethnic ideology.

Above all, perhaps, children are impressionable and can be easily manipulated into becoming ruthless and unquestioning tools of war. Child soldiers committed some of the worst atrocities in Sierra Leone. And the proliferation of lightweight weapons - requiring no physical prowess or technical expertise to manipulate - has made it possible for very young children to bear and use arms.

CHILD AND WAR

Child and War are two words that should not be associated. The former bears the concepts of innocence, tenderness, ideals, hope for society. The latter represents the worst aspects of humanity - violence, the desire for expansion and hegemony, disrespect for others, chaos.

Unfortunately the two words are synonymous for all too many children in today's world who must live through war and grow up in the most atrocious conditions. These children are fed on a culture of violence. We have laws which should protect them, which should guarantee their human rights and which should allow us to put an end to the association of the two words Children and War. The sad reality is that the law offers little protection to children who are the most likely victims in war.

The seminar in Sion, Switzerland (see previous page) will consider how war impacts on the lives of children. When children are recruited as Child Soldiers they are often responsible for some of the worst atrocities. The seminar will focus in particular on what should be done with child war criminals. Should they face trial in the International Criminal Court? Should there be a separate International Criminal Court for children? Should they be treated as victims rather than perpetrators?

The conference in Sion (see page 9) will attempt to answer all of these questions. Enter the date in your Diary and we will see you there.

THE PROTECTION OF CHILDREN AND CO-ORDINATION IN MATTERS OF INTERNATIONAL ADOPTION.

**The Special Commission On the Functioning of the
Hague Convention of May 29th, 1993
Report on the Conference held in the Hague from
November 28th to December 1st 2000**

**Oscar d'Amours
Judge at the Court of Quebec
Member of the IAYFJM Council**

Fifty-one countries had delegated representatives in addition to four more countries invited. As well as the delegates from various states there were observers present from thirteen international organisations, including the International Association of Youth and Family Judges and Magistrates.

Essentially, the participants reviewed the provisions of the Convention. The authorities of these countries had replied before the conference to a questionnaire which had been sent to them by the Permanent Secretariat of the Convention.

The countries shared their perceptions on the implementation of the Convention as well as learning from and sharing ideas on their perceptions as countries of origin and host countries of children.

It is encouraging to observe global trends in matters of adoption. The countries of origin of the children concerned have determined, through application of the Convention, that they should realise that respecting rights of children in their respective countries requires first the search for a solution in their own environment, i.e. through placements in foster families rather than institutions, and also orientation towards adoption in the same country. It is only after having taken these steps within the country that the children's countries of origin should envisage international adoption.

The route taken in this approach is truly extraordinary. It is surprising to find to what extent the Convention, which has come under

much scrutiny, is a great help in the task of protecting the rights of children.

The International Social Service, which was an observer at this session, considered the question of financing international adoption. Some countries have requested contributions from adoptive parents and the International Social Service made the participants of this conference aware of this reality in order that adoption may not become a business and that it may remain one of the means of assuring the protection of children's rights.

Some participants had questions about the way the system currently works in Romania and Guatemala.

UNICEF and the International Social Service drew the attention of the conference participants to the situation in Guatemala where the rights of children are allegedly not guaranteed. As an example, adoption in Guatemala can be arranged by lawyers without the requirement of having the decision validated by a judicial authority. A UNICEF report is available concerning this situation.

We must underline that Canada, and more particularly Quebec, experienced difficulties with Guatemala at the end of the 1970s and the beginning of the 1980s, which had the effect of obliging Quebec legislators to pass a law concerning the adoption of children born outside Quebec. The motive which brought Quebec legislators to sanction this law was the situation of private adoption in Guatemala which had been condemned in the newspapers.

During the conference, the general secretary of the permanent office, Mr. Van Loon, informed us that China had ratified, in the context of the meeting, the 1993 Convention concerning international adoption.

In brief, the conference was very interesting, enriching, and encouraging with regard to the protection of children's rights.

However, I harbour certain concerns regarding the phenomenon of international adoption over the next ten years. The current countries of origin of the children have gained awareness that they must ensure the protection of their children's rights and take responsibility for what happens to them.

Various organisations for the protection of children must be developed for the greater welfare of these children. The favourable consequences with regard to children will surely be that it will be possible to look after them in their countries of origin and perhaps also have them adopted in their own countries. The availability of children for host countries will

be more and more limited. While this trend is to be welcomed, we must also fear that a parallel network or market will develop for those who can and are prepared to put financial investment into having a child.

I venture to hope that we will be able to observe new routes replacing the traditional adoption procedures which we now know and that this will be in the context of international co-operation which will probably not require the severing of family ties, but will allow children to grow and develop while maintaining links with their home countries, without the need to deprive them of their roots.

In the framework of our 2002 congress, a workshop on this situation may well be appropriate and if there is such a workshop I would be happy to participate.

OSCAR d'AMOURS

DATABASE ON TRAFFICKING AND SEXUAL EXPLOITATION OF WOMEN AND CHILDREN

On March 8, 2001, the Protection Project released a state-of-the-art database that allows users to perform complex searches, browse data sets, and obtain custom maps, comparative charts, tables, and graphs. The web-based database includes: statutes; human rights reports; international laws; survivor stories; comparative legal charts; maps; resource materials; daily updated news stories.

The Protection Project is a five-year research project based at the School for Advanced International Studies, Johns Hopkins University, Washington, DC. The purpose of the project is to gather and disseminate information regarding the national and international legislation protecting women and children from trafficking and commercial sexual exploitation.

Protection Project web site: www.protectionproject.org

First time users are required to register.

Once you have registered, your password is your e-mail address.

INTERNATIONAL VICTIMOLOGY WEBSITE (IVW)

Ministry of Justice, WODC, Room KO 004

Postal address: P.O. Box 20301, 2500 EH The Hague

Visitors address: Koninginnegracht 19, The Hague, The Netherlands

Tel [+31] (0)70 370 6819 / 7436; Fax [+31] (0)70 370 7948

E-Mail: <information@victimology.nl>

Web: <http://www.victimology.nl>

THE VEILLARD-CYBULSKI AWARD 2002

The Veillard-Cybulski Fund Association aims to reward deserving works, particularly those which make a new contribution towards perfecting methods of treatment for children and adolescents in difficulties and their families.

