

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

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## CHRONICLE

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## EDITORIAL

### THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

#### A SHOCKING VIOLATION OF CHILDREN'S RIGHTS

The 2<sup>nd</sup> World Congress Against the Commercial Sexual Exploitation of Children was held in Yokohama from 17-20 Dec 2001. Approximately 3,334 delegates from 138 countries were in attendance. Attendance at the 4-day Congress, sponsored by ECPAT, UNICEF, the Japanese Government, and the NGO Group for the Convention on the Rights of the Child was by invitation only. Apart from Government delegates there were representatives from 21 international institutions, including UNICEF, and 148 NGOs from all around the world, including the IAYFJM, which I was representing on your behalf.

We had children there who were brave enough to tell us what it is really like. I will give you two examples: a 14-year-old, kidnapped and forced into prostitution, raped and sodomised, sometimes at five minute intervals, every day for the past six years until rescued by one of the NGOs; an 18-year old rescued after eight years whose friends were all dead, having died at the hands of pimps or clients, garbage thrown on the rubbish heap, not meriting a police investigation.

It is hard to imagine a more difficult and shocking obstacle to the realisation of human rights than the commercial sexual exploitation of children. This editorial makes some suggestions as to how the Association might get involved in bringing an end to the unacceptable.

**Editor**

### **Every second of every day a child is being abused**

As you read this sentence a child is being sexually abused somewhere in the world. Each year, millions of children are bought and sold like fresh produce, commodities in a global sex industry steeped in unspeakable cruelty. Girls and boys are expendable products in a multibillion-dollar industry built on greed and victimisation of the least powerful.

Trafficked within and across borders, press-ganged into prostitution, pornography and other intolerable forms of child labour, they are overwhelmingly drawn from the ranks of the most vulnerable – refugees, orphans, abandoned children, child labourers working as domestic servants, children in armed conflict – and those whose sexual abuse began at home or in other familiar surroundings.

Trafficking in children and women in the Asia-Pacific region alone has victimised about 30 million people over the last three decades.

#### **In a street near you**

As the enormity of the situation sinks in you may feel a rising sense of anger about the abuse of children in the brothels of Bangkok, the train stations of Moscow, the truck routes of Tanzania or the sidewalks of Manila. But the abuse of children may be closer to home than you think, or wish to believe.

Some weeks before going to the Congress I visited friends in a small, prosperous, town in Switzerland. I mentioned my upcoming visit to Japan and my reason for going. I was told that this small town has eight brothels. Frequently notices appear in the windows advertising “New girls, just arrived from ...”. My friend told me that it is widely believed that many of these girls are underage but no one seems to care.

At the Congress in Yokohama we heard that the sexual abuse of children is commonplace in the suburbs of Tokyo.

New Zealand was one of the few countries not afraid to reveal statistics. Despite being a small country of 4 million people, they had 13,709 criminal convictions for child sex offences in the four-year period from 1996 to 2000.

In January this year, the Italian Prime Minister, promising to “clean up the streets and put an end to sexual slavery”, revealed that 70,000 prostitutes work the streets of Italy. Of these, some 14,000 are children.

Even closer to home I am told that underage girls from Eastern Europe are being prostituted on the streets of Belfast.

The day I returned home from Yokohama (December 20.01) I was greeted by a headline in the local morning newspaper, which said: “Irish child slave ring exposed”. The article claimed that trafficking, organised by criminal gangs, is widespread throughout Ireland and Britain.

On January 2<sup>nd</sup> this year, one of Britain’s leading judges called for new laws to crack down on the human traffickers responsible for forcing a growing number of women and children into sexual slavery in the UK.

#### **Sexual abuse often begins at home**

Sexual exploitation and abuse are not confined to brothels. They often begin at home or at school by people whom children trust or cannot challenge. One of my biggest disappointments in Yokohama was to read the statement of the Delegation of the Holy See to the Congress and find not a single word of apology, not even an acknowledgement, of sexual abuse of children by priests and members of religious orders, this despite a series of high-profile scandals in Ireland, Britain, the USA and Australia.

The day I returned home from Yokohama, I read in our local evening paper of a father who had raped his daughter repeatedly over an eight-year period, beginning when she was seven! The abuse only came to light after he was discovered raping his eight-year-old grand daughter last year. He was sentenced to eight years in prison.

### **Sexual exploitation occurs in every country**

The sexual exploitation of children affects every corner of the world, from the richest countries to the most impoverished. Sexual abuse of children, in all its forms, is a crime and must be stopped.

### **Shameful abuse must end.**

Five years ago, I attended the 1<sup>st</sup> World Congress Against the Commercial Sexual Exploitation of Children, held in Stockholm, Sweden in 1996. The Stockholm Congress adopted a clear and unequivocal position: the shameful abuse of the human rights of children, so long a dirty secret, must end. Governments and community groups together affirmed that children are not property to be bought and sold. Children's rights must be respected and their voices must be heard.

Drawing on the strength of the UN Convention on the Rights of the Child, the Stockholm Declaration and Plan of Action were intended to be an inspiration for national plans of action and other practical measures to improve the lives of children everywhere.

### **Put an end to the unacceptable**

In Stockholm, the commercial sexual exploitation of children was exposed and denounced as unacceptable. Five years on, we met again in Yokohama to see what had been done, what remains to be done, and to pledge renewed action to put an end to the unacceptable.

### **Reviewing progress**

The main objectives of the Yokohama Conference were to review progress of specific action plans assigned to all the participating nations in Stockholm, and to call for additional action if sufficient progress had not been made towards these goals.

Since Stockholm, public awareness has increased. Some children have been removed from abusive situations and helped to recover. Projects have been sought to protect young people who are particularly vulnerable to abuse. Research has improved our knowledge of those who are likely to abuse children.

At the global level we have seen the adoption of three major treaties that address sexual exploitation and abuse: ILO Convention No 182, which calls the involvement of children in prostitution and pornography one of the worst forms of child labour; the Protocol on the prevention of trafficking of children and others, part of the UN Convention against Transnational Organised Crime; and the Optional Protocol to the CRC, in this case a measure aimed at ending the sale of children, as well as child prostitution and child pornography. The CRC Protocol entered into force in January 2002, having been ratified by ten countries: Andorra, Bangladesh, Cuba, Iceland, Kazakhstan, Morocco, Norway, Panama, Romania and Sierra Leone.

In 1998 Interpol claimed that 80% of cyber pornography involving children originated in Japan. In line with the Stockholm action plan the Japanese Government enacted the Prohibition of Child Prostitution and Pornography Law in 1999. This Law imposes stiff penalties for child pornography, prostitution and trafficking of children. Research just published shows that Japan no longer figures in the top three sources of child pornography. So where there is a will, and the resources, it can be done.

### **The problem is increasing**

There are now many more people working worldwide towards bringing an end to the commercial sexual exploitation of children. There is more experience, more expertise. Unfortunately, there are also more victims because, despite the efforts which have been made, the problem is increasing. Despite all the advances since Stockholm, sexual exploitation for profit continues to blight the lives of millions of children.

### **An attack on all that civilization stands for**

It is hard to imagine a more difficult and shocking obstacle to the realisation of human rights than the commercial sexual exploitation of children.

Carol Bellamy, Executive Director, UNICEF, told the Congress in Yokohama that the commercial sexual exploitation of children is nothing less than a form of terrorism – one whose wanton destruction of young lives and futures must not be tolerated for another year, another day, another hour.

President Bush described the tragic events of September 11 in the USA as an attack on all that civilization stands for. The sexual abuse and exploitation of children for profit is no less an attack on the very basis of our civilization. If international cooperation and collaboration can be mobilized to hunt down the terrorists who attacked the World Trade Centre and the Pentagon, then surely they can be mobilised on the same scale to track down the terrorists who inflict such appalling abuse on more than 1 million children every year.

### **A policy of zero tolerance**

We need to summon the resources and the political will to end the abuse which continues to strip countless children of their rights, their dignity, their childhood – and often their very lives.

Because of the Stockholm Declaration and Agenda for Action, there is now a greater public awareness of the appalling scale of the commercial sexual exploitation of children. It is time for nations to adopt a policy of zero tolerance to child pornography and prostitution.

The lion's share of the responsibility for ensuring child rights and well-being rests with governments at the highest level, and those obligations are set forth in the 1989 Convention on the Rights of the Child. Ratified by all but two countries (The USA and Somalia) it is a document which proclaims the right of all children to be protected against dangers that hamper their growth and development, from armed conflict and disability to racial and ethnic discrimination and all forms of neglect, cruelty and exploitation.

Nearly 50 countries have now moved to draw up national plans of action to combat sexual exploitation and assist victims. Measures include the establishment of special bodies to protect child rights, reform of juvenile-justice systems; training of police and judicial authorities; and all-out crackdowns on those who sexually exploit children.

