

UN Special Session on Children September 3rd. 2001: Adelaide

**Freda Briggs
Professor of Child Development, University of South Australia
Magill Campus
SA. 5072**

Australia's responsibilities for the protection of children

When Australia signed the UN Convention on the Rights of the Child, it agreed that, "the child shall be protected against all form of neglect, cruelty and exploitation....." (Principle 9). It agreed to take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence, injury or abuse or negligent treatment, maltreatment or exploitation including sexual abuse while in the care of parent(s), legal guardians or any other person who has the care of the child. "Such protective measures should include effective procedures for the establishment of social programmes to provide necessary support for the child, those who have care of the child (etc.) including treatment".

Under Article 34, Australia agreed to protect children from all forms of sexual exploitation. Article 39 states that governments shall take all appropriate measures to promote the recovery of victims of any form of abuse.

Australia ratified the UN Convention and, therefore, this country has committed itself to uphold the values specified in the articles. That means the State Governments have obligations too.

Australia's response, published in your documents on the Internet, shows that the problem of child abuse was dismissed in a couple of lines.

In what ways is Australia failing to cater for the rights of children?

1) The adversarial justice system does not protect child victims of sexual abuse

The author was a member of the 1984-6 South Australian State Minister of Health's *Child Sexual Abuse Task Force*. It was then a concern that the adversarial Australian justice system not only failed to provide protection for child victims of sexual abuse, it added to the trauma and psychological abuse already inflicted on children by sex offenders.

In signing the UN Convention, the Australian Government did not agree to restrict protection to mature, intelligent children who possess the sophisticated communication skills needed to withstand cross-examination by a barrister for several hours or even days in an adult criminal court but that is the reality of the Australian justice system in the 21st.C. To survive the trial, children must be able to tolerate insults and accusations that they are lying or worse, that they seduced their abuser. They must be able to cope with the tricks that lawyers play to confuse them, bearing in mind that the aim of the defence is to discredit victims. Bearing in mind that this is an adult court with rules for adults, a child who has been sexually abused on many occasions may be expected to remember what type of abuse occurred at what time, on what date and where. These are unreasonable expectations (Breckenridge and Laing, 1999)¹, especially given that young children don't keep diaries and even adults have to refer to diaries or newspapers when they need the date.

The Australian Government agreed to protect *all* children: it did not say that it would discriminate against the young. It did not say that it would discriminate against children with disabilities and yet child sex offenders can abuse these children with little fear of apprehension and, not surprisingly, children with disabilities are the ones most likely to be targeted for sexual abuse. It is a concern that they are also the ones least likely to be informed about their rights and the least likely to receive support and protection when abuse is disclosed (Briggs and Hawkins, 1996).

Children are quite capable of recalling specific information but they have a different process and professionals need specialist training to assist children to explain those details. Because they are experts in law, not childhood, judges and lawyers do not usually have that expertise. Some social workers and psychiatrists also lack those skills. To ignore this issue is to deny the child due process in the criminal justice system. Children must be afforded "just discrimination" (as opposed to the current "unjust discrimination") to account for their special needs in relating the very important information they have to tell us.

I am advised by the office of the State Director of Public Prosecutions that there has never been a conviction of a sex offender in South Australia where the victim-witness was a child under the age of eight years. The State has the reputation for having the lowest paedophile/child sex-offender conviction rate in the country. Media reports consistently show that 97-98% of South Australians charged with child sex offences were acquitted "despite overwhelming evidence of guilt". Furthermore, when sex offenders are found guilty, it is relatively easy for them to make a successful appeal based on a technicality that has nothing to do

¹ Breckenridge, J. and Laing, L. (1999) *Innovative responses to sexual and domestic violence*. Sydney, Allen & Unwin.

with the offences. It will be noted that former Magistrate Peter Liddy is appealing against his convictions, citing flaws in the Judge's summing up.

An additional protection for South Australian paedophiles has been the Statute of Limitations legislation- Dec 1982. Any offences committed prior to that date cannot be acted upon. This has obviously assisted sex offenders given that few young victims are immediately aware that sexual misbehaviour by adults is a reportable offence and it is often several years before they have the courage to report what occurred.

