

**ADVOCACY AND LEADERSHIP IN EARLY
CHILDHOOD SERVICES:**

**A PERSONAL REFLECTION ON
PROMOTING CHILDREN'S RIGHTS**

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Introduction

In 2006 a report prepared for the Community and Disability Services Ministers' Conference asked a series of questions necessary for assuring a high-quality coordinated early childhood sector. The first of those questions was

What vision and values underpin an Australian system of children's services in the twenty-first century?¹

That is what I want to speak about today, the vision and values that should underpin early childhood services and how to promote them. For me, that vision and those values are found in the Convention on the Rights of the Child.

As we meet in Canberra this weekend, we are a year short of the 20th anniversary of the adoption of the Convention on the Rights of the Child, a landmark document that changed the legal conception of children and of their place in societies. Over those two decades, I have made a bumpy journey of hope followed by frustration, then anxiety followed by profound despair, and now again hope – although this time the hope is greatly qualified because of the disappointments of the past. My address today is a personal reflection and so I make no apologies for telling it exactly as I see it. At its heart is a recognition of the need for leadership and for renewed commitment to advocacy to promote the rights and well-being of children, including advocacy and leadership in early childhood services. But let me begin at the beginning, with what I believe.

Children's rights: the basis for advocacy

Legal conceptions of children

The adoption of the Convention on the Rights of the Child marked a fundamental shift away from past conceptions of children and childhood to a new one. A century and a half earlier, there had been another fundamental shift. Until then, the law had seen a child as property – the property of the father – to be dealt with and disposed of as he saw fit. So children were subjected to extreme punishment and mistreatment without legal intervention. And they were subjected to appalling exploitation in the mines and factories of industrialising societies, as indeed they still are in many parts of the world. A father could determine how he treated his children. He could make arrangements for their lives, their employment and their futures, including their marriages, without interference. They were his property, as much as land and cattle and tools were his property.

The conceptual shift of the 1800s was based on the perception of children as vulnerable and so in need of protection. It was driven by the exploitation of children outside their homes, in factories and mines. In 1833 the United Kingdom Parliament enacted

¹ C Taylor, M Wills, J Hayden and C Wilson *A review of the approach to setting national standards and assuring the quality of care in Australian childcare services* Children's Services Sub-committee of the Community and Disability Services Ministers' Conference, March 2006, p 89.

legislation that prohibited the employment of children under 9 in textile factories and limited the employment of those between 9 and 13 to 8 hours a day and children over 13 to 12 hours a day. A decade later the Coal Mines Act prohibited the employment of children underground in mines. The Australian colonies enacted similar laws.

Perhaps if children had remained at home in predominantly rural societies, the shift from the conception of children as property would never have occurred because it would have been seen as interfering with the rights of parents. Because the exploitation was outside the home, it was easier for reformers to argue that children needed and were entitled to the protection of the law. The shift, however, did occur and in time it extended into the family home, with child welfare and child protection legislation being enacted and the state being seen as the ultimate protector of children, as the parent of the nation (*parens patriae*). Children were not to be subjected to exploitation, abuse or neglect anywhere, inside or outside the family home. Of course the changes in conceptions and laws were far easier to achieve than changes in attitudes and practices. We still have a long way to go in changing attitudes and practices towards children.

The conceptual shift of the 1980s built on and incorporated the earlier one but it was no less profound in its consequences. Children were still seen as vulnerable and in need of protection but this status was subsumed in a broader understanding of children as full human beings with all the human rights and fundamental freedoms that all human beings have. Their need for protection was transformed into a right to protection. They had a right to be free from exploitation, abuse and neglect of any kind. Seeing children as rights-holders had implications beyond child protection, however. It meant that, like all human beings, they were also entitled to freedom of speech, freedom of religion and belief, freedom of association, the right to education and to the highest attainable standard of health, and so on. It meant that they had the right to participate in decisions that affected them.

The Convention on the Rights of the Child

The Convention on the Rights of the Child is the universal statement of this new conception. Professor Philip Alston put it well.