To achieve this objective the Association has established a Veillard-Cybulski Award.

Rules (summary)

- The award is made every four years, on the occasion of the quadrennial Congress of the International Association of Youth and Family Judges and Magistrates (IAYFJM).
- Candidates must submit four copies of their work in English, French or Spanish, together with a summary of not more than ten pages, to the address of the Association.
- The next award will be made in 2002. The deadline for submission of works will be 31 October 2001. Papers will not be returned.
- The prize winner receives an award of 10,000 (ten thousand) Swiss Francs. The amount of the second prize, where appropriate, will be decided by the VCFA Committee. Where two winners are classed *ex aequo*, they share the award. There will be no addition to the total amount of the prize.

FOR FURTHER INFORMATION

CONTACT

ASSOCIATION FONDS VEILLARD-CYBULSKI

c/o Institut International des Droits de l'Enfant (IDE)

Institut Universitaire Kurt Bösch (IUKB), Case postale 4176, CH-1950 Sion 4 - Switzerland.

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International Youth Conference

CHALLENGES AND OPPORTUNITIES OF YOUTH IN THE 21st CENTURY

4-6 November, 2001

TIGERTOPS, CHITWAN, NEPAL

For further information contact:

Chauyen Lai Shrestha, Secretary-General

International Youth Coordination Council-Nepal, PO BOX-3969, Kathmandu, Nepal

Ph-00977.1.352281; Fax-00977.1.331964

Email: chauen@col.com.np and chauenlai@hotmail.com

NOTE FROM THE TREASURER

On January 1st, 1994, the IAYFJM's fortune amounted to more than 63,000 SFr. On January 1st, 2000, that amount was approximately 41,500 SFr., thus a diminution of more than 21,000 SFr. in 6 years.

This result raises obvious anxiety for the Treasurer, despite the all-out efforts of the Executive to recruit new members, who are the only financial resource of the Association, and which have been very good during the last few years. In fact, since 1994, the individual and national contributions increased by more than 6,000 SFr. (1994: 8,900 SFr.; 1999: 15,000 SFr.).

In the expenses column, except for the small administrative costs for the Executive Secretary, there are only the mailings of the Chronicle. Preparing and mailing the Chronicle worldwide is very expensive today. In 1994, the bill was 2,000 SFr., in 1999 the price was 19,000 SFr. !!!

Despite this notable increase, the new format of the Chronicle, initiated in 1995 is of undisputed quality. Indeed the Chronicle is the most important source of information of our international association. In addition, readers consider its contents remarkable. Therefore, the Executive willingly continues to diffuse it throughout the world.

Accordingly, other sources of financial resources must be found to ensure our continued information activities. I propose, dear friends of the IAYFJM, that you commence a search for sponsors (for example, one main sponsor of 20,000 Sfr., or 4 or 5 sponsors at 3,000 or 4,000 Sfr. each, for a 2 to 4 years period. In return their name or logo would appear on the Chronicle. You would then inform me of any receptive proposal. You also are aware that our Executive has decided to establish various committees to increase the efficiency of our work. If you have any ideas, if you like contacts and if our Association is dear to your heart you can, among other things, join the Finance and Membership Committee which I have the honour to chair.

Thank you all for your precious collaboration. I look forward to reading your good news.

Fribourg/Switzerland
November 27 2000

Michel Lachat
IAYFJM Treasurer

JUVENILE JUSTICE : BALANCE AND PERSPECTIVES

NATIONAL SEMINAR – RABAT, MOROCCO

10 - 11 -12 May 2001

Michel Lachat

From May 10th-12th, 2001 a national seminar was held in Rabat with the general aims of improving the situation of all Moroccan children who are delinquent, abandoned or disabled, and in particular making useful adjustments to the procedural code for minors which is to be adopted in the near future.

The first day opened with the traditional official speeches by the Minister for Human Rights, the Minister of Justice, the Minister for Youth and Sport and the UNICEF representative in Morocco. Afterwards followed three presentations by international experts on:

- an attempt to sum up juvenile justice in Morocco;
- new legislative reforms in the area of juvenile justice;
- an overview of juvenile justice in the light of priorities set for the next decade.

The morning of Friday, May 11th was reserved for foreign speakers (including the undersigned who during the presentation delivered greetings from the IAYFJM and the IDE), who came to present the main international standards concerning the rights of children in the area of justice and the Egyptian and Belgian experiences in the field of juvenile justice. Tunisia was also invited to the conference, but

unfortunately Professor Hatim Cotrane was prevented at the last minute from attending.

Friday afternoon and Saturday morning were set aside for workshops with the following themes:

1. Reality and Nature of Juvenile Delinquency: From Punishment to Prevention;
2. For a Specialised Juvenile Justice System;
3. New Responses to Juvenile Delinquency.

The results from the three panels allowed us to draw up several recommendations, which were listed and commented on by His Majesty's Public Prosecutor during the closing ceremony on Friday afternoon in the presence of the Minister for Youth and Sport, the Minister for Women, Children and the Social Reintegration of the Disabled, and the UNICEF representative in Morocco.

In brief, the following recommendations will be the subject of a written report sent to His Majesty King Mohamed VI of Morocco:

1. drafting legislation specifically aimed at children and in conformity with international standards;
2. fixing the lower age limit for the criminal responsibility of children at 12 years;

3. prolonging measures taken to assist adolescents beyond the age of 18;
4. making use of reconciliation before judgment;
5. creating specialised institutions for minors (justice, police with the presence of women);
6. increasing the number of staff in services who deal with minors (courts, police, social services);
7. creating centres for young people and “green spaces” in urban areas;
8. promote responsibility among all parties involved in the problem of delinquent, abandoned or handicapped minors.

The Rabat seminar, of a rare intensity, was organised in a remarkable fashion, particularly on the level of schedules and the way in which the Ministry of Human Rights looked after the speakers and participants.