We have increased police action growing out of cooperation among national law enforcement groups and Interpol.

We have seen stepped-up involvement by the private sector, particularly in the tourism and Internet-service industries.

We are seeing the commitment of more resources on a regional basis to combat sexual exploitation, in line with efforts like those of the European Commission.

Why, then, does the problem continue to grow?

### Three key factors

It appears to me that there are three key factors which help to explain why the problem is getting worse, despite our best efforts.

1. There is a need for international cooperation
2. Governments will only succeed if we *all* get involved.
3. The growth of the Internet.

We already know a great deal about what must be done to eliminate sexual trafficking and abuse of children. But, to succeed, we must strengthen international cooperation and action at every level of every society. We need to work together to bring to justice culpable individuals and criminal networks. Governments alone will not succeed. Partnerships of governments, intergovernmental and nongovernmental organisations are needed to be really effective.

Global partnerships are crucial. NGOs need to form links through the NGO Support Group, which links key NGOs with United Nations partners, including the Committee on the Rights of the Child. Such partnerships are already helping to improve legislative measures, law enforcement and programmes for the recovery of children through alternative education and employment opportunities.

The sustained realisation of the rights of the child hinges not only on what governments do, but on the outcome of such partnerships involving a broad range of allies in civil society – partnerships based on a shared understanding of the rights of all human beings.

It is up to all of us – governments, law enforcement, international organisations and all levels of civil society, to see to it that the elimination of commercial sexual exploitation is accorded urgent priority.

Governments and media outlets must have the courage to end once and for all the shameful silence that keeps commercial exploitation and

abuse a secret. That means shining a light on the problem, using public information campaigns, increased media coverage, more sophisticated monitoring and sharing of information, educating children about sexual abuse from an early age at home and in school.

We must move forcefully to identify and bring to justice culpable individuals and criminal networks – knowing that it is often the very adults entrusted with the care and protection of children who sexually exploit them.

### The growth of the Internet

In the past five years child pornography has become ever more easily accessible throughout the world due to the expansion of the Internet. The success of the 1999 Law in Japan has its downside: the number of pornographic web sites with blatant catchwords relating to minors has decreased. This sounds like a plus and it would be if the number of websites had decreased. On the contrary, there is plenty of evidence that they have increased exponentially. The problem now is that law enforcement agencies have greater difficulties in monitoring the websites because the people who set them up are using less obvious catch phrases. Furthermore, advances in technology mean that web sites can be located almost anywhere and more and more are being located in countries where there are no resources to deal with the problem. These child porn sites are a breeding ground for international paedophile rings.

Offenders are making use of advanced encryption methods to prevent police tracing the sources of their operations.

Internet-compatible cellular phones have made it even harder for parents and law enforcement officers to protect children. Children in Japan are currently being solicited by sado-masochistic messages on their mobile phones.

Fast moving and anonymous, the Internet has attracted paedophile rings that quickly identify big markets and safe havens where regulations

are lax. According to Interpol the trade in pornographic material is worth between \$3 billion and \$5 billion per year in the USA alone. There are fewer than 20 countries in the world with the personnel and the technical capacity to tackle the problem of child porn on the Internet.

### **A multi-billion dollar ‘industry’**

Child exploitation is a multi-billion dollar, multi-national business. It can only be dealt with at an international level. It is also multi-faceted. There is no one solution to the commercial sexual exploitation of children, but many, each tailored to the diverse national, local and cultural realities in which these affronts to child rights originate.

The Congress in Yokohama must build on the work begun in Stockholm. Using the force of the law to prosecute perpetrators must be a key goal. Twenty-one nations have adopted extra-territorial legislation to prosecute nationals who have committed offences against children in other countries. Although addressing only one aspect of a larger problem, these laws must be used aggressively to bring an immediate halt to trafficking and profiting from exploited children.

### **Individuals who care must get involved**

But it will take more than action by governments and NGOs to stop the exploitation of children. Individuals who care must get involved. This is the idea behind the Global Movement for Children, an initiative by six leading organisations that work with children: UNICEF, Save the Children, World Vision, PLAN International, BRAC and Netaid.org Foundation. The idea is that every caring person can make a difference in a child’s life.

The Yokohama conference offers us the chance to rededicate ourselves – governments, law enforcement, international organisations, community groups, and individuals – to eliminate sexual abuse and exploitation of children as an urgent global priority: the lives, and the

future, of millions of children hinge on our resolve.

### **What can we do as an Association?**

The role of judges and magistrates is likely to be after the event, dealing with victims and perpetrators. But here they can play a crucial role.

Some of the most important improvements in support of child victims who must testify in court do not require legislation, but rather an educated and assertive judiciary. Judges can control the process of examination and cross-examination of children. They can, and should, put a stop to children being intimidated, intentionally confused, or harshly spoken to by defence lawyers. They can require that questions lawyers seek to ask young children be submitted to the judge in advance, and then the judge can edit these for shorter length and linguistic appropriateness.

In a paper, which I presented in Yokohama, I outlined how abused children in Northern Ireland are now allowed to have their evidence recorded on video and presented at the trial as “Evidence in Chief”. Any necessary cross-examination can be done by video link so that the child need never face the alleged offender in court. (*Anyone interested can have a copy of my paper by contacting me*).

In countries where legislation does not permit this approach, judges can modify the courtroom setting, including the location of the judge, the defendant, and the child witness to reduce the child’s stress.

Child witnesses could also be given an advance visit to the courtroom. It may be possible to arrange ‘court school’ programmes to prepare them for the trial experience, and to provide colouring books or videos that help explain the process.

Judges should be authorised to appoint a legal representative for the child victim in criminal court – a ‘guardian ad litem’ who would be

responsible for protecting the child's rights and interests in connection with testifying and other purposes. This person could help assure the child is not re-victimised in the judicial process.

Judges should be authorised to permit a child's testimony via international video-link if the child is located in a country other than where the offender is being prosecuted.

Judges might call for harsher penalties for those found guilty of the sexual exploitation of children. Those found guilty of controlling prostitutes in the UK face a maximum of seven years in prison. Incredibly they face just two years if they cause or encourage the prostitution of under-16-year-old girls. Worse still, such penalties are rarely imposed.

Convicted sex tourism offenders should be subject to forfeitures (with confiscated funds/property benefiting prostituted children and other child victims of sexual exploitation) as well as made responsible for restitution to the child victim in his or her country of residence.

Judges should be aware of international treaties that can be applied, (although they will clearly only be applicable if the two nations concerned have ratified them!) These are:  
The Hague Convention on the Civil Aspects of International Child Abduction;  
The Hague Convention on Protection of Children and Co-Operation in Respect of Inter-country Adoption; and  
The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in Respect of Parental responsibility and Measures for the Protection of Children.

Our Association could work towards mobilising members of the legal profession - lawyers and judges - to secure the rights and protect the interests of child victims of sexual exploitation. A database of legal advocates with a particular interest in helping children involved

in prostitution, pornography, sexual trafficking, cross-national internet crimes and other related offences might be drawn up.

We should consider setting up an e-corridor to link interested judges and lawyers via email. This could be used to encourage the sharing of relevant legal articles, laws and court decisions. It could propose common trans-national law reform strategies.

Our members should be ready and willing to assist in the training of judges, lawyers and court personnel. You will see from the current issue of this Chronicle that some of us have already been so involved.

### **Conclusion**

Delegates to the Yokohama Congress agreed that the commercial sexual exploitation of children is a complex problem and that there is a need for more research. They called on Governments to draft policies and programmes and prepare five-year plans. They then packed their bags and went home to spend Christmas with their families, opening presents around the Christmas tree.

For the subjects of this Congress, Christmas Day was like any other - sitting huddled in a little room waiting for the next man to come in and defile them. How many more men will rape and abuse them before the delegates meet again to review their five-year plans? These children want their nightmare to end now. Is this an unrealistic expectation?

The USA did not draft a five-year plan to defeat terrorism following the events of September 11. President Bush promised immediate action. Action was taken within five weeks. The unspeakable cruelty meted out to more than 1 million children per year is no less "an attack on all that civilization stands for". It merits the same response.

Willie McCarney, Editor

## CATHOLIC CHURCH IN 'SECRET COURTS' ROW

The Catholic Church came under fire from survivors of child abuse after it emerged that Catholic bishops had received guidelines from the Vatican last summer on setting up courts to consider abuse cases.

On May 18 last year a letter dealing with a number of issues, including paedophilia, was completed by the Congregation for the Doctrine of the Faith in Rome and distributed to bishops throughout the world in a letter signed by Cardinal Joseph Ratzinger. The letter was written in Latin and a cover note which accompanied it stipulated that its contents be kept secret.

The document, which was published in the Holy See journal *Acta Apostolicae Sedis* in Latin, advised bishops on the reporting and handling of child sex abuse cases.