The concept of children's rights brings together two of the most important twentieth century developments in the history of ideas. The first is the widespread, if not universal, acceptance of the idea that every individual, solely by virtue of being human, is entitled to enjoy a full range of human rights. The second is the recognition of the idea that children should be treated as people in their own right and not as mere appendages of, or chattels belonging to, the adults under whose responsibility they fall. By combining these two ideas it becomes clear that children are entitled to be treated as holders of human rights and that any qualification to the range of rights that they are accorded by society has to be

fully justified by reference to other human rights principles rather than to the predilections, prejudices or narrowly conceived self-interest of adults.²

The drafters of the Convention had to confront many delicate issues in recognising children as rights holders. If children have the right to make their own decisions, they might make wrong decisions because of their lack of experience and maturity. So the right to participate, in Article 12 of the Convention, provides that the child is entitled to express his or her views on any decision affecting the child and to have those views “given due weight in accordance with the age and maturity of the child”. Here we see the protective element incorporated to recognise children’s vulnerability and to ensure that the child’s well-being is not compromised.

Similarly, in recognition of the child’s vulnerability, under Article 5 the child has the right to the direction and guidance of his or her parents and guardians in the exercise of human rights. The relationship between children’s rights and parents’ rights was one of the most controversial issues in the drafting of the Convention and was not resolved until near the very end of the process. Parents have “responsibilities, rights and duties” to provide direction and guidance to their child, “in a manner consistent with the evolving capacities of the child”, in the child’s exercise of human rights. In this way, the “rights” of parents are themselves transformed by being related solely to their responsibilities for the well-being of the child through the promotion of the child’s rights. And their scope is defined by reference to the gradual development of the child, who has “evolving capacities” over time. This sense of evolving capacity, found in many parts of the Convention, is unique in international human rights instruments.

Old conceptions die hard, however. The principal reason why the United States has not ratified the Convention on the Rights of the Child, while 193 other States have, is that in the United States many parents’ groups and conservative religious organisations see the Convention as undermining the rights of parents to do what they like with their children. Elsewhere, the Convention and its new conception of children and childhood were welcomed enthusiastically. No other human rights treaty, before or since, has been ratified by so many States so quickly.³

The debate in Australia about ratification was short but heated.⁴ Much of the US propaganda found its way here too and was taken up by many groups associated with or ideologically similar to those opposing ratification in the United States. Most memorably for me was the anguished statement by a mother in Western Australia that the Convention would prevent her removing rotten apples and smelly socks from her son’s schoolbag. There was a lot of nonsense spoken and written, as there always is in Australia when human rights are discussed. For most of us in the human rights and children’s sectors,

² P Alston “Australia and the Convention” in P Alston and G Brennan (eds) *The UN Children’s Convention and Australia* 1991 HREOC, ANU and ACOSS p1.

³ The Convention was adopted by the General Assembly on 20 November 1989 and came into force less than 10 months later, on 2 September 1990.

⁴ Australia signed the Convention on 22 August 1990 and ratified it on 17 December 1990.

however, the Convention offered a bright new light of hope that the situation of children would be transformed as radically in fact as it had been in law.

The effect of the Convention for children in Australia

Almost 20 years later we can say that the Convention has realised neither the brightest hopes of its supporters nor the most dire fears of its opponents. It has not revolutionised public policy making for children, for example, and it has not protected rotten apples and smelly socks. Nonetheless it has led to many very significant initiatives and reforms. It has provided a new basis for examining the situation and treatment of children, bringing a rights focus to what previously were seen as purely welfare issues. In this way, it has changed areas of political discretion to matters of international legal obligation. The Human Rights and Equal Opportunity Commission has demonstrated this in its many national inquiries into human rights issues affecting children: homelessness, mental illness, rural and remote education, legal processes, detention and so on. The Convention has provided the legal and conceptual basis for the establishment of children's commissioners in most Australian jurisdictions. It has added weight to academic research about children's well-being. It has brought clout to arguments that more needs to be done to ensure the protection of children from exploitation, abuse and neglect. It has led to changes in laws, policies and practices affecting children, such as the right of children to have their views heard in Family Law matters and the role of the Courts in decisions concerning the medical treatment of children, including the sterilisation of children with an intellectual or developmental disability. It has strongly influenced the development of national standards and accreditation for early childhood services.

While celebrating these and many other positive developments, I must also recognise the persistence of serious deficiencies in our laws and practices over the past 20 years. This has been the source of the frustration, anxiety and despair that I referred to when I began. The sad truth is that most of these child abusing, rights violating practices have had the full support, or at least the silent acceptance, of the great majority of our fellow Australians. Nonetheless, even in these areas there has been some improvement. That has been the revival of my hope. Let me give only three examples.