The high ranks of the participants (about 200), essentially judges, prosecutors, lawyers, high-ranking police officers and directors of institutions, made for rich, intense and sometimes **very** animated discussions. It was clear that everyone is determined to improve the lot of Morocco’s children, particularly those in detention or abandoned in the street, however not at any price!

It has also emerged that the lack of financial resources or inequality in their distribution does not allow the realisation of everyone’s “dreams”. But common understanding and healthy collaboration between all the ministries concerned will no doubt bring tangible and concrete results.

Finally, it is important to point out that the problems of delinquency found in Morocco are quite different from those which we attempt to combat every day. In fact, more than 60% of minors held in prison are detained for begging and vagrancy!

A final word on relations between the IDE and Morocco. A dinner was organised on Saturday evening by Mr. Olivier Degreef, Representative of the UN Fund for Children in Morocco (UNICEF) and his wife, who gave a very civic reception in their magnificent residence to Mr. Mrs. and Miss Ahmed Ghazali, Secretary General of the Ministry of Justice, Mr. Bertrand Commelin, Advisor on Scientific and Technical Co-operation from the Embassy of France in Morocco, the UNICEF representative from Florence (an Englishman, unfortunately I can only remember his first name: Nigel!) and myself, who introduced the IDE to these dignitaries and delivered the usual greetings.

Michel Lachat,
Fribourg, May 15th, 2001

COURT UPHOLDS THE RIGHT OF A CHILD TO REFUSE A BLOOD TRANSFUSION

LEONARD P. EDWARDS

Judge of the Superior Court of California

This case came before the Court for hearing on a petition filed by the County of Santa Clara on behalf of a 14-year old minor, D.P. Deputy County Counsel James Lewis appeared for the Petitioner; William Hardy, Esq. appeared for the Minor; Deputy District Attorney Robert Masterson appeared as guardian ad litem for the Minor; and the Minor's parents, Mr. and Mrs. P., appeared in propria persona. The hearing commenced on June 19, 1986 and was continued until July 1, 1986 when it was concluded.

The amended petition alleged that D.P. comes within the provision of Section 300 (b) of the Welfare and Institutions Code in that:

Said minor was diagnosed as having rhabdom [y] osarcoma, a pediatric form of cancer, that without treatment has a 100% fatality rate, and that with the full treatment protocol recommended by said Minor's physician, said minor's cancer will remain in remission, and with reasonable medical probability it is estimated said Minor may have a 50% probability of complete cure, full treatment protocol requires the ability to transfuse said minor with whole blood or blood products during critical phases of this therapy; without this transfusion ability, the treatment protocol is not able to be fully implemented and said minor is in danger of life threatening side effects; furthermore, said Minor and her parents have refused

to consent to the use of whole blood or blood products in the treatment of said Minor based on religious concerns; therefore said Minor, D.P., is not provided with the necessities of life.

FACTS

D.P. is a 14-½ year old daughter of R.P. and C.P. D.P. is a 9th grader with interests and activities normal to a young person her age. There is nothing remarkable about D.P. or her family except in the context of what has happened in the past few months.

In April of 1986, D.P. was diagnosed as having stage IV alveolar rhabdomyosarcoma, a rare form of cancer which originates in the muscles. She and the family began consulting with Dr. Smith at Stanford Children's Hospital in April.

Since she was diagnosed as having alveolar rhabdomyosarcoma, she and her family have spent more than 30 hours discussing her illness and the proposed treatment plan with Dr. Smith. Dr. Smith is a recognized expert in the diagnosis and treatment of childhood cancer. Dr. Smith recommended that she participate in the Intergroup Rhabdomyosarcoma Study III (IRS #III). He informed the family that this was the treatment plan that would offer D.P. the highest chance of survival from the disease.

Dr. Smith testified that IRS #III is the most advanced protocol for the treatment of alveolar rhabdomyosarcoma. It includes several choices of treatment combinations referred to as numbers 34, 35, and 36. Each involves chemotherapy with numerous drugs (including vincristine, adriamycin, actinomycin D, and cytoxan), radiation treatment, and surgery. Each of these plans necessitates the availability of blood for transfusions should the patient need them. Dr. Smith told the family that any one of the three plans would necessarily involve blood transfusions.

Upon learning that the proposed therapies would involve blood transfusions, D.P. and her parents indicated they refused to accept any such treatment.

They requested a treatment plan that would not involve any blood transfusions. Dr. Smith agreed to develop a plan that would not necessitate resort to blood transfusions. That plan (hereinafter "the modified treatment plan") was agreed to by D.P. and her parents and has been followed by D.P. for over 10 weeks to date.

D.P. and her parents' principal reason for refusing blood transfusions is religious. Everyone in the family is a member of the Jehovah's Witness religious faith. Members of this faith believe that to accept a blood transfusion would be contrary to God's Word. Members point to statements in the Bible to support their belief as well as studies which show that blood transfusions are used too frequently in the medical community and can be hazardous to the recipient.

D.P. testified she would resist having a blood transfusion in any way that she could. She considered a transfusion an invasion of her body and compared it to

rape. She asked the Court to respect her choice and permit her to continue at Stanford Children's Hospital without Court ordered blood transfusions. She said she has made her choice freely and after due consideration of all the information presented by Dr. Smith. She said she was expressing her own view, not that of her parents or her attorney.

D.P. testified she does not want to die. She has participated willingly in the modified treatment program even though she has suffered several painful side effects. She believes that the modified treatment program is working and that it will succeed in curing her. If it does not, she is ready to accept death. She is not willing to accept treatment which might offer her a greater chance to live if it means that she will have to undergo blood transfusions. Her parents support her in all of the positions she has taken regarding treatment.

Dr. Smith testified that the modified treatment plan chosen by D.P. will not be as effective as number 36 of IRS #III. The modified plan does not treat the cancer as aggressively as would the recommended plan. Fewer drugs are used and in smaller doses over longer periods of time. Radiation is delayed under the modified plan.

Moreover, there are no studies on the effectiveness of the modified plan. Dr. Smith testified that D.P. is doing well on the modified plan now, but that she would do better on number 36 of IRS #III.