The guidelines, approved by Pope John Paul II, require that all sex abuse cases be reported directly to Rome. There the Congregation for the Doctrine of the Faith, of which Cardinal Ratzinger is head, will decide whether a clerical tribunal should be set up locally or whether the matter should be dealt with in Rome.

No mention is made of informing the police or other civil authorities.

Issuing guidelines in this manner and without any mention of the civil authorities sends out a signal that the Church sees its own jurisdiction as separate and, at least, equal to that of the police and the courts.

It appears that the church was planning to try to keep the whole issue of sexual abuse by clergy and members of religious orders 'in-house' and to keep secret the findings of the ecclesiastical courts.

It is disturbing that the Vatican's newly-issued rules stipulate trial behind closed doors.

They also impose a 10-year statute of limitations for hearing cases, effective from the date of the alleged victim's 18th birthday. This will be especially hurtful for people who have been so harmed by their abusers that it may take them many years to summon up the courage to report the crimes.

Dealing with the issue of child sex abuse scandals in a sensitive and compassionate way has been an area of particular difficulty for the Catholic Church in the past.

Enormous damage was done to the Church by the fact that its leaders did not always treat allegations of abuse with the seriousness they merit.

This is a highly emotive issue and great hurt has undoubtedly been caused to many victims of abuse by the Church's response. It has, as pointed out by the archbishop of Westminster last year, brought particular shame on the Church.

It is extremely disappointing then that, given an opportunity to redress the balance by adopting a just, sensitive, and transparent policy towards such cases, the Vatican has instead chosen secrecy.

**Editor**

## JUVENILE JUSTICE IN MALTA THE NEED FOR REFORM

Silvio Meli, Chief Magistrate, Juvenile Courts

Our regime on juvenile justice in Malta cries out for procedural and substantive reform. Advances in the humanistic and social sciences prompt much needed change. Surpassed methods of correction, together with a total lack of well-organized and well-focused support structures for adequate rehabilitation now inevitably take their toll.

Ineffectiveness and a sense of dejection are palpable. Lack of well-prioritized resources and very little logistical support are the order of the day. Whilst a feeling of weariness is rampant, most of the professionals involved vouch that they are left in a bewildering state of splendid isolation. This sector calls out for a thorough restructuring process. New strategies are to be recruited before it is too late.

At best, the discerning observer can see that the present situation is in crisis. This notwithstanding, other eagle-eyed observers go so far as to maintain that the situation has been so ever since the very inception of this legal regime. They even go so far as to affirm that the relative laws under review were in fact conceptually misconceived. Nothing has changed since then. Indeed, the attainment of any positive result is at best, extremely laborious.

This legal regime is in fact facing a conceptual dilemma. On one hand, it clearly lacks that flexibility required to enable it to maneuver more quickly in the interests of those it tries to correct, reform and assist. On the other hand, it cannot keep up with the changes that are being effected by sober reality. This being said, it can no longer afford to allow itself to be usurped or be used negatively to the detriment of the community. Something has to be done in earnest.

One has to realize that these laws are there explicitly to cater for the interests of those that

they purport to defend, correct, and rehabilitate. If they cannot live up to this legitimate expectation, the situation has to be remedied forthwith. Smooth talk is of no consequence. Urgent remedial action becomes a categorical imperative.

The miracle is that regardless of this disconcerting scenario something positive is still paradoxically achieved. Obviously, the credit for this must go to the efforts of those often lonely and unsung heroes and heroines that daily silently face the many-faceted difficulties and complications that emerge in this sensitive social field. Certainly, if a list of these personalities were to be drawn up it would definitely include nuns, priests, teachers, social workers, probation officers, the police, and others of no particular description or designation.

Reality is very subtle and often even more complex. The difficulties ahead are enormous yet one must not be discouraged as experience illuminates the way. If this road is to be taken up the present historical juncture seems quite propitious as change is rampant in many other areas of the law. However, a basic lesson of history is that half-measures will never do. Misguided amateurism is of course more costly than a properly structured and well-focused socio-legal regime. Therefore, foresight requires that the recruitment and assimilation within the judicial system of experts will go a long way in alleviating the problems encountered in this field.

Inefficiency must be reduced to a minimum. Financial, social and emotional considerations all get embroiled into one level of urgency. As the future of those that happen to be entangled are more often than not indelibly impressed and uncompromisingly effected, the inclusion of these experts will certainly render the whole institute more sensitive to the personalities

involved and to the situations under examination.

Society must be satisfied that any action taken is expertly targeted and oriented towards the rehabilitation and reintegration of those concerned. However, as the law, or any other branch thereof, is not the repository of all social knowledge or the exclusive route to any easy answer, the recruitment of true experts in the various relevant social fields is nothing but beneficial to the very edifice one is trying to erect. Society calls for a responsible multidisciplinary approach. Erratic juveniles cry for such a strategy.

A cause of serious concern emerges from the very structure adopted for the setting up of the Juvenile Court. Being composed of a Magistrate, this Court is truly and essentially nothing but a normal Magistrates' Court acting as a Court of Criminal Judicature or as a Court of Inquiry. Yet, because of its special focus and orientation, its drafters deemed it fit to require the introduction of two so called "assistants," both being chosen from a pre-determined panel of possible incumbents appointed specifically to give service at each sitting by parties extraneous to the said Court.

Even on the guidance of the judgements of none other than the European Court of Human Rights, the notion of fair trial uncompromisingly requires that a Court hears proceedings before determining the issue. Yet, this might not always have been the case with the Juvenile Court.

Not surprisingly, this composition created problems of a serious constitutional law nature as assistants were changed from one sitting to the next. However, as things developed, this issue has neither been judicially addressed nor conclusively determined. This inertia is perhaps due to a distracted legal class and to a sensitive court that addressed the issue with determined swiftness each time it arose. However, such a situation should be avoided and be catered for in the very composition of the court itself.

One must remember that cases submitted before the Juvenile Court are neither always of summary jurisdiction nor always easily disposed of during one audience. On the contrary, many involve lengthier proceedings requiring the utilization of several sittings to allow even for the intervention of other State institutions to examine the legal proceedings involved and to actually intervene materially in the very management thereof.

In tribute to the spirit of the notion of fair trial, the said procedure naturally necessitates the empanelling of the same incumbent assistants until final judgement. However, as this was not always the case, one might unwittingly have fallen foul of the constitutional tenet referred to above thereby probably acting in breach of our constitution. Certainly, issues concerning natural justice might have been compromised.

Furthermore, one also has to consider the problem that emerges from the fact that these assistants are only permitted to actively participate in proceedings when they are actually in open court. Here, experience repeatedly shows that this is unworkable and impossible to actuate. Total transparency is not always conducive to the interests of justice. Hence, the situation here also calls for adequate remedial action.

A further unwarranted complication emerges from the fact that one of the appointed assistants necessarily has to be a female. Indeed, although laudable at face value, it is the considered view of many that this requirement is not only unconstitutional as it is based on philosophically unacceptable and illegally discriminatory precepts, but is also offensive of feminism as a whole. Therefore, this too calls for appropriate remedial action.

Indeed, the court's present composition can be said to be dysfunctional and deserves to be immediately re-dimensioned. As it is now, the appointed assistants are not even given enough opportunity to enable them to operate at all, let alone to be effective and fruitful.

Hence, it is essential that if any alternative is to be adopted one must be sensitive enough to eliminate all these unnecessary pitfalls. It should be obvious instead, that one should adopt a regime, which can withstand both the test of constitutional scrutiny and allow enough room to permit these experts to operate for the benefit and real rehabilitation of our disoriented youth.

Experience shows that it is essential that these experts are given ample space and opportunity to act with profit. As things presently stand, these experts are not being utilized at all and this, to the detriment of our youths. None of our pious intentions will lead us anywhere. Only urgent remedial action may be of any consequence.

Another possible alternative, especially in light of the fact that the most advanced research on this issue now openly calls for the complete abolition of juvenile courts, is that offered by the possible utilization of the much-maligned “Family Court” in substitution to the present regime. This court, although having an extraordinarily long gestation period, may still prove indispensable in this specialized field, if it is allowed to be born, as it offers an infinite array of possibilities.

Bearing in mind the necessity of involving the experts referred to above in the actual participation of the judicial process involved, the recruitment of this specific court in the handling of these delicate problems will only bring us to the foreground of the most advanced legal systems on youth affairs. This set-up has the added advantage that the court will not only have jurisdiction over acts of a criminal law nature committed by youths but will also have jurisdiction over acts of a criminal law nature committed *on* them.

Such a court will really be able to feel the pulse of the juvenile situation in our country. Acting erratically, as is the position today with various courts having jurisdiction over a multitude of related actions, will be a thing of the past. Uniformity can thus be achieved in this

particular field thereby helping the court not only to regain credibility but also to act in the true interests of juveniles and of society as a whole.