Children in immigration detention

The Convention on the Rights of the Child provides that children should only be detained as a last resort and for the shortest appropriate period of time.⁵ When detained they must be treated with respect for their humanity⁶ and they must be able to continue to enjoy their other rights, including those to education⁷ and health care.⁸ For most of the past two decades, children who came to Australia to seek asylum were arbitrarily detained, many

⁵ Article 37(b).

⁶ Article 37(c).

⁷ Article 28.

⁸ Article 24.

for periods of years, in conditions far worse than in any Australian prison.⁹ Their detention was in clear violation of their rights and Australia's obligations under the Children's Convention. The former Howard Government inherited this system from its Labor predecessor and then refined and applied it with a ruthlessness that brought shame on us all. And a large majority of Australians supported them in this. Under pressure from its own backbench, including a handful of heroic dissenters, and from growing public unease, that Government began to back away from these policies three years ago. Now the new Rudd Government has gone far further and announced the end of mandatory detention of asylum seekers and their families. It has made a commitment that in future no children will be subjected to immigration detention. A victory at last for decency and for children's rights.

Indigenous children

Equally distressing has been the situation of indigenous children. The Convention on the Rights of the Child provides that all children are entitled to live their lives free from neglect and abuse¹⁰ and from all sexual abuse and exploitation.¹¹ Last year the neglect and abuse, particularly sexual abuse, of children in remote indigenous communities was given wide public attention, in the media and in parliament, following publication of a report on the issue in the Northern Territory.¹² It was as though we had discovered something new, something long hidden, and were shocked into action by the discovery.

We should not have been surprised. We knew, or at least should have known, for a long time. Indigenous leaders have been speaking for a decade and more about the situation. I remember people like Mick Dodson and Marcia Langton talking about this in the early and mid 1990s and calling for action but their calls fell on deaf ears. That action came only when it was politically opportune, as a response to political need not to human need. And even then the response, the Intervention, was a knee-jerk response, imposed rather than developed in consultation with the communities, thought up rather than thought through. The communities were described as dysfunctional and their leaders blamed. Many indigenous communities certainly are dysfunctional but the blame falls on all of us for we, Australia as a whole and our governments, allowed it to happen. Indeed we caused it to happen because of the long denial of the necessary resources to prevent it.

The provision of significant additional funding was truly welcome. So too were the health and education initiatives. They were long overdue. They give us hope. Whether there will be proper follow through, however, is a different matter. Already we hear of health checks being performed and illnesses diagnosed but no treatment being provided. There are legitimate debates about aspects of how the Intervention was developed and implemented. Quite apart from those, however, the whole exercise will be simply yet

⁹ Human Rights and Equal Opportunity Commission *Those who've come across the seas 1989; A last resort?* 2004.

¹⁰ Article 19.

¹¹ Article 34.

¹² Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse *Little Children are Sacred* 2007.

another failure of public policy towards indigenous Australians if health and education services to indigenous communities are not properly funded and staffed now and in the future.

On 2 October 2008 the Council of Australian Governments made firm commitments to indigenous children on behalf of the federal government and all State and territory governments. Among the six targets for closing the gap between indigenous and other Australians, two related specifically to young children:

- halving the gap in under 5 child mortality within 10 years and
- ensuring that all indigenous four year olds in remote communities have access to early childhood education within five years.

The government leaders signed a National Partnership on Indigenous Early Childhood Development to reach these targets. That Partnership will provide \$564 million over six years for early childhood services. A sure sign of hope.

Children's rights in public administration

My third example is a more general one, relating to the way in which government officials treat the Children's Convention. In 1995, in the *Teoh Case*, the High Court of Australia had to consider whether in making decisions public servants should have regard to the Children's Convention and other international human rights treaties.¹³ The case concerned a decision to deport a man and whether, in making that decision, officials should consider the best interests of the children, as required by the Convention. The High Court held that they should. Chief Justice Brennan and Justice Deane, in a joint judgement, said,

ratification by Australia of an international Convention is not to be dismissed as a merely platitudinous or ineffectual act, particularly when the instrument evidences internationally accepted standards to be applied by courts and administrative authorities in dealing with basic human rights affecting the family and children. Rather, ratification of a Convention is a positive statement by the executive government of this country to the world and to the Australian people that the executive government and its agencies will act in accordance with the Convention. That positive statement is an adequate foundation for a legitimate expectation, absent statutory or executive indications to the contrary, that administrative decision-makers will act in conformity with the Convention and treat the best interests of the children as "a primary consideration".