He testified that under the recommended plan, D.P.'s chances of survival (at 5 years) would be perhaps as high as 50%. He indicated that under the modified plan, he could give no prediction of her survival

chances except that they are greater than 0% and less than the recommended plan.

Dr. Smith also testified that he and the Stanford medical staff have come to the Juvenile Court requesting assistance. They are not certain how to treat D.P., given her and her parents' desires. Dr. Smith testified that he spent a great deal of time with D.P. and her family explaining the different treatment plans and the rights that she and her parents had with regards to choosing a treatment plan. He testified that he presented to D.P. the Experimental Subject's Bill of Rights which, in part, includes the patient's right to refuse treatment. D.P., her parents, and Dr. Smith all signed this document on April 14, 1986, with the postscript that said:

We agree to treatment on a modified IRS 3 treatment 36 program as outlined by Dr. Smith.

The evident reveals that D.P. cannot be a part of the medical experiment outlined in the Experimental Subject's Bill of Rights. She is in week 10 of her treatment and has not followed any of the three treatment plans (34, 35, or 36). Dr. Smith nevertheless is asking whether he can be authorized to treat D.P.'s condition more aggressively consistent with IRS III treatment 36 which would necessitate the use of blood transfusions.

Dr. John Kernick of Downey, California, an expert in the field of oncology, testified that it would be possible to treat D.P. without resort to blood transfusions. He suggested that such treatment was possible at the hospitals in Southern California. He testified it would not be irresponsible of D.P. and her parents to leave Stanford and to seek treatment at Long Beach Memorial Hospital where she could receive treatment without the necessity of

blood transfusions. He was much less optimistic about D.P.'s chances of survival under the state III treatment program, believing that she has between 15% and 20% chance of living (at 5 years). He agreed that her chances of survival would be greater if she agreed to the IRS #III treatment plan.

Mr. and Mrs. P. testified that they supported their daughter's choice to receive treatment without the necessity of blood transfusions. They pointed to religious beliefs as well as the dangers that blood recipients are exposed to, noting that hepatitis and AIDS can be contracted through such transfusions. They also described D.P. as a person who has a mind of her own. They said that D.P. has discussed her disease and treatment at length and that she reached her decision not to permit blood transfusions after listening to Dr. Smith and has firmly stuck with that decision.

DISCUSSION

There is no question that the State is justified to intervene when parents fail to provide their child with adequate medical care. However, the State bears a serious burden of justification before abridging parental autonomy by substituting its judgment for that of the parents.

The factors for the Court to consider include the seriousness of the harm the child is suffering or the substantial likelihood that she will suffer serious harm; the evaluation of treatment by the medical profession; the risks involved in medically treating the child; the preferences of the parents and the preferences of the child. Overlying all these considerations is the Court's concern for the child's welfare and her best interests. See generally In re Phil-

lip B. (1979) 92 Cal.App.3d 796, 802, 156 Cal.Rptr. 48.

D.P. suffers from stage IV alveolar rhabdomyosarcoma. Dr. Smith recommends that she be treated by an aggressive form of therapy, one developed by the National Cancer Institute. The treatment would involve chemotherapy with several drugs, radiation, and surgery, all in combinations and doses such that the cancer would be attacked aggressively over a 20-week period and thereafter over a 2-year time span.

The survival rate for children who receive this treatment is estimated to be somewhere between 15% and 50%. Seventeen percent seems to have a sound basis in existing data, and Dr. Smith is optimistic that with the stage III program, the 5-year survival rate will be considerably higher. Preliminary considerations seem to give credence to his beliefs.

D.P. and her family are asking the Court to approve a modified treatment plan, one that would include chemotherapy, radiation and surgery, but in more moderate amounts and with less aggressiveness than the stage III program. They have asked for this modified treatment plan because they understand (and the evidence does not contradict their understanding) that the state III program will involve blood transfusions for D.P. in order to survive the high stresses placed on her body. The family opposes blood transfusions primarily for religious reasons, but also because they believe there are inherent medical dangers in the transfusion of blood. Finally, they believe that the modified treatment plan offers hope for survival. Both doctors agree that the modified plan may indeed be effective in treating D.P., but would not be as effective as the stage

III program. No one knows how the modified plan compares exactly with the stage III program.

Both parents testified that they supported their daughter's decision to refuse treatment that involved blood transfusions. Their support was firm, grounded on love for their daughter and respect for her decision. It did not appear that they had persuaded D.P. to take the position she has or that they would reduce their support if she chose to accept blood transfusions. The Court considers the parents' views as important but not determinative in deciding which treatment program to choose.

The Court believes that D.P.'s wishes, if they are an expression of a mature young person, should be given great weight. Were she an adult (18), there is no question that she could refuse treatment, even treatment which, if withdrawn, would end her life immediately. Bouvia v. Superior Court (1986) 179 Cal.App.3d 1127.

On the other hand, were she a newborn baby or an infant, the Court would have to speak for her. This Court has on numerous occasions been called to a hospital when a newborn baby faced immediate death unless she received a blood transfusion. In these cases, the parents refused the treatment for the same religious reasons expressed by D.P. and her family in this case. The Court has never hesitated to order blood transfusions to save the baby in these cases. The decision is based upon the swift and sure fate awaiting the baby, upon the fact that no alternative treatment is available, and upon the fact that the baby is unable to speak for herself.

D.P. is neither an adult nor an infant. The extent to which the Court will respond to her wishes depends on her ma-

turity, the intelligibility of her views, and whether her best interests would be served by respecting her wishes.

Over the past 20 years, the rights of children have expanded dramatically. In the case of In re Gault (1967) 387 U.S. 1, the Supreme Court recognized that children had constitutional safeguards when accused of delinquent acts which, if proved, could result in deprivation of liberty. In a different setting, Justice Douglas recognized the importance of the child's voice when considering educational issues.

Where the child is mature enough to express potentially conflicting desires, it would be an invasion of the child's rights to permit such an imposition without canvassing his views. Wisconsin v. Yoder (1972) 406 U.S. 205, 92 S.Ct. 1526, 32 L.Ed. 15 (Douglas, J., dissenting).