The consolidation of procedures here advocated will have the hidden benefit of retaining legal activity close to the centralized place where our lawyers traditionally operate. It may, of course, be quite prudent and wise to decree that this court holds its sittings discretely away from the usual well-trodden halls of justice. This seems very fashionable nowadays especially when one considers that at present these sittings are housed in the very building where the offices of our army of social workers is situated. Well, it goes without saying that it must really be quite comfortable to attend court in your own backyard.

Yet, experience dictates that unfortunately most lawyers neither have the time, nor the financial strength to allow them to attend to these cases with profit. Like other self-respecting professionals, they too create their own priorities and are thus very often forced to desert proceedings to the detriment of both the young offenders involved and of the very notion of justice most of us try to uphold.

Unfortunately, it is evident that Juvenile Court cases do not figure high in their priority list. Perhaps this site might also contribute to this general desertion. Nevertheless, it certainly is not a good portent and it may perhaps be wiser to re-think the whole issue afresh and recuperate the original scope of our ancestors’ decision to centralize the administration of justice. Even here, the notion of *due process* needs to be recuperated as these are very sensitive cases, certainly not inferior to any other.

A further cause of concern is the lack of secure support structures run by professionals and aimed at the rehabilitation of those youths whose wayward behaviour lands them into trouble. The situation is unfortunately even more pronounced with respect to females and disruptive young children. This black hole cannot continue to thrive. Something must be

done in earnest. The mistakes committed in the past cannot remain without remedy in perpetuity.

One final cause of great and alarming concern is naturally that relative to the powers reserved to the Minister responsible for social welfare regarding the issue of care orders in case of emergencies. Here, the situation leaves much to be desired notwithstanding the fact that a cohort of advisors assists him. The court itself has had occasion to pronounce itself on the issue and has been quite clear. Fundamental safeguards are to be respected. Immediate remedy is called for. Other, far better alternatives, do exist.

Those entrusted with the heavy burden of addressing and of determining the above difficulties have a difficult task indeed. They must not only be well-versed in the matter at hand to address the issues in the light of the most recent scientific knowledge available but must also do so in good faith and for the common good. It is only in this way that they can alleviate the heavy burdens of the present situation and act for the benefit of those that are downtrodden by the system.

It is the considered view of many of those involved in this specialized field that one needs

to recuperate the true essence of this juridical institute, and this both substantially and procedurally. In doing so, one must therefore try to develop a truly dependable regime by restructuring the whole edifice of juvenile justice and recruiting the assistance of the relevant social sciences in as well-focused and objectively structured a manner as is humanly possible. As the position stands today, these social sciences are not even considered.

The above is merely an aperitif, an invitation to treat, a stimulus for informed discussion. It in no way purports to be a conclusive address of all the relevant problems encountered in this area of law. Many other issues demand attention. More has to be done. This is definitely not the final word on the matter.

What is certain, however, is that this legal institute needs to recapture its true vocation before it is too late. It badly needs to be radically re-oriented as a true tool in the hands of true experts to be relevant in the effective reform, rehabilitation, and re-integration of those concerned. Indeed, it is the considered view of many that it is only in this manner that this legal institute will be utilized for the common good and deserve the appellative *Juvenile "Justice."*

## COURT APPOINTED SPECIAL ADVOCATES & GUARDIANS AD LITEM

### NEW DEVELOPMENTS FOR CHILD PROTECTION IN MANILA

**Eric F. Mallonga**

Honorable Nimfa Vilches, Manila's most prominent Family Court Judge, has cast her future with Filipino children. Gathering a pool of lawyers, social workers, mental health professionals, and volunteers for her CASA/GAL (Court Appointed Special Advocates-Guardian Ad Litem) program, Judge Vilches has galvanized a vision embodied in both the Anti-Child Abuse Law (RA 7610) and the Child and Youth Welfare Code (PD 603). Since 1992, judges have been required to appoint Guardians Ad Litem for child-related cases. But the honorable judge has organized a whole system to enhance the fairer treatment of children, whether as complainant or as accused, within and outside the judicial environment.

With highly motivated and specially-trained CASA/GALs, it is envisioned that Family Court Judges will now seek the advice and assistance of these guardians as to the conduct of proceedings, and the range of possible orders and powers it may issue to protect the child from further trauma and stress. They are envisioned to minimize ill effects of judicial procedures on children, especially those of tender age, but without supplanting the independence and impartiality of judges. Cases can also be expedited with assistance from CASA/GALs considering that delay has always been detrimental to children, who languish in unfriendly institutions or jails pending trial.

The Law provides that CASA/GALs are obligated to explain legal proceedings to an affected child. They advise judges on the child's ability to comprehend proceedings and questions propounded therein; advise prosecutors concerning the child's ability to cooperate; attend all proceedings and coordinate concurrent administrative and judicial actions involving the child. To my mind, CASA/GALs must

take a proactive stance, given their special positions as judicial officers, in advising the court on issues of case management and the formulation of directions on child assessment. Since they represent the child's interests in court, it would be particularly helpful for CASA/GALs to be present at all proceedings as part of the process for gathering information for the court. All agencies, which include DSWD, health professionals and medical institutions, and the Bureau of Jail Management and Penology (BJMP), should be aware that CASA/GALs have a right of access to all records concerning a child under their special guardianship.

Difficulties will be encountered as various institutions have their own ethical rules and regulations. In Davao City, for example, there was a minor irritant in the relationship between a DSWD-accredited child protection agency and a medical institution when a social worker photocopied the medical records of an abused child. According to the physicians, medical records are highly confidential. Yet those records were intended for social workers to make a holistic assessment in preparing their case study report for judicial authorities. Certainly, all professionals working with children have an equal commitment to protect children, and their participation in interagency support to social welfare agencies is essential, if the best interests of children are to be safeguarded. There should be no professional rivalry, or animosity, among professionals in the service of children.

Confidentiality is a key issue in child protection work. Differing and strongly held views are voiced by professionals and the public alike. On one hand, it is argued that information is shared around too freely. On the other, it is believed that too narrow an interpretation

of confidentiality has resulted in children being left unprotected. Quandaries also arise where information obtained and shared for therapeutic reasons could result in criminal proceedings, an option which medical professionals may be apprehensive about getting involved with. Although there are differing views, with varying goals, most professional codes of confidentiality allow disclosure of information without consent where there is believed to be danger to others, as is certainly the case in child abuse. Maintaining confidentiality, in most circumstances, can amount to maintaining the secrecy, and thus the cycle, of child abuse.

Likewise, we foresee the dilemma of getting prosecution and defence counsels to reach a mutual agreement on matters beneficial to the child victim or child offender. These difficulties are minimized by selection of specialist staff who undergo appropriate inter-agency training, simultaneously discussing mutual problems and expanding their network in building confidence and trust among the different professionals. It is essential that methods of mutual cooperation are established be-

tween two agencies over and above the conduct of a joint interview of child victims. But implementing procedures should be agreed upon for joint inter-agency investigations to ensure adequate planning and full consultation at all stages of any investigation.

As CASA/GAL has already been launched, we anticipate birth pains between these guardians and other professionals. Since guarding the children is intended to protect all Filipino children, the program should be replicated in all Family Courts throughout the country, even the world over. We share in the vision and trials of Judge Nimfa Vilches as her program is foreseen to henceforth benefit humanity. We need judges like her in our Supreme Court as she reigns supreme in the hearts of our children.

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This article first appeared in the Manila Times on July 16, 2001. I am grateful to the Editor for permission to reproduce it here. WGMcC

## **DATE FOR YOUR DIARY**

### **THE RIGHTS OF THE CHILD**

### **WHAT ABOUT THE GIRLS?**

### **SION, SWITZERLAND**

**01-05 October, 2002**

### **CONTACT**

Institut International des Droits de l'Enfant (IDE)  
 Institut Universitaire Kurt Bösch (IUKB), Case postale 4176, CH-1950 Sion 4 - Switzerland.  
 Tel : (+41) 27-203.73.83; Fax : (+41) 27-203.73.84; Email : [ide@iukb.ch](mailto:ide@iukb.ch)

## **YAOUNDE SEMINAR, CAMEROON**

## Michel Lachat

### Organisation

From November 26<sup>th</sup>-28<sup>th</sup>, 2001, the International Institute for the Rights of the Child (IDE), based in Sion, Switzerland, and the Tunisian Association for the Rights of the Child (ATUDE), in close collaboration with the Ministry of Social Affairs in Cameroon (MINAS), the Intergovernmental Agency of French-Speaking Countries (AIF), the Development and Co-operation Agency in Switzerland (DDC) and UNICEF Africa organised, with the co-operation of the International Association of Youth and Family Judges and Magistrates (IAYFJM), a seminar on the theme: "The Rights of the African Child and the Struggle Against Poverty".