Yet, contrary to the Court's view, the responses from the Keating Government at the time of the *Teoh* decision and then the Howard Government indicated that in fact ratification of the Children's Convention was regarded by our Governments as "a merely platitudinous or ineffectual act". Both Governments took steps to undermine and overturn the decision, though a series of "executive statements" and proposals for legislation.

¹³ *Minister of State for Immigration and Ethnic Affairs v Teoh* (1995) 128 ALR 353.

Their view was that treaty ratification – entering solemn international legal obligations – should be meaningless in Australian law.¹⁴

We should be dissatisfied when a Government ratifies a fundamental human rights treaty, like the Convention on the Rights of the Child, and then fails to implement it through comprehensive national legislation. We should be outraged when it goes even further and directs that no public servant should be expected to take it into account in decision making. The best interests of the child may be a primary consideration in decision making in international law but they seem to be nothing in fact in Australia.

The new Attorney General seems to take a different view of the effect of treaty ratification from that of his predecessors. That is another sign of hope. We need, however, to press this issue. The very least we should expect from countries that have ratified human rights treaties is that their public officials take them into account in decision making.

These three examples – the immigration detention of children, the situation of indigenous children and the place of children’s rights in public administration – are only three examples of how we have failed to live up to our obligations under the Children’s Convention, of how we have failed to honour our promises to children. The failure is not the Convention’s failure but our failure. The challenge we have as advocates for children is to seize the opportunities that are now available, for the first time in a very long time, to address the implementation failure and make up the implementation deficit. We have to bridge the gap between promise and action, between law and practice.

Children’s rights and early childhood services

I have been assuming that as practitioners in early childhood services you see the relevance of children’s rights to your work and see yourselves as advocates for children’s rights. You may not share those assumptions and so I should explain them.

Basing early childhood services on children’s rights

Children’s rights are relevant to early childhood education and care. The Convention on the Rights of the Child is directed towards the well-being of every child and the full development of every child to her or his full potential. Early childhood education and care shares that direction and commitment. The Convention states that the first objective of education is “the development of the child’s personality, talents and mental and physical abilities to their fullest potential”.¹⁵ Early childhood education and care contributes to that full personal development of children. According to the Convention the other objectives of education are

¹⁴ Unfortunately the High Court itself, under Chief Justice Gleeson, seemed to be retreating from the *Teoh* approach in a more recent case: *Re Minister for Immigration and Multicultural Affairs; ex parte Lam* (2003) 195 ALR 502.

¹⁵ Article 29.1.

- the development of respect for human rights and fundamental freedoms
- the development of respect for the child’s parents, cultural identity, language and values, and of respect for the values of the child’s own country and of other civilisations
- preparation for a responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin
- the development of respect for the natural environment.¹⁶

Surely we could not want a better statement of what we are seeking through early childhood education and care.

The Convention imposes obligations on States that relate closely to early childhood services. States have an obligation to assist parents in their child-rearing responsibilities and ensure the development of services for the care of children.¹⁷ In particular States have an obligation to take “all appropriate measures” to ensure the right of children of working parents to child-care services and facilities.¹⁸ Early childhood education and care implements these State obligations.

Early childhood services contribute to implementation of the requirements of the Convention in relation to the child’s right to the highest attainable standard of health care,¹⁹ the right to education,²⁰ the right to protection from exploitation, abuse and neglect,²¹ the right to play and recreational activities “appropriate to the age of the child” and to participate in cultural life.²² Services also have particular regard for the specific needs and rights of particular groups of children specified in the Convention: refugee and asylum seeker children,²³ children with disability,²⁴ children of ethnic and religious minorities and indigenous children,²⁵ children placed in alternative care,²⁶ children who are the victims of abuse and neglect.²⁷

The importance of children’s rights to early childhood care and education is recognised in many of the key documents that express the values and goals of the sector. The first of the values of Early Childhood Australia is “the rights of children”.²⁸ The first commitment to children in its Code of Ethics is to act in the best interests of the child and the second commitment is a more general one, to “respect the rights of children as

¹⁶ Article 29.1.

¹⁷ Article 18.2.

¹⁸ Article 18.3.

¹⁹ Article 24.

²⁰ Article 28.

²¹ Article 19.

²² Article 31.

²³ Article 22.

²⁴ Article 24.

²⁵ Article 30.

²⁶ Article 20.

²⁷ Article 39.