California law has widely broadened the extent to which a minor may control important decisions affecting her life.

Married minors and minors on duty in the Armed Forces may consent to any hospital, medical or surgical care. (Civil Code sections 25.6 and 25.7.) "The Minor's Right to Consent to Medical Treatment: A Corollary of the Constitutional Right of Privacy." 48 Southern California Law Review 1417 (1975).

An unmarried pregnant minor may give consent "to the furnishing of hospital, medical, and surgical care related to the prevention and treatment of pregnancy." This includes consent for abortion. Ballard v. Anderson (1971) 4 Cal. 3d 873, 884. The State may not require parental consent for such an abortion without having a sufficient justification for the restriction. Planned Parenthood of Central Missouri v.

Dayforth (197) 428 U.S. 52, 76. Any minor can be excused from class for medical treatment, including abortion, and schools are under no duty to notify the parents. 66 Ops.Atty.Gen. 299.

At age 12, a minor may, without parental consent, do any of the following:

1. Seek mental health treatment (Civil Code section 25.9);
2. Seek diagnosis and treatment of any infections, contagious, or communicable disease (Civil Code section 34.7);
3. Seek treatment and counseling for rape (Civil Code section 34.8);
4. Seek treatment for sexual assault (Civil Code section 34.9);
5. Seek treatment for drug or alcohol abuse (Civil Code section 34.10);
6. Veto a proceeding under Civil Code section 232 to free him from parental custody (Welfare and Institutions Code section 366.25).

At age 14, a minor may, without parental consent, do any of the following:

1. Petition for emancipation. There are restrictions set forth in Civil Code section 64 (See Civil Code section 60, et. seq.);
2. Petition for appointment of a guardian (Probate Code section 1510). If the Court finds that a guardianship is "necessary or convenient," the right of a 14 year old minor to have his nominated guardian appointed, if fit, becomes absolute, and will prevail over the objection of a parent (Guardianship of Kentera (1953) 41 Cal.2d 639);
3. Seek medical treatment without being subject to the Child Abuse Reporting Law. Planned Parenthood Affiliates of California v. Van de Kamp (May 21, 1986) 226 Cal.Rptr. 361.

A minor may have considerable voice in a custody dispute between parents. Civil Code section 4600, 4602; In re Marriage of Rosson (1986) _____ Cal.3d _____, and may have a voice in the choice of her attorney in dependency cases. Akkiko M. v. Superior Court (1985) 163 Cal.App.3d 525.

The emergence of the child's right to make decisions or have input into the decision-making process is a recognition that the child is an interested party with important interests to which she should be able to speak.

There are several discernable reasons for this granting of power to the child. In some situations, it is a recognition that the child should be responsible for certain decisions before she reaches the age of majority. Often it is a recognition that parents may have failed and that the child needs the opportunity to see that her needs are met in spite of parental inaction. Sometimes, it is a recognition that certain issues are private and personal and are best addressed by the individual most affected even if she is only 12 or 14.

The Court finds D.P. to be a sufficiently mature minor, such that her wishes will be seriously considered when any decision affecting her is made. The Court was most impressed with the intelligence, poise, dignity, and forcefulness of this 14-½ year old youngster. She may have been overwhelmed by the discovery that she had a deadly form of cancer, by the counseling which described in detail the chances of life and death, and by the realization that she would have to consider her religious beliefs when deciding on a course of treatment. Nevertheless, it was a mature young person who came to Court to testify. She appeared to have focused clearly on the

difficult task facing her. She had attended all counseling sessions, agreed to a plan of therapy, developed a coherent philosophy on how she as a human being would face this medical challenge, and she came to the Court with the poignant request: respect my decision.

Under the facts of this case, the Court will respect D.P.'s request and not order a course of treatment which would subject her to numerous blood transfusions.

In addition to her maturity, D.P. has expressed sufficient grounds for her decision for the Court to respect it. Spiritually, psychologically, morally, and emotionally she would be harmed by a treatment plan which included blood transfusions. The Court will respect her choice of treatment plan.

The Court might have reached the same result for a different set of reasons. The petition requests that the Minor be declared a dependent child of the Court and the dispositional recommendation is that:

The minor be ordered to participate in the conventional therapy program for alveolar rhabdomyosarcoma which includes chemotherapy with vincristine, adriamycin, actinomycin D, and cytoxan, and radiation therapy as well as transfusions which may include blood or blood products under the administration of Dr. Stephen D. Smith, Associate Professor of Pediatrics at the Children's Hospital at Stanford.

It is doubtful that such an order if made could be carried out. The testimony is clear that D.P. and her parents could leave Stanford Children's Hospital before any such aggressive treatment program were initiated. It is doubtful whether any Court

would have the power to force her to remain at Stanford against her will. Would she be locked in a hospital room? Would she be sedated whenever blood transfusions were necessary since she declared she would resist any transfusion attempts? Would this last for weeks and months?

The Court doubts that the Court could make orders which would make possible

forced therapy over an extended period of time. The Court doubts that Stanford Children's Hospital would participate in such a program of coercion. Such an order would have unfortunate consequences for the Court system, the hospital, for D.P., for the P. family, and for those who are considering cancer treatment in the community.

The amended petition is dismissed.

CONJOINED TWINS CASE IN USA IN THE 1970s

First Judicial District Of Pennsylvania (USA) Court Of Common Pleas

Dear Editor:

I received the Chronicle for December 2000 which discussed the decision of the case of conjoined twins by the the High Court of England.

In the 1970's I served on a panel of three Judges to hear a petition to separate conjoined twins, who were patients in the Children's hospital of Philadelphia.

The twins in the case before us were joined at the thoracic region. One child had all the organs of a normal child, while the second child had only auxiliary arteries to the heart and had other organs not fully capable of function on their own.

The principal witness for the Petitioners was Dr. C. Everett Koop, a distinguished paediatric surgeon who later served as the Surgeon General of the United States.