This seminar took place in the Congressional Building of Yaoundé and was attended by around 100 people from 17 countries and from all professions working for the cause of children, in particular in the areas of health, education and protection. Several VIPs (current and former ministers and ambassadors) took an active part in the debates and provided unwavering support for the protection of children.

Dr Bernard Comby, President of the IUKB (Kurt Bösch University Institute) and of the IDE, apart from making important personal and official contacts, which arise inherently from this kind of meeting, spoke during the opening and closing ceremonies. He presented an overview of the IDE website "[www.childsrights.org](http://www.childsrights.org)" and chaired the session of November 27<sup>th</sup>.

Judge Michel Lachat, treasurer of the IAYFJM and member of the IDE, officiated as a facilitator of the "Health Care" workshop and presented the objectives of the IAYFJM, while also recruiting new members.

Mr. André Dunant, Juvenile Justice Consultant and former President of the IAYFJM, directed the seminar.

Ms. Alexandra Prince, Secretary of the IDE, participated actively in the organisation of the seminar and dealt with all the technical details.

An important ATUDE delegation, led by its President Nadhir Hamada and efficient treasurer Jameleddine Khemakhem, supported by the staff of the Tunisian Embassy in Yaoundé, contributed in all areas to the success of this seminar.

Finally, the very active participation of the Intergovernmental Agency of French-Speaking Countries, which notably took on the responsibility of reporting on all the workshops, was particularly appreciated.

### Content

The aim of this seminar was, on the one hand, to promote in Cameroon and in French-speaking African countries a Child Rights culture, in particular concerning the right to health care, education and protection. On the other hand, the seminar aimed to favour exchanges of experience in these areas in order to combat poverty and find solutions to this endemic problem.

The first session of the seminar was reserved for the Inaugural Speech of Professor Séverin Cecil Abega. Then followed a theoretical approach to the rights and well-being of the child: health care, education and protection, and finally the theme of poverty - an obstacle to the rights of the African child. All these issues were examined in the light of the Universal Convention on the Rights of the Child and the African Charter of the Rights of the Child.

On the second day, specialists approached in a pragmatic fashion and from the angle of poverty the rights to:

**Health care:** primary medical care and preventive treatment, medical and re-adaptation services, informing the population, diminution

of infant mortality, abolition of traditional practices harmful to health;

**Education:** school enrolment, socialisation, awareness of cultural roots;

**Protection:** raising public awareness, family, social and legal protection, protection against abuse: physical abuse, premature marriages, child labour, trafficking in children, sexual abuse.

The 4 workshops (health, education, protection and poverty) finally made possible a closer examination of the problems affecting the African child, and brought on the one hand timely responses which should be useful for further study of the problems, and on the other hand concrete measures which should improve, in the very near future, the condition of African children.

### **Recommendations and concrete actions**

The recommendations prepared by the Director of the Seminar André Dunant and approved by all the participants in the seminar are available from the IDE website.

Two concrete actions took place at the end of this seminar:

**The Declaration of Yaoundé:** the creation of an "African Collective of NGOs for the Rights of the Child" (see appendix).

**The recording of an "Ode to Childhood"** composed and performed during the seminar by the singer Abturo Benito.

The IDE, with the aim of solidarity for the children of Africa and the world, has financially supported the production and dissemination of this song, which touched all the participants of the seminar.

### **Miscellaneous**

a) Dr. Comby and Judge Lachat forged contacts with several groups, associations and organisations working for the well-being of children in Cameroon. In particular they took note

note of the Program of Family Education (EMIDA) drafted by Mr. Gabriel Nicole, Mr. Didier Onguene and Mr. Claude Olivier Bagneken, and the work of the Street Educator Eteme Ndzana, Director of the 4<sup>th</sup> Educational District of Yaoundé at the Ministry of Social Affairs. The activities carried out by these different social institutions will be made known through the platform of the IDE.

b) Dr Comby, Judge Lachat and Ms. Prince met the Burkina Faso delegation led by the Minister for Social Action and National Solidarity, Mr. Gilbert Ouedraogo, with a view to preparing the next seminar, which will take place in Ouagadougou, from June 16<sup>th</sup>-21<sup>st</sup>, 2002, and have the following theme: "Rights of the Child and Social Exclusion".

c) Mr. Dunant, as usual, multiplied contacts with representatives from all the countries. Through his considerable experience in Juvenile Law and his knowledge of Africa, he greatly helped to project a very favourable image of the IDE.

d) Ms. Prince, through her keen sense of organisation, provided efficient support for the members of the Swiss delegation.

e) Finally, the co-operation between the IDE and ATUDE in the conception and organisation of this seminar was once again decisive.

### **5. Conclusion**

Overall, the seminar of Yaoundé was very well organised. The extraordinary effort deployed by the Minister of Social Affairs, Ms. Marie-Madeleine Fouda, during the whole seminar, must be praised and mention must be made of the particularly warm hospitality offered by our hosts in Cameroon.

Michel Lachat, Yaoundé, 1.12.01

## **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.

**PLEASE NOTE: APPLICATIONS ARE NOW CLOSED**

**THE WINNER WILL BE ANNOUNCED AT THE WORLD CONGRESS**

**IN MELBOURNE, OCTOBER 26-31, 2002**

**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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### **NOTE FROM THE TREASURER**

On January 1<sup>st</sup>, 1994, the IAYFJM's fortune amounted to more than 63,000 SFr. On January 1<sup>st</sup>, 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.

Michel Lachat  
IAYFJM Treasurer  
Fribourg/Switzerland

**HOW CAN WE PLAN OUR  
CONFERENCE AND SEMINAR PROGRAMMES BETTER?  
A REQUEST FOR INFORMATION**

**AVRIL CALDER**

**Co-Chairman, Seminar Committee, English-speaking Co-ordinator**

One of the key roles of the International Association is educational. We aim to inform members and other people who are interested in children and the law about the latest developments and issues. An important way of doing that is by the staging of seminars and conferences. A unique feature of the Association is our ability to keep track of developments in all parts of the world and transmit them across countries and continents, despite barriers of language.

Our President, Lucien Beaulieu, has recently come up with an excellent idea to help make this whole process more effective. He has suggested that we should undertake a regular and systematic collection of information from each country about the topics down for discussion in seminars and conferences being sponsored by organisations with similar aims and interests to our own. These, of course, include the affiliated National Association in each country.

Once these data have been collated and made available at international level, they should give an invaluable insight into the issues that are of current concern in different parts of the world. They would allow better planning of the work programmes of national associations and our own organisation, because they would help:

- identify new topics for seminars and conferences;
- avoid unintended duplication in conference programmes; and
- highlight areas where world expertise might fruitfully be brought to bear.

The wider publicity that would be afforded to the various events that are going on all over the globe should help to boost the numbers attending. Moreover, it may be possible to have a conference with the same theme and subthemes in the three languages of the Association in three different places and with mainly different speakers, again boosting the total number of delegates worldwide.

Our President has asked Jean Zermatten, Alejandro Molina and me to start the first round of data collection, covering the French-, Spanish- and English-speaking worlds respectively. Accordingly, we have written to affiliated associations and hope to reach others, such as academic institutions, through this article.

Please contact any of us if you know about any conferences or seminars planned or under development up to the end of 2003. It would be helpful to have replies by May 18<sup>th</sup> 2002. Our e-mail addresses are:

[jean.zermatten@jus.vsnet.ch](mailto:jean.zermatten@jus.vsnet.ch)  
[monomolina@arnet.com.ar](mailto:monomolina@arnet.com.ar)  
[avril.calder@btinternet.com](mailto:avril.calder@btinternet.com)

It would be useful to have conference information in the following form:

- country
- city, town, university
- language(s)
- aims
- objectives

- date and planned length
- structure eg lecture, workshop, visit
- topics addressed by speakers, workshops, visits
- number of speakers
- publications
- follow up

We aim to have the collated information ready by **June 15<sup>th</sup> 2002** and look forward to hearing from readers. If you would like to know more please do not hesitate to contact me.

**Avril Calder**

## **RIVER BOAT COURT BRINGS JUSTICE TO THE AMAZON**

A travelling judge is changing the face of Brazil's legal system,  
settling rows in remote communities quickly and simply  
with informal chats

### **Alex Bellos in Macapa**

The catfight was just like any other bar brawl. Patricia pushed over a man who was making drunken advances, upon which the man's sister punched Patricia in the face.

The incident, in a small community in the Amazon delta, was notable, however, not for its mundane violence but for the way in which it was resolved.

A judge arrived by boat to meet the victim and her assailant a week later. He ordered them to shake hands.

"They made a promise that they would respect each other," said Judge Fabio Santana. "If the case had entered the justice system it would have taken six months and not been cleared up as amicably."

Mr Santana works on the Travelling River Court, a 15 metre boat that sails to remote communities and is changing the face of justice in Brazil.