²⁸ See www.earlychildhoodaustralia.org.au .

enshrined in the United Nations Convention on the Rights of the Child and commit to advocating for these rights”.²⁹ Its policy positions are based on principles that “reflect adherence and commitment to” the Convention on the Rights of the Child.³⁰ They are expressed in rights terms: “All children have the right to access and participate in early childhood programs and services”.³¹

The same explicit support for children’s rights is found in the discussion paper on the national framework for early childhood education and care. The discussion paper proposes values that will underpin the framework and the first of these values is “the international rights of children”.³² The other five values are consistent with the basic principles of the Convention:

- respect, compassion and empathy for all
- promoting social inclusion
- recognising indigenous cultures and identities
- the agency of children (which acknowledges the voices of children as active members of society), and
- a strong partnership between parents, professionals, families and communities.³³

In referring to a number of specific provisions in the Convention, the discussion paper says, “The framework will reflect the convention, with particular acknowledgement of these rights that are directly relevant to formal early childhood education settings”.³⁴ It is a pity that these strong, positive statements in relation to the Convention come so late in the discussion paper, more than three-quarters of the way through. They should be up there in lights, right at the beginning. The discussion paper also says, also belatedly,

At the heart of the reforms is the need to put the child at the centre of policy development and the delivery of services ... The OECD supports a system with a greater focus on outcomes, so that early childhood services are founded not only to facilitate labour market participation or other aims but, above all, to improve the present and future prospects of children.³⁵

The problem with the placement of the children’s rights references so late in the discussion paper is the sad fact that this reflects the reality. Dollars always seem to come before values. In public debate, including public policy making, the rights dimension of

²⁹ ECA Code of Ethics

www.earlychildhoodaustralia.org.au/code_of_ethics/early_childhood_australias_code_of_ethics.html .

³⁰ ECA Position Statement *Consulting with Young Children* at

www.earlychildhoodaustralia.org.au/position_statements/guidelines_for_consulting_with_young_children.html .

³¹ ECA Position Statement *Inclusion of Children* at

www.earlychildhoodaustralia.org.au/position_statements/inclusion_of_children.html .

³² Productivity Agenda Working Group – Education, Skills, Training and Early Childhood Development A *national framework for early childhood education and care* 1 August 2008, p 35.

³³ *ibid* p 35.

³⁴ *ibid* p 35.

³⁵ *ibid* p 12.

early childhood education and care always seems to come after the economic dimensions and the other adult considerations, like enabling parents to work if they wish to do so. So the very first paragraph of the discussion paper says that the purpose of these welcome reforms is “to deliver significant improvements in human capital outcomes for all Australians”.³⁶ These dimensions are important, of course, but children’s rights and children’s well-being should come first, as the “primary consideration” that the Children’s Convention requires.

The poor structure of the discussion paper should not take away from the importance of its contents. It recognises children’s rights as the first value that should underpin the new national framework. There is need now, consistent with that recognition, to place children’s rights again at the front and centre of the early childhood agenda and then to base policy and practice on that. We should be building policy and practice from values, not seeing values as a belated after-thought. And the first of our values should be children’s rights. Our vision for children, the only acceptable basis of any national framework, should be their full enjoyment of all their fundamental human rights.

Children’s rights issues for early childhood services

Children’s rights are important for early childhood services because those services are so important for children. The research on this is now well known and indisputable. According to the discussion paper on the national framework,

The early years of children’s learning and development needs to be seen as important in their own right as well as being a foundation for life outcomes. During the early years children inquire, explore and discover much about the world around them, establishing attitudes to learning that remain with them throughout their lives.³⁷

Early childhood education and care address children’s immediate needs and well-being, that is, children’s lives as children. They provide children with opportunities for learning, play and socialisation. They provide the foundations for literacy, numeracy, later learning, and future life opportunities.³⁸ They are especially successful in addressing the disadvantage of particular groups of children, in helping “put children onto a positive pathway for life and learning”.³⁹

In addition, early childhood education and care has good social and economic benefit for the whole community. According to the discussion paper, “The rates of return in areas like health and education outcomes are much higher from early investments than those made later in life.”⁴⁰ Other researchers have come to the same conclusion. According to

³⁶ *ibid* p 1.

³⁷ *ibid* p 30.

³⁸ *ibid*, p 29.

³⁹ *ibid* p 29.