The testimony revealed that, if the twins were not separated, both would die within approximately a year, but, if separated, the twin which had full organs could live but the other twin would die.

The three Judge panel consisted of Judge James L. Stern (now deceased), Judge Paul Dandridge (now retired), and myself. The Court authorized the operation and absolved the Physicians from any culpability for the death of the twin who would die, but did not absolve the Physicians from malpractice.

Like the High Court of England, our Court ruled in favour of the right of the twin who would live, if separated.

With medical science developing new remedies and techniques, the Court in the future will be faced with many issues heretofore unknown. This is the challenge we face in the future.

Judge Nicholas A. Cipriani

THE 2001 WORLD CONGRESS ON FAMILY LAW AND THE RIGHTS OF CHILDREN AND YOUTH

Bath, England, 20 - 22 September 2001

Patron: H.E. Mary Robinson, United Nations High Commissioner for Human Rights

Introduction...

The World Congress on Family Law and the Rights of Children and Youth brings together lawyers, judges, health care professionals, politicians, community and government representatives, human rights advocates and representatives from the private and business sectors who share a common concern about the rights of children.

The primary focus of the Congress is to develop outcomes that directly benefit those who are especially vulnerable and disadvantaged, particularly children and young people.

The World Congress meets every four years to assess developments in the law, public policy and affiliated professional areas that impact upon the protection of children.

In 1992 the First World Congress in Sydney highlighted the need to develop legislative and law enforcement models to support community action against sexual exploitation of children.

In 1997 the Second World Congress in San Francisco set in train debate regarding the development of legally enforceable codes of conduct for multinational and national businesses to prevent the exploitation of children through labour.

In 2001 it is anticipated that as an outcome of the Congress, a formalised world-wide network of children's advocates will be estab-

lished to provide advocacy, protection and support for the children of the world.

If you feel that you have a contribution to make in raising public awareness on these issues, please register and attend the Congress.

Objectives and rationale for Congress ...

The overall theme of the 2001 World Congress will be **“International Cooperation for the Protection of Children”**.

A significant purpose of the Congress will be to create an international network of lawyers and associated professionals working for the protection of children, to be known as “The International Children’s Rights Protection Network”.

Under its advocacy functions the Network will, through cooperation with local professional organisations, represent children or assist in the representation of children in landmark cases where the outcome is likely to affect the protection of children generally, and to provide systems of pro bono representation of children where serious injustice would result otherwise.

Under its educational functions the Network will:

- assist with the education of lawyers, judges and administrators in the implementation of the UN Convention on the Rights of the Child, the Hague

Conventions on Children and other relevant conventions;

- advocate and encourage the ratification and implementation of international instruments for the protection of children and the adoption of “child-friendly” laws and policies;
- by the use of the media create climates for change by generating public desire and political will for change;
- assist in partnership with others, the training of journalists and other media representatives to better, more appropriately and sensitively report on the rights of children and related issues; and
- the Network will actively seek to become involved in international forum providing its perspective and expertise as appropriate.

The four themes of the Congress are:

(a) Letting Children and Youth Speak Out for Themselves

This is intended to deal with the dilemma of child autonomy and the protection of children from harm. Can a child refuse beneficial medical treatment? Can a 17 year old decide to become a prostitute? When and how should the wishes of children be taken into account in family disputes? To give effectiveness to this theme, it is proposed that there will be a Youth Forum in which proposals for future action will be worked out.

(b) International Instruments for Cooperation

This theme will explore the international treaties and conventions already in force which seek to protect the rights of children. They include the UN Convention on the Rights of the Child and the Hague Conventions on Child Abduction, Inter-country Adoption, and Protection of Children. There are also regional conventions in Europe, Africa and the Americas which will be considered.

(c) The Impact of Social Change on Family Law

This will deal with the changes in lifestyle, technology and international mobility which have had their impact on family law. The topics in this category should be of special interest to practitioners. They will include: international family law litigation; the division of property; same sex and single parent family structures; the dealing with migrant communities and cultural diversity; international maintenance and child support; changes to non-possessory forms of parent-child relationships in several countries.

(d) The Protection of the Human Dignity of Children

This is a wide ranging theme which will deal with issues such as child labour, child prostitution and pornography. It will also deal with the rights of children in legal proceedings, including criminal, proceedings.

If you are interested in attending this conference see details on page 26.

FAMILY LAW AND THE RIGHTS OF CHILDREN AND YOUTH

20-23 September 2001

Bath, England

There will be four themes:

- (a) The Protection of the Human Dignity of Children
- (b) International Instruments for Co-operation
- (c) Letting Children and Youth Speak Out for Themselves
- (d) Family Law and Social Change

For further information:

2001 World Congress Secretariat,
PO Box N399, Grosvenor Place, Sydney NSW 1220, Australia
Tel : +61 (0) 2 9252 1635; Fax : +61 (0) 2 9241 5282

E-mail : capcon@ozemail.com.au
The congress website address is: <http://lawrights.asn.au/>

WORLD CONFERENCE AGAINST RACISM

Racial Discrimination, Xenophobia and Related Intolerance

31 August to 7 September 2001

DURBAN, SOUTH AFRICA.

Information about the World Conference can be found on the OHCHR Web site
www.unhchr.ch

Or Contact

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WORLD CONFERENCE AGAINST RACISM

United to Combat Racism: Equality, Justice, Dignity

The World Conference against Racism will focus on action-oriented and practical steps to eradicate racism, including measures of prevention, education and protection and the provision of effective remedies. It will be a unique and important opportunity to create a new world vision for the fight against racism in the 21st century.

Instead of allowing diversity of race and culture to become a limiting factor in human exchange and development, we must refocus our understanding, discern in such diversity the potential for mutual enrichment, and realize that it is the interchange between great traditions of human spirituality that offers the best prospect for the persistence of the human spirit itself.