Every month the boat leaves Macapa, capital of the state of Amapa, and heads 120 miles to the mouth of the Amazon. The river court serves about 50 villages - with an average population of about 500 - made up of houses on wooden stilts and with exotic names such as Palestine, Macedonia and Filadelfia.

Mr Santana is usually accompanied on the week-long tour of duty by 16 colleagues, including a state attorney, a social worker, an electoral board representative and two paramedics. They all sleep onboard in hammocks.

Judge Sueli Pini, one of the founders of the river court, says the idea was to bring justice to the population. "In Brazil, access to justice was always very difficult, formal and bureaucratic," she says. "We are trying to create a change in mentality.

"Where communities are small and remote it is not worth having fixed bases. It is more efficient dislocating along a route. In the Amazon there are no roads, so the only mode of transport is by boat."

Dressed in a short-sleeved shirt and casual trousers, Mr Santana, 27, has jurisdiction over civil and criminal cases. His judgments are enforced by the local police or elected leadership. The court's monthly stop-offs are a reminder that judicial decisions must be obeyed. He adds that implementation is not a problem because "the population has a very strong respect for justice".

Wayward buffaloes prove less respectful, however. Mr Santana says they result in many complaints.

"Properties are separated by natural limits like creeks," he says. "When the tide is low, buffaloes stray on to other people's land. They destroy everything. I had one victim who said he had lost £300 worth of crops. That is a huge amount of money for round here."

The smallest claim on last month's trip was for £1.50, the price of a chicken. A man had sold his chicken to someone else, who failed to pay up.

As well as the informal look of the river court, one of its principles is to attempt to solve problems orally to avoid potentially bitter and drawn-out litigation. Ms Pini estimates that almost 90% of cases are resolved by a chat.

In Sucuriju, a village of 700 people which is divided equally between Catholics and Protestants, the river court solved a bitter religious dispute. Loudspeakers belonging to each side used to blare out competing messages, creating a permanent, intolerable cacophony. The judge arrived to mediate and introduced a timetable guaranteeing separate slots for the broadcasts.

The river court fulfils several other functions. Often couples appear at the riverside seeking official recognition of their marriages, or birth certificates for their children. "We have seen people coming to register their 20 children. Once we married three generations of the same family at the same time." Ms Pini says.

The court, which began in 1995, has inspired other Brazilian states to adopt similar services. A federal law going through congress will force all state judiciaries to include an itinerant part.

Ms Pini believes that river court-style justice is the only way to cope with Brazil's "litigation explosion" that has happened as citizens seek to exercise their rights in the 16 years since the end of the dictatorship. "There are millions of conflicts that have not yet been resolved," she says.

Making justice accessible to remote communities may increase litigation at first, but she believes it will save state courts money in the long run because it avoids slow, bureaucratic justice.

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This article first appeared in the (UK) Guardian on Friday July 27, 2001. I am grateful to the Editor for permission to reproduce it here. Editor

## LEGAL PROTECTION IN CHINA FOR MINORS' PERSONAL DIGNITY

Judge Shao Wenhong & Judge Yang Chengtao

There are more than 300 million minors i.e. persons below 18 years, in China. They are usually looked upon as the flowers of the country, the hope of the state and the prospect of the nation. Since their healthy growth is closely related to the prosperity of China, it is always very much the concern of the Chinese government to emphasize and strengthen the protection of human rights of minors. Consequently, the government has signed a series of pacts of the United Nations such as the Convention on the Rights of Children, Rules for the Protection of Juveniles Deprived of their Liberty, Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules") and Guidelines for the Prevention of Juvenile Delinquency ("Riyadh Rules"). The Chinese government has solemnly promised to the world that it will perform completely its obligations under the above pacts, and it is sure that the protection of the rights of the children in China will certainly meet the requirements in the said pacts. As a result, the Chinese government has been taking many actions to protect and maintain the minors' personal dignity, especially in the process of enacting, operating and executing the laws.

### 1. Protection for the Minor's Personal Dignity in Existing Laws

The Constitution of the People's Republic of China expressly stipulates "the state promotes the all-round development of children and young people, morally, intellectually and physically" and "the personal dignity of citizens of the People's Republic of China is inviolable. Insult, libel, false accusation or false incrimination directed against citizens by any means is prohibited". The Law on the Protection of Minors (the "Minors Protection Law"), promulgated on September 4, 1991, is the first

law specifically regulating the protection of minors. In this law, Article 4 provides that respecting the personal dignity of minors is one of the key principles in the protection of minors; Article 15 says "faculty and administrative staff in schools and kindergartens shall respect the personal dignity of minors, and may not enforce corporal punishment or disguised corporal punishment, or any other act that humiliates the personal dignity of the minors"; Article 40 sets out "public security organs, people's procuratorates, people's courts and reformatories for juvenile delinquents shall respect the personal dignity of the delinquent minors and safeguard their lawful rights and interests". The Law on Prevention of Minors From Committing Crimes, which came into effect in 1999, further provided for preventing juvenile delinquency and protecting minors' personal dignity. Article 39 and Article 48 in the law respectively state that minors who have been released from reformatory custody, been exempted from criminal punishment by the people's courts, had received a non-custodial sentence or had execution of sentence suspended by the people's court, had been granted parole, or served their terms of imprisonment shall not be discriminated against in respect of resuming schooling, entering a higher school or employment and shall enjoy the same rights just as other minors do. Article 44 says that the judiciary shall, in dealing with cases involving crimes committed by minors, safeguard the minors' procedural rights and ensure the minors get legal aid. Meanwhile, the judiciary shall educate the minors on the basis of their physical and mental characteristics and advise them on how to stay within the law. Besides the said laws, other laws referred to the protection of minors are: the Criminal Procedure Law, the Criminal Code, the General Principles of the Civil Law,

the Law on Maternal and Infant Health Care, the Law on the Protection of the Disabled, the Compulsory Education Law, the Adoption Law, the Marriage Law, and so on. Furthermore, in mainland China more than twenty provinces, autonomous regions, and municipalities directly under the Central Government have enacted local regulations and by-laws on the protection of minors. All these laws and regulations above-mentioned, the special care from the family, school, society and the judiciary as well, has set out a comparatively complete system for protecting the minors' personal dignity. In this regard, it shows fully and explicitly the positive attitude of the Chinese government towards the protection of minors' personal dignity.

## 2. Protection for the Minor's Personal Dignity in Judicial Practice

All the public security organs, people's procuratorates and people's courts in China shall abide by the law in protecting the minors' personal dignity. If their personal dignity is infringed, the minors or their guardians shall have the right to bring a suit in a people's court demanding that the person or organ making such infringement bears the civil liabilities accordingly. In a case where the infringement is heinous or felonious and constitutes a crime, the person or organ is made to bear criminal liabilities. In handling the cases involving minors' crime, the Judiciary shall in their full capacity ensure the minors' rights and personal dignity not to be infringed. Especially, in criminal proceedings, the Judiciary shall pay outstanding attention to protecting the personal dignity of the minor criminal suspect and the minor culprits.

### 2a. Protecting Privacy Rights of the Minor Criminal Suspect and the Minor Offender.

In legal proceeding, stronger privacy rights protection shall be accorded to minor criminal suspects and the minor offenders, taking into account their physical and mental underdevelopment, frail character and openness to change. Before passing judgement, the judiciary shall not disclose the name, home address and photo of the minor criminal suspect or the minor culprits, or any other information which can be used to deduce who they are. Except where file materials related to the case are allowed to be examined according to the law, materials shall neither be consulted, extracted or duplicated nor published or disseminated unless with the approval of the Judiciary. In addition, all cases involving crimes committed by minors less than sixteen years shall not be tried publicly. Cases involving crimes committed by minors over sixteen years old but under eighteen shall, in general, not be tried publicly. If an open trial is deemed necessary, it shall be subjected to the approval of the president of the court, and the number and the rank of those present must be limited. The declaration of the judgement shall also not be made in the form of a meeting or rally.