⁴⁰ *ibid* p 7.

the NSW and Queensland Commissions for Children and the National Investment for the Early Years,

There is clear evidence that investment in the early years, by providing love, care and quality education for our young ones, improves the economic wellbeing of the country. As James Heckman of the University of Chicago states, “Early advantages accumulate; so do early disadvantages. Later remediation of early deficits is costly ... Redirecting additional funds toward the earlier years, before the start of traditional schooling, is a sound investment in the productivity and safety of our society.” He estimates that such investment achieves a 17% per annum return to the child and the society and argues that by the time the children are aged 40, society will be repaid many times over through reduced crime, welfare payments and higher tax revenue.⁴¹

There are two important issues in ensuring these good results for children and the community: the quality of services and their accessibility for disadvantaged children.

First, quality. I am no expert on what constitutes quality in early childhood education and care and so I will rely on those who are. The Centre for Community Child Health says,

The long term benefits of participation in early childhood programs only accrue from high quality services. Mediocre and poor quality services are at best custodial, and at worst damaging.⁴²

That conclusion is supported by research examined for the Community and Disability Services Ministers’ Conference in 2006.

Research has confirmed that experiences during the early years influence life prospects. Basic custodial style child care, which does not focus on nurturing and stimulating experiences, can have long-term detrimental effects.⁴³

The Centre for Community Child Health says,

The quality of children’s services is the product of the interaction between structure and process:

⁴¹ NSW Commission for Children and Young People, Queensland Commission for Children and Young People and Child Guardian and National Investment for the Early Years *What about the kids? Improving the experiences of infants and young children in a changing world* p 9, at http://www.ccyecg.qld.gov.au/pdf/publications/reports/What_About_the_Kids/Summary-WhatAboutTheKids.pdf

⁴² Centre for Community Child Health *Quality in Children’s Service*, Policy Brief No 2 2006 p 4.

⁴³ C Taylor, M Wills, J Hayden and C Wilson *A review of the approach to setting national standards and assuring the quality of care in Australian childcare services* Children’s Services Sub-committee of the Community and Disability Services Ministers’ Conference, March 2006, p 86.

The structural components of quality (regulations) are measurable features of the children's services environment, including staff training and qualifications, staff-child ratios and group size. These are covered by regulatory standards.

The process components of quality (accreditation) concern the dynamics of the early childhood environment and what is experienced within it, including curricula and child-carer relationships, communication between carer and parents, staff stability, continuity and working conditions.⁴⁴

Finally the Centre proposes four "key mechanisms" to improve quality:

- A strong and enforced regulatory framework which addresses key structural components of quality;
- An accreditation system which accurately assesses the quality of children's experiences within the setting;
- A pedagogical framework that focuses on children's holistic development and well-being; and
- Strategies to attract and retain an appropriately qualified professional workforce.⁴⁵

The quality of services is the first issue. The second is accessibility. Here human rights law provides some guidance in what constitutes accessibility.⁴⁶ Accessibility will require that services be

- financially accessible, that is, affordable, directly or indirectly, even to children from poor families
- geographically accessible, that is, available to needy children even in rural and remote locations and in the outer suburbs of our cities
- physically accessible, so that children with disabilities can participate on an equal basis with other children
- culturally accessible, so that they are welcoming places for immigrant and refugee children and children from indigenous and non-English speaking backgrounds.

All children are entitled to quality early childhood education and care but not all children are able to receive it. There is need for better and more consistent data in this area but we know the rough outline of the situation. We know that about a sixth of all four year olds do not attend pre-school immediately before school. About 30% of three to five year olds do not attend early childhood education and care services at all. As with all other social indicators, indigenous children fare worse than other Australian children: around 46% of indigenous four year olds attend pre-school compared with 57% of other Australian four

⁴⁴ *ibid* p 1.

⁴⁵ *ibid* p 4.

⁴⁶ See for example Committee on Economic, Social and Cultural Rights *General Comment 13: The right to education* at [www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument).

year olds. The disparity becomes greater the more remote the community, leaving the most needy indigenous children with the least access.⁴⁷

The right to good early childhood education and care is a universal right that large numbers of indigenous children, refugee and immigrant children, children with disabilities, children from poor families and other disadvantaged children are presently unable to enjoy. Specific steps have to be taken if these children are to be able to avail themselves of this right. We cannot assume that, just because there is a service or there are a certain number of places, it is enough. A top priority in developing this sector must be ensuring the provision of services for the children who need them most. That is a moral demand but also a pragmatic choice, because we know that, if the children of the poorest families get good early childhood education and care, then the children of the richest families certainly will too.