OBJECTIVES

- to review progress made against racial discrimination, to reappraise obstacles to further progress and to devise ways to overcome them;
- to consider ways and means to better ensure the application of existing standards and the implementation of existing instruments to combat racial discrimination;
- to increase the level of awareness about the scourges of racism and its consequences;
- to formulate concrete recommendations on ways to increase the effectiveness of United Nations activities and mechanisms through programmes aimed at combating racism, racial

discrimination, xenophobia and related intolerance;

- to review the political, historical, economic, social, cultural and other factors leading to racism;
- to formulate concrete recommendations to further action-oriented national, regional and international measures to combat all forms of racism, racial discrimination, xenophobia, and related intolerance; and,
- to draw up concrete recommendations for ensuring that the United Nations has the financial and other necessary resources for its actions to combat racism, racial discrimination, xenophobia and related intolerance.

THEMES

The Preparatory Committee decided to adopt the following themes to be included in the provisional agenda for the World Conference:

1. Sources, causes, forms and contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance.
2. Victims of racism, racial discrimination, xenophobia and related intolerance.
3. Measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at the national, regional and international levels.

4. Provision of effective remedies, recourse, redress, [compensatory]* and other measures at the national, regional and international levels.
5. Strategies to achieve full and effective equality, including international coop-

eration and enhancement of the United Nations and other international mechanisms in combating racism, racial discrimination, xenophobia and related intolerance, and follow-up.

*stress lines are already showing as the following comments on the issue of "Compensation" show. Editor

(a) statement by the Group of Western European and Other States: "Delegations of the Western Group and some others accept point 4 with the word 'compensatory' in square brackets on the basis that, in this context, and in light of further discussions, they have the right to revisit this point";

(b) statement by the Group of African States: "With regard to the brackets placed around the word 'compensatory' in theme No. 4, the African Group does not agree that the brackets are necessary, in the light of relevant international human rights instruments and resolutions of the Commission on Human Rights, including those of its fifty-sixth session. However, the African Group agreed to the placement of the brackets around the word in order to facilitate the adoption of the themes for the World Conference. It is underscored that at the meetings of the inter-sessional working group and other preparatory processes for the Conference, the African Group and other delegations will continue to discuss and support the inclusion of the word 'compensatory' as part of theme No. 4. The African Group reaffirms the conclusion that the brackets thus placed around the word will not in any

way re-open any discussion on any part of theme No. 4, except the bracketed word";

(c) statement by Armenia: "Armenia states that it will have reservations in accepting point 4 of the text with the word 'compensatory' in square brackets";

(d) statement by Cuba: "Cuba associates itself with the position of the African Group and is of the view that putting the word 'compensatory' in square brackets is unacceptable and contrary to article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, and also Commission on Human Rights resolution 1999/33, adopted without a vote";

(e) statement by Israel: "Israel would like to associate itself with the position set forth by the ambassador of the United Kingdom of Great Britain and Northern Ireland on behalf of the Western Group with regard to the themes for the World Conference agenda";

(f) statement by the Syrian Arab Republic: "The Syrian delegation associates itself with the position of the African Group concerning the 'themes in the Provisional Agenda for the World Conference'".

**HIGH COMMISSIONER FOR HUMAN RIGHTS
ESTABLISHES EMINENT PERSONS GROUP
TO SKETCH A VISION OF FUTURE FREE OF RACISM**

28 June 2001

Leading international political and intellectual figures are coming together under the patronage of Nelson Mandela to sketch a vision of a twenty-first century free of racism, the High Commissioner for Human Rights announced on June 28th, 2001.

From Mikhail Gorbachev to Jimmy Carter and Nobel prize laureates Elie Wiesel and Oscar Arias, over 20 individuals who have made their mark on contemporary history have answered the High Commissioner's call to "forge a real sense of vision and common purpose in the struggle for racial harmony and tolerance".

"The members of this remarkable group have spoken out consistently, loudly and clearly for tolerance, for valuing diversity and for the virtue of learning from the past to build a better future", Mrs. Robinson said in London announcing the establishment of the Eminent Persons Group.

Mrs. Robinson said the Group will be looked upon to provide leadership and inspiration in

the runup to the World Conference against Racism at the end of August, and beyond. The High Commissioner, who is also the Secretary-General of the Conference, to be held in Durban, South Africa, said the Group will "lift the debate to a higher level of moral awareness focusing on the values of how we relate to each other as human beings".

"The Group is an expression of the worldwide civil society alliance that is emerging against racism. Before, during and after Durban, I believe they can help build the critical mass of support needed to finally eradicate the plagues of racism and intolerance. They have very willingly and quickly come together because they believe in the inventive, creative and moral capacities ready to be released when we all finally realize that we are part of one human family".

Members of the Group will meet in Geneva on 2 and 3 August on the occasion of the the final preparatory meeting for the World Conference.

EMINENT PERSONS GROUP

Patron:

Nelson Mandela, Former President of South Africa

Members:

Martti Ahtisaari, Former President of Finland

Oscar Arias, Former President of Costa Rica

Patricio Aylwin Azócar, Former President of Chile

Soheib Bencheikh El Hocine, Grand Mufti a Marseille

Jimmy Carter, Former President of the United States of America

Prince El Hassan, Jordan

Cardinal Roger Etchegaray

Gareth Evans, Former Foreign Minister of Australia

Vigdís Finnbogadóttir, Former President of Iceland

Mikhail Gorbachev, Former President of Russia

I.K. Gujral, Former Prime Minister of India

Dr. Najima Heptulla, President of the Inter-Parliamentary Union

Coretta King, (Widow of Martin Luther King)

David Lange, Former Prime Minister of New Zealand

Kuett Ketumile Masire, Former President of Botswana

Federico Mayor, Former Director-General of UNESCO

Rigoberta Menchu, Nobel Peace Prize

Chief Rabbi Jonathan Sacks, United Hebrew Congregations of the Commonwealth

Dr. Nafis Sadik, Former Executive Director United Nations Population Fund and Special Representative of the Secretary-General for the World Conference against Racism

Mario Soares, Former President of Portugal

Elie Wiesel, Holocaust survivor Nobel prize winner

**INTERNATIONAL ASSOCIATION OF
YOUTH AND FAMILY JUDGES AND MAGISTRATES.
XVI WORLD CONGRESS
MELBOURNE, AUSTRALIA**

Oct 26 – 31, 2002

THEME

The central theme of the conference is “*Forging the Links.*” The structure of the legal system into which children, youth and families may be thrust has long been the subject of international debate. To some, the system appears fragmented and impossibly complex.