### 2b. Protecting Personal Dignity of the Minor Criminal Suspect and the Minor Offender

By safeguarding their procedural rights, the judiciary may meet the goal of the protection of personal dignity of the minor criminal suspect and the minor defendant. In investigating charges against minors, the use of torture, menace, fraudulence, enticement to coerce a confession are definitely prohibited. In order to calm down their unease, the Judiciary shall, in good time, inform the minor's relations and their guardians of the relevant legal procedure, procedural rights and obligations. If an offender who is charged with an offence doesn't retain a lawyer, the court shall appoint a lawyer, via legal aid, as defender so as to ensure

the rights of advocacy of the minor. In the hearing, the compulsory instruments shall not be used for the minor because of their physical and mental underdevelopment. The minor defendant may remain seated while answering the questions raised by the judge, who will use easily understood words and a kind attitude while interrogating the minor and, where necessary, shall control the words and deeds of certain prosecutors who may try to induce, rebuke, satirize and threaten the minor into making a confession. In such a process, the people's procuratorates and the people's courts shall explore some new sentencing principles and punishment methods which tend to be suitable for the minor offenders. That is to say, the Judiciary shall apply a non-custodial penalty to minor offenders to the full extent of the applicable laws. For those minors whose offences are slight, or where it is a first offence or a casual offence, the courts may punish them by using fines, surveillance, detention or suspension of execution. Depending upon the actual circumstance, these dispositions will be used respectively and flexibly to achieve the maximum protection of the minor offenders. For example, a minor offender named Wang, who was given a term of imprisonment with suspension of execution, for robbery, came to acknowledge his crime, then regretted it thoroughly, hated himself for not studying hard, for idling away his time, for having poor literacy and for mixing up rights and wrongs, evil and just, and repented of his offense. Therefore, in the period of suspension of execution, he learned his lesson on the one hand, and got himself rehabilitated strictly in mind and behaviour. On the other hand, he was studying hard and finally succeeded in his enrolment at a university in Shanghai with excellent marks.

### 3c. Protecting the Physical and Mental Health of the Minor Criminal Suspect and the Minor Defendant

In dealing with offences by minors, the public security organs, the people's procuratorates

and the people's courts shall adhere to the principle of taking education as the main method and punishment as the subsidiary, namely nesting the education in the whole legal process and combining punishment with education. For better education persuasion and redemption of the minor offenders and for better protection of their physical and mental health and personal dignity, the judiciary shall appoint such persons to deal with the case as are familiar with the minors' physical and mental character and are good at persuading minor offenders. The people's court may also invite some people as the people's assessors who usually are warm-hearted and enthusiastic to engage in the work of redeeming the penitent minors, including staff members from the Youth League, the All-China Women Federation, the Trade Union and so on, and staff members of juvenile protection organizations. They use their passion, sincerity, forbearance and patience to persuade and tell the minor offenders what is right and what is wrong, to help them realize their mistakes or commitments, and to lead them to understand the punishment given by the Judiciary. For example, on one occasion, the juvenile court in Shanghai Putuo District Court found that a minor offender in a theft case had never experienced common family care and was deeply heart-broken due to his parent's divorce in his childhood. During the hearing, the minor said: "aunty judge, I wept many times when I was a child, but now I don't do it because I am worn out". Faced with such a challenge, the judges of the panel talked with him several times to pacify and cure his broken heart, and then analyse the background to the commission of the crime. From the judge's explanation, the minor realized that, while he had no say in what his parents did, a person's life-road could be chosen by himself. In addition, the minor offender understood completely the social impairment of his behaviour and started to move and renew himself.

### 3. Protection for Minors' Personal Dignity on Execution of the Law

In China, organizations engaged in the protection of minors personal dignity, may be classified into two categories.

One is non-governmental organizations such as All-China Women Federation, Youth League and Working Committee for Children. The other is governmental organizations such as the Youth Protection Office of Education Commission, public security organs and reformatories for juvenile delinquents. All of them, especially the public security organs, the reformatories for juvenile delinquents, the people's courts and the people's procuratorates, play important roles in protecting the personal dignity and promoting the physical and mental health of minors. They focus mainly on the following two points.

Firstly, the public security organs, the people's courts and the people's procuratorates jointly educate and redeem the minor offenders, and protect their personal rights. After minor offenders are sentenced to terms of imprisonment, the people's courts and the people's procuratorates immediately contact and send to the reformatories a list, namely the Minor Crime Fundamental Situation List, drawn up by them consisting of the crime motion, purpose, character and the attitude of such minor offenders towards accepting the judgment. Based upon the List, the reformatories carry out their reformatory work on the related minor offenders. At the same time, the people's courts and the people's procuratorates also visit the minor offenders from time to time in the reformatories and discuss with the staff members of the reformatories the measures to be taken to promote the effectiveness of the education and rehabilitation. For example, a minor offender named Pu was convinced that his future was hopeless when he was sent to a reformatory. However, with the help of the staff members of the reformatory and under

the instructions of the Shanghai Zhabei District Court, Pu was encouraged greatly and had gradually regained his self-confidence. Up to now, he has earned rewards three times and been praised twice.

Secondly, the public security organs, the people's courts and the people's procuratorates coordinate with the minors' parents, their schools and the communities where they live to educate and redeem the minor offenders and to remould their personal dignity. To prevent minors sentenced to surveillance, suspension of execution and exemption of criminal punishment from being abandoned and pushed out to society again, the public security organs, the people's courts and the people's procuratorates require the minors' parents, their schools and their community to define their responsibility, to establish help and education teams and to enter into and sign help and education agreements in favour of the minor offenders. They also visit the minor offenders periodically or aperiodically in order to eradicate the minor offenders' recidivity. For example, the juvenile court in Shanghai Putuo District court initially sets up a "Self-independence School for the Minor Offenders' Suspension of Execution", thus turning a sentence of punishment into a sentence of learning for the minor offenders. Besides, it organizes the minor offenders' opportunity to visit some places of learning and helps them build up a positive outlook on life and on the world and to avoid going astray again. In 1994, the juvenile court in Shanghai Changning District court establishes the Education Base for Special Youth and Minor in Changning and makes the minor offenders contract with the Base, the Aged Health Centre of the District Red Cross Hospital the Agreement of Joining Social Public Labour to Accepting Education and Supervision. By working for the old, the minor offenders use the sweat of their labour to clear evil from their heart, purify their soul and encourage themselves to make a better life. Up to date, there are no further bad records with

the said minor offenders being reported since they went back to society.

Additionally, the public security organs, the people's courts and the people's procuratorates also find appropriate approaches and set key methods to educate the minor offenders in that of the legal system, morality, discipline and prospect. Meanwhile, they assist the minor offenders in setting up the outlook on thinking, labouring, learning, making friends and living, in settling the issues of school and employment, in solving other issues the minor offenders face daily and creating a good condition for the minor offenders to repent and make a fresh start.

For example, a high school graduate from Chongming County, who passed the university-entrance examination with excellent marks and met the requirement of enrolment of a famous university in Shanghai, was rejected by that university due to his criminal record. The county court paid several visits to the education bureau of the county, to the education commission of the municipality and even to the state ministry of education, and achieved a fruitful outcome.

In another case, after the juvenile court in Shanghai Minhang District Court sentenced a minor offender from Kang who committed robbery to a term of imprisonment with sus-

pension of execution, the judges went to the relevant schools and educational administrative departments on the district and municipal level to resume Kang's schooling qualification and further drafted out with the school an education plan especially for Kang. Having graduated from junior middle school, Kang entered a school of technology smoothly. Two years later he was employed in a factory manufacturing paper boxes. During his time in the factory, he was honoured as "Youth Example" in two successive calendar years for his outstanding behaviour and diligence. Now, he is the core of the streaming line of the factory as well as an expert in computer maintenance.

Protecting the minors' personal dignity and their healthy growth has now become the joint object worldwide, it is also a long-term and time-consuming work.

China will, pursuant to the United Nations' convention and its domestic laws, with reference to the advanced and valuable experience of other countries, take an active part in international communication and cooperation, be devoted to practising with great effort and exploring with all its might and main to ensure the healthy growth of the minors.

Shanghai, September, 2001

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## AMERICA LOSES TASTE FOR 'ZERO TOLERANCE'

States find that draconian laws don't cut crime

**Peter Beaumont**

The United States, notorious for its massive prison population, draconian sentencing and enthusiasm for capital punishment, is quietly abandoning its appetite for the toughest penal policies in the developed world.

States across a nation that fired British politicians of both Left and Right with an enthusiasm for 'zero tolerance', boot camps for delinquent juveniles, electronic tagging and 'three strikes, you're out' laws are giving up on their most controversial penal policies.

They now favour better community policing and treatment - rather than jail - for drug addicts, who make up a huge percentage of the prison population.

Details of the creeping liberalisation have emerged as official figures show a big fall in executions for the second year running. Forty-eight people have been executed so far this year, down 27 per cent from this time last year. With 14 executions scheduled, this year's total could be down 30 per cent on 1999, when 98 were put to death.

Most significant has been the decline in executions in President Bush's state of Texas, and also in Virginia. This year Texas has put 12 people to death, compared with 40 last year. Virginia has executed one inmate, compared with eight executed in 2000 and 14 in 1999.

A 20-year trend towards ever tougher sentences is apparently in reverse. There is evi-

dence the states with the toughest penal policies have been no more successful in fighting crime than those with more humane regimes.

In the past 12 months four states - Louisiana, Connecticut, Indiana and North Dakota - have abandoned mandatory minimum sentencing, which made criminals serve long sentences without the possibility of parole.

Other states - including New York, Georgia, Idaho, Alabama and New Mexico - are re-evaluating state laws to reduce prison populations, which quadrupled in the US between 1970 and 1995.