The requirement of accessibility is key to the full social inclusion of all children, one of the Government's stated objectives. Pam Cahir, Early Childhood Australia's Chief Executive Officer, has said that social inclusion

means that all children should have the opportunity to develop their talents and capacities to the full and be active and valued members of society. A commitment to social inclusion means that the barriers to inclusion such as disability, low income and culture be addressed. Social inclusion means that the gaps and distances between children in terms of present wellbeing and future life chances are minimised.⁴⁸

Again we find hope in the Government's commitments in this area. The commitment to ensuring that every child has access to high quality learning opportunities for 15 hours a week, 40 weeks a year during the year before school is good. It reflects the universal right of children. The commitment of the Council of Australian Governments, that I have already mentioned, to provide all indigenous four year olds in remote communities with access to early learning within five years is good. The commitment to eliminate disparities between indigenous and other Australians is good. As the Government has acknowledged, ensuring universal access to early childhood services will benefit disadvantaged children most as they currently miss out most.⁴⁹ It is part of the Government's social inclusion initiative that must provide all children with the opportunity to develop their personality, talents and abilities to their fullest potential and to be full participants in their communities. The commitments themselves are good but their full implementation will be far better.

⁴⁷ Statistics are drawn from Australian Bureau of Statistics *Information Paper: Measuring learning in Australia: Concepts and directions in early childhood learning 2007* Catalogue number 4232.0.

⁴⁸ Pam Cahir, Early Childhood Australia, "Meaningful consultation with children: raising children's voices", address to the ACT Children's Plan Community Network Forum on Creating Child Friendly Environments in Your Community, Canberra ACT, 27 June 2008.

⁴⁹ Department of Education, Employment and Workplace Relations *Questions and answers: universal access to early childhood education*.

I need at this point to be explicit about what is required to implement the Children's Convention and indeed human rights generally. Implementation needs determination and commitment. It is demanding. It is not cost free. It requires a re-ordering of priorities, including in relation to government budgets and public expenditure. But human rights expenditure is like expenditure on quality early childhood services themselves, a good investment of public money that in the long term is both socially beneficial and fiscally sound. A society built on human rights is a society characterised by justice and equity, by mutual respect and mutual responsibility, by cohesion and prosperity. As a nation we should be prepared to bear any burden and pay any price for the well-being of children and the promotion of human rights. The rewards if we do are great, as are the costs if we do not.

Early childhood workers as leaders in children's rights advocacy

You then are needed as advocates for children's well-being and not only advocates but leaders in advocacy. The basis of your advocacy should be children's rights, as recognised in the Convention on the Rights of the Child. Why you? Because as early childhood professionals, you have responsibilities and opportunities that require you to be advocates. Your responsibilities come from your role as workers with children. You know them and their needs well. You know what promotes their development and their happiness. You know the importance of services for them being of the highest quality. You also know the consequences of children not receiving the services and support they need for their full development and the consequences of poor quality services. Advocacy cannot be left to others when you have so much expertise and experience.

We have to be explicit about children's rights. For far too long the national agenda has been hostile to any talk of human rights. In the atmosphere of political correctness that enveloped the country, rights were out and obligations were in; society was out and the economy was in; poor and marginalised people were out and the rich and famous were feted. And everyone, including children, suffered as a result. The tide has turned, as it inevitably does, and we have an opportunity to reclaim the national agenda, if we are prepared to do so. An opportunity now – not for long – that we can seize or lose. Children's rights advocates are needed and those who work with children should be leading the way. They should be addressing children themselves, for children have a right to know their rights.⁵⁰ They should be addressing the community at large, where important debates about rights are won and lost and where important decisions about children are made. And they should be addressing governments, the ultimate decision-makers on resource allocation.

We have to be explicit about the quality question. It cannot be avoided. We have to acknowledge that quality services are central to children's ability to enjoy their rights fully. I know the historical debates in the early childhood sector about the nature of the service deliverer – public, private or community owned and operated – and the type of service, defined more by funding avenues than by logic – preschool and child care. It

⁵⁰ Convention on the Rights of the Child Articles 29 and 42.

seems to me that these debates are of a much lower level of importance than the essential requirement to ensure children's rights to and through quality services. We know that all parts of the sector have good quality services and all parts have poor quality services. The need is not to debate operators but to set and enforce standards. That will mean identifying, naming and shaming, and, if necessary, closing those whose performance is not up to standard. Are we committed enough to children and their rights to do that? We have to be. We have to be advocates who speak not only in the language of general principles but with facts and analysis with specific consequences for specific services. We need to be advocates for the adoption of good national standards within the proposed national framework and for their implementation. We need to be advocates for decisions to be taken while the opportunity exists – knowing that we will not get it 100% right 100% of the time but sure that no decision is far worse, far more harmful, than a decision that is 90% right and 10% correctable.