In many jurisdictions, debates rage over the lack of a co-ordinated, accessible and timely delivery of child protection, juvenile and family law. We have much to learn and think about from each other.

This Conference seeks to provide the opportunity to FORGE THE LINKS:

- (i) Between courts of many nations making judicial decisions on the same issues.
- (ii) Between courts and the communities in which they serve.
- (iii) Between agencies working in and around the courts.

SUB THEMES:

- (i) 100 Years of Juvenile Justice

It is proposed in this section to raise issues such as the minimum age of criminal responsibility; what has been learnt about juvenile crime and punishment; juvenile drug courts; a showcase of the positive initiatives in rehabilitative juvenile programs from around the world.

- (ii) Children in Vulnerable Circumstances

Sub Themes:

Asylum Seekers; Children Undergoing Sentence; Awaiting Trial; Protective Custody; Mental Health Detention; Abducted Children
Out of Home Children

- (iii) Judicial Decision Making in Child, Youth and Family Law

Different types of unified court systems: a critical analysis of the positives and negatives. Who benefits most from the unified court...the lawyers, courts, governments or children and their families? The jurisdictional and procedural issues? Different types of hearing procedures: a comparative study between the inquisitorial and the adversarial approach to child protection and private law disputes concerning children.

(iv) The Community Around Us

Who is the community around the child, youth and family court legal systems? What role do/should they have? If links between the community and the legal system are an enhancement of the system, how are they best established and maintained? Do they mean different things to different types of judicial systems?

(v) The Child's Participation

The risks, benefits and limitations of children's involvement in decision making around them. How much should the judiciary know about child development, psychology, social science theory, relevant clinical research data, the international covenants on the rights of the child? The best model of representation for children in family/criminal proceedings?

 What the Congress Hopes to Achieve

- To foster links and communication between the international community of judges and magistrates and the range of specialists working in child, youth and family law to improve and exchange knowledge and learning.
- Through communication, debate and exchange in an international forum to strive for the development of best practice and principles in child, youth and family law.

In furtherance of the above, and under the auspice of the International Association of Youth and Family Judges and Magistrates, a number of courts in Australia and New Zealand have agreed to jointly host the World Congress from October 26-31 2002 in Melbourne, Australia.

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MELBOURNE

THE CULTURAL, SPORTING, CULINARY AND SHOPPING

CAPITAL OF AUSTRALIA

We are delighted that Melbourne has been selected as the destination for the International Association of Youth and Family Judges and Magistrates Congress and General Assembly in 2002 and look forward to having the opportunity to welcoming you there.

Melbourne now Australia's second largest city, is the capital of its most compact mainland state - Victoria. Here it is possible to savour a truly Australian experience within just a few hours of the city centre. You will be amazed by the diversity. You can stroll along a golden beach in the morning, enjoy a close encounter with koalas and kangaroos in the bush in the afternoon and stop off at a winery to enjoy an aperitif before returning to the city in time for the theatre.

Melbourne now a thriving modern metropolis, was settled by Europeans in 1835, but was first a home for the indigenous population (locally known as Kooris) for as many as 50,000 years beforehand. A major gold rush attracted world attention in 1848 and a boom period ensued which lasted nearly 40 years. With the arrival in the city of industrialists, bankers, and some of the leading artists in the country Melbourne soon took on a vibrant and cosmopolitan flavour. Established as the commercial headquarters and seat of government, Melbourne became the birthplace of Australian Federation in 1901. When the forefathers planned the city they felt it was important to ensure breathing space. Today the magnificence of the 19th century parks and gardens – are known the world over. Even the native

wildlife has been drawn to their tranquil bounty and all kinds of birds and animals can be readily seen. With its grand boulevards and opulent Victorian mansions and renowned city gardens and covered arcades, the city has a colonial feel. Yet blending with this is a modern cityscape, with its skyscrapers and dazzling modern architecture.

Melbourne proudly showcases the very best in contemporary art, design and theatre. From major festivals and cultural events to the diverse artistic expression found on Melbourne's streets, the City for the Arts is the leader in cultural activity in the Asia Pacific region. The city is also Australia's foremost centre for gastronomy, and shopping. Yes here even shopping is an art! Melbourne offers a shoppers paradise - in its covered shopping arcades, its designer boutiques or the largest and most colourful of its markets the Queen Victoria Market, you can buy just about everything,

Melbourne, is home to 3.2 million people from numerous cultural backgrounds, one quarter of whom were born overseas. Beginning with significant Chinese migration in the 1850s there have been waves of migration ever since so that people from 140 nations now live harmoniously together. The best way to discover their various ethnic communities is by foot or Melbourne's famous trams and along the way sample a few of its 4,000 restaurants and cafes – Melburnians have a real love of food!

They also have a real love of sport – Melbourne is world renowned for its world class sporting events such as the Australian Tennis Open, the Australian Motor Grand Prix and the ‘Melbourne Cup’ Horse race – throughout the year there is something going on giving it its name the Events Capital of Australia.

A city of contrasts, Melbourne is sophisticated yet quirky, cosmopolitan yet traditional, historic yet contemporary. It has a unique diver-

sity, vitality and ambience that positions it as one of the world’s greatest cities.

Voted the most Liveable City in the world, Melbourne makes sure it lives up to its name in every possible way.

It is a city for everyone.

Do not miss this unique opportunity to visit.

Be sure to attend the XVI World Congress of the IAYFJM.

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**INTERNATIONAL ASSOCIATION OF
YOUTH AND FAMILY JUDGES AND MAGISTRATES.**

XVI WORLD CONGRESS

MELBOURNE

October 26 – 31, 2002

THEME : FORGING THE LINKS.

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Have you visited our web site yet?

<http://www.iayfjm.nm.ru>

Information on the Congress will be posted here when available

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Copies in our three working languages
(English, French and Spanish)
would be appreciated.**

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