Most surprising is the reform in Louisiana - whose prison system has a brutal reputation. In six years since the introduction of mandatory minimum sentencing, its prison population has jumped by 50 per cent, while state prison expenditure has risen by 70 per cent.

A new law - supported by a right-wing Republican, Governor Mike Foster, and a Democratic senator, Donald Cravins - eliminates mandatory prison terms for crimes such as burglary, minor drug possession, fraud, prostitution and obscenity.

'We had half the population in prison,' Cravins told the New York Times last week, 'and the other half watching them. We were pouring money into a bottomless pit.'

The reappraisal of sentencing follows a decade-long decline in the number of crimes

logged by the FBI's annual survey, the Uniform Crime Report .

The change in the US political landscape over high levels of incarceration - some two million Americans are in jail - comes as the annual prison bill has reached \$30 billion (£20bn) during an economic slowdown.

A significant change in penal policy is emerging in California, the state responsible for introducing the 'three strikes, you're out' policy that gave mandatory life sentences to offenders on their third conviction.

According to recent research by the Sentencing Project in Washington, the biggest resistance to the law is from within the judicial system.

Introduced in 1994 by the Governor at that time, Pete Wilson, it was touted as the solution to the problem of the most serious, habitual and repeat offenders that by 31 May this year had seen more than 50,000 offenders admitted to prison. While the crime rate in California has declined, other states without a 'three strikes' law have seen a similar decline.

Marc Mauer, one of the authors of the Sentencing Project's report on California's 'three strikes' law, told The Observer: 'Practitioners in the criminal justice system, the public and politicians are all changing their outlooks.

'President Clinton positioned himself as being tough on crime, meaning there was little difference between Democrats and Republicans on the issue. But in last year's presidential campaign we heard very little about crime.'

In California, says Mauer, opposition to the 'three strikes' law is led from the legal establishment. 'It is being chipped away by prosecutors and judges who don't want to use it.'

Mauer believes the decline in executions is linked to nervousness among practitioners within the judicial system following a number of cases of innocent men on death row being released following DNA tests that proved their innocence.

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This article first appeared in the (UK) Observer on **Sunday September 9, 2001**. I am grateful to the Editor for permission to reproduce it here. Editor

## ASSOCIATION ACTIVITIES

*I bring you below a brief report on seminars in Sion, Nepal and Myanmar. You will find Michel Lachat's report on the seminar in Cameroon on page 15. The editorial is based on the World Congress in Yokohama.*

*Please let me know if you would like such reports to become a permanent feature of the Chronicle. If you would, let me have details of any activities you are involved in under the auspices of the UN, Council of Europe, UNICEF, any of the other International Associations or any of the major NGOs, and which you would like reported in the Chronicle.*

*Editor*

### SION SEMINAR

The topic of the 2001 Sion seminar was "The Child and War". Organised by the IDE with a close collaboration with the ICRC, it allowed 120 people representing 40 countries to examine the painful question of children involved in armed conflicts, victims of these conflicts which go by the name of wars, guerrilla-wars, and internal battles.

Your Vice-President, Treasurer and Deputy Secretary General were amongst a number of Association members who presented papers and assisted in workshops.

The Seminar took an in-depth look at how child soldiers should be dealt with when they are involved in murder, pillaging, even genocide. Should they be treated as war criminals? Or should they be treated as abused children on the grounds that they have been kidnapped, beaten, tortured, drugged and forced by adults into committing these horrific crimes?

We need to look to the key international criminal standards for guidance. States must commit themselves to respecting the treaties that prohibit the recruitment of children and they should ratify without delay the June 2000 Optional Protocol. Ratification is not enough – it is essential that States apply these international instruments and encourage the various guerrilla movements to follow suit. Unfortunately these international instruments are all too often ignored.

A report of the conference, published in French, English and Spanish, will be available in 2002. If you wish to obtain a copy you should contact IDE. You will find email and web addresses below; full contact details can be found on page 14 of this Chronicle

The IDE Website [www.childsrights.org](http://www.childsrights.org), has been operational for over a year and a half and has now accumulated 458 legal instruments relating to children, making it one of the best equipped sites in this field in the world! Participation is encouraged through the expansion of the discussion forum and online conferences. Have you visited the site yet? The organisers invite your participation. You can contact them through the website or by email at <[ide@ukb.ch](mailto:ide@ukb.ch)>.

Jean Zermatten

### YOUTH CONFERENCE, NEPAL

The International Youth Coordination Council of Nepal (IYCCN) organised an International Youth Conference from the 4-6th, November, 2001 at Tigertops, Meghauli, which is in Chitwan Province in Southern Nepal. The theme was "Challenges and Opportunities of Youth in the 21st Century".

The IYCCN is a government registered, non-profit making organization whose aim is to

promote and encourage youth in development and leadership related areas within and outside the country. It is devoted to a global information campaign aimed at mobilizing all sectors of political, economic, social and cultural life in the fight against illiteracy, unemployment and elimination of all forms of discrimination, exploitation, and trafficking. It aims to mobilize youth on development issues like health, education, information, human rights and peace-building, to launch campaigns against trafficking and AIDS, to initiate a Youth Volunteer programme and promote the spirit of international solidarity.

The objectives of the conference were:

1. To build international understanding and solidarity among the youth of the world.
2. To explore the potential of youth in development
3. To share international experiences
4. To establish a network for further cooperation and coordination

The opening ceremony, which was attended by the Deputy Prime Minister and five other Ministers, was preceded by a parade of more than 3,000 children, led by elephants through the streets of Meghauli.

Following the tragic events of September 11 in the United States, a large contingent of delegates from the United States and a second large contingent from the United Kingdom withdrew because of fears for their safety. While the smaller than expected turn-out was, no doubt, disappointing for the organisers, it did have its advantages: the workshops were smaller and there was more participation by the delegates. The discussions were lively and inspiring. I was honoured by being invited to chair three of the sessions.

A conference report will be available later this year.

Willie McCarney

## SEMINAR IN YANGON, MYANMAR

From November 12th to the 15th 2001, the IDE organised a seminar on the rights of the child in Myanmar at the instigation of the Centre for Humanitarian Dialogue (HD CENTRE) and with the approval of the country's authorities and the consent of the Burmese opposition, through its president, Nobel Laureat Ms Aung San Suu Kyi.

Your President, Vice-President, Deputy Secretary General, immediate Past President Jean Zermatten and General Committee member Jürgen Dubbers were amongst those who helped facilitate this conference.

The Conference was attended by one hundred delegates representing different Myanmar ministries implicated in the assumption of responsibility for children, the principle local and international NGOs active in Myanmar and two large organisations, UNICEF and the ICRC.

We explored the question of the rights of the child as they are laid out in the Convention and of their general application, particularly in Myanmar.

Myanmar loves its children who are considered as "precious gems" and it has already done much to implement the CRC, notably by drafting the 1993 "Child Law". Myanmar is currently preparing its second report for the UN Committee for the Rights of the Child and hopes to improve the status of the child. Concern is focused on children in difficult situations (abandoned, in the street, delinquent) and on the implementation of a specialised juvenile justice. A second seminar is planned for 2002, probably to be held in July.

Myanmar was known as 'Burma' during the British occupation and may be better known to some of you under this name.

A publication in Burmese is expected by March 2002.

Jean Zermatten

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

**XVI WORLD CONGRESS**

**MELBOURNE, AUSTRALIA**

**Oct 26 – 31, 2002**

**FORGING THE LINKS**

This congress is an historic event in Australian and New Zealand judicial history. Under the auspices of the International Association of Youth and Family Judges and Magistrates the Congress is being co-hosted and sponsored by the Family Court of Australia, the Federal Magistrates' Service (Australia), the Children's Court of Victoria (Australia), the Magistrates' Court of Victoria (Australia), the Family Court of New Zealand and the Youth Court of New Zealand.

This World Congress is for Judges & Magistrates, Legal Professionals, Social Scientists, Police, Church, Welfare and Youth Agencies, Community Groups, Educators, Academics, Human Rights Advocates, Legislators, Psychologists/Psychiatrists

**AIM**

The aim of the Congress is to assemble people from all over the world active in the protection of youth and the family to consider issues which fall within the realm of family courts and youth courts

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:

**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.

- (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.

In many jurisdictions, debates rage over the lack of a co-ordinated, accessible and timely

**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.

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

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**THEME : FORGING THE LINKS.**

**A Congress for:  
Judges and Magistrates; Legal Professionals; Legislators;  
Government Organisations; Psychiatrists/Psychologists; Social Scientists;  
Academics; Human Rights Advocates; Educators;  
Church, Welfare and Youth Agencies; Community Groups; Police;**

**Simultaneous Translation: English, French, Spanish**

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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 19<sup>th</sup> 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 diversity, 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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