And we have to be explicit advocates for the provision of early childhood education and care that is accessible for the children who need it most. That will involve difficult choices. It will require the direction of available public resources to where they are most needed. There is nothing wrong at all about middle class welfare provided that it does not prevent the provision of adequate levels of support to those who would otherwise miss out. Too often, unfortunately, it does. Too often the financial support provided is spread so thinly that of itself it is not enough to provide quality services. As a result, only those who can top up the funding get the services and those who need the services most miss out. We need trickle up in this country, not trickle down. We need to start with the neediest. That too will require tough talking from early childhood workers to ensure the rights of all children are met. And it will require tough decisions too about who gets what funding.

Children's rights and the associated issues of quality and accessibility are not easy matters to advocate. That is why leadership too is required. Let me say at the outset that, when I speak of leadership, I am not speaking only of national leadership, though that too is required. Leaders are needed at every level and again we should take a bottom up approach. Local services provide significant opportunities for good leaders. We need to hear about children's rights and children's needs at that level, among staff, with parents, in the local media, out in the local community. We cannot complain that the broad community does not understand children and their rights if we do not tell them. Those working locally with children have expertise that can be increased and promoted and experience that can be enhanced and shared. No one working with children should see leadership as beyond her or him or as someone else's responsibility. It is an individual role and one that is shared collectively with colleagues and others in the sector.

The demands of leadership should not be minimised. They are great. To be responsible leaders, we must be well informed. That requires us to get the facts and figures we need for advocacy. We must be reflective and insightful. That requires us to have a good understanding of ourselves and our work, and of the sector as a whole and its work, and a good analysis of what is happening and what needs to be done. It requires us to be risk takers because nothing is ever accomplished without taking risks. It requires us to be

willing to fail and then to face our failures and learn from them. It requires a willingness to deal with the opposition and hostility that rights advocacy inevitably encounters. These are general attributes of leadership and they apply specifically to leaders in the children's sector. Here the work itself is personally enjoyable, however difficult it can often be, and personally rewarding, even if seriously underpaid. The temptation must be to focus entirely on the immediate demands of the children right in front of us rather than the broad rights and needs of children generally. The temptation is to be content with service provision and so to avoid advocacy and leadership. Fortunately or unfortunately, much more is expected of you.

Every time we speak about children and their rights, we are leaders in advocacy. As I have already said, local services provide significant opportunities for good leaders and I have referred to some of them. More is needed, however. Public policy decisions about early childhood services will affect children's enjoyment of their rights. Those decisions can be about funding levels and allocations, quality and other standards for services, licensing and accreditation processes and decisions, and so on. Because these decisions all have children's rights consequences, it is important for children's advocates to engage with policymakers at the political and bureaucratic levels to influence the decisions. Here organisations like Early Childhood Australia and other professional and industry associations are important. Advocacy and leadership at the national level require collaboration among individuals and through structures. This is the collective dimension of leadership. It is the best means to secure positive results.

The most difficult aspect of this collaborative, collective leadership is reaching agreement on key policy questions. Each person and each part of the sector come into the coalition with individual and sub-sectoral views. Often these views are diametrically opposed. Even if not opposed, there can still be disagreement about priorities. It is important, indeed essential, that debates about policies and priorities be founded on what children's rights, and therefore children's well-being, require. The negotiation of common positions and the resolution of opposing or contesting views must proceed on that basis or it will become a process of competitive tactics and decision making on the basis of numbers alone. The policy should be assessed according to the standards of the Children's Convention, not on the basis of who has compromised or who has won the argument. What is advocated must have moral force if it is to be successful.

Conclusion

For the first time in more than a decade, there are opportunities for credible advocacy for children's rights by leaders with expertise, experience and commitment. These opportunities must be grasped or they will be lost. Is the early childhood education and care sector ready for this challenge? I am no expert in the sector and so I simply do not know. What I do know is that children's need for this advocacy is great. The promises of the Convention on the Rights of the Child are still to be realised, almost 20 years after its adoption. We can move beyond frustration, anxiety and despair and embrace the possibility of hope – or the audacity of hope, as Barack Obama calls it – if we are willing

to do so. Children have few choices. We adults and professionals have many. The challenge is to choose to place ourselves at their service and in the service of their rights.