It should be noted that Internet paedophile publications have encouraged members to invest in Child Care Centres because this provides access to potential victims with little risk of prosecution. The author was consulted by interstate police in such a case. The owner removed carefully selected children and took them to a house where they were used for making hard-core pornography. The children guided police to the lavish house where they found that the children had accurately described the entrance, staircase and pink room with spa, toy shelf and camera. However, the adults were not prosecuted because the children were only 5-6 years of age and were unlikely to be able to handle the adult criminal court system.

The Australian (3.8.2001) exposed Judges' dislike of child sex abuse cases. NSW Judge John Nader is alleged to have said that courts are "cluttered" with "hopeless" cases, delaying more worthwhile prosecutions. They were pre-judged to be "hopeless" because (a) there is seldom an independent witness and (b) victims seldom report abuse soon after the offences were committed (and those who try to report are usually disbelieved or even punished for "rude talk"^{2 3})

The Australian (3.8.2001) disclosed that convictions are quashed if a Judge fails to warn a jury that a child's word is less credible than that of an adult and that a child's evidence is unreliable if the abuse was not reported immediately. In addition, a convicted offender won his appeal because the Judge did not warn the jury that, if he was acquitted on three counts, he could not be convicted on other counts. Thus a forgetful Judge is a great asset to a child sex offender in court.

A few days later (*Canberra Times* 13.8.2001), it was reported that the difficulties of obtaining a conviction would increase as a result of a new ruling by the High Court. A man was found guilty of offences against a girl in his care between the

² Briggs, F. (1995) *From Victim to offender*. Sydney, Allen and Unwin.

³ Briggs, F., Hawkins, R.M.F., & Williams, M. (1994) *A comparison of the early childhood and family experiences of incarcerated, convicted male child molesters and men who were sexually abused in childhood and have no convictions for sexual offences against children*. Report to the Criminology Research Council, Canberra.

ages of eight and fifteen. The conviction was quashed because the trial judge failed to warn the jury of the danger of convicting an accused without corroboration of the complainant's evidence. Given that child sex offences are committed in secrecy, the chances of having independent witnesses are very remote. A key trait of sexual abuse is to isolate the victim.

Australian Courts were somewhat slower than their British and New Zealand counterparts to accept that children can be traumatised by face-to-face contact with their abusers. Offenders often threaten victims and intimidate them in Court using hostile body language. When the South Australian Court introduced the facility for child witnesses to give evidence by video from an adjacent room, children did not have the *right* to use it, usage has to be approved by the Judge. The facility was not used during the first 15 months of its availability and in a recent, well-publicised case (2000) a threatened young rape victim abandoned the case because Judge Herriman insisted that she faced the accused in the court room.

Professor Kevin Browne (1993) told the Australasian Conference on Child Abuse and Neglect at Brisbane that the facility is seldom used in the UK because neither defence lawyers nor prosecutors think it is advantageous to their cases. The defence wants child witnesses to be intimidated by eye-to-eye contact with offenders while prosecutors think that juries are more impressed by a weeping, distressed child than a confident child on a TV monitor. Thus, both defence and prosecution are prepared to inflict further trauma on child victims for the sake of the case.

2) Treatment for paedophiles, pederasts and sex offenders

The current system not only fails to protect children, it does little to stop offenders from offending. British and American research shows that the average male offender commits about 558 offences before he is arrested at the age of 38 years. Between one in four and one in five boy victims becomes an offender^{4, 5}. Given the social, health and economic costs of sexual abuse⁶, it is in society's interests to provide treatment for victims and both young and adult offenders to try to prevent a life-long behavioural pattern from developing.

In South Australia, there is no community pressure on child sex offenders to seek treatment. Treatment is not advertised and most people are unaware that a facility exists.

⁴ Abel, G.G., Becker, J.V., Mittelman, M.S., Cunningham-Rathner, J., Rouleau, J.L., Murphy, W.D. (1987) Self-reported sex crimes of non-incarcerated paraphiliacs. *Journal of Interpersonal Violence* 2 (6), 3-25.

⁵ Bentovim, A. (1991) Evaluation of a comprehensive treatment approach to child sexual abuse within the family, *Proceedings of the Third European Conference on Child Abuse and Neglect*, Prague.

⁶ Calculated by Dr. Martin Shanahan and Ron Donato, University of South Australia, 1998 and presented to the International Congress on Child Abuse and Neglect, Auckland., 1998

Unfortunately, South Australia is one of only two States that does not provide a sex offender treatment program in correctional centres. Thus the few offenders who receive jail sentences leave prison with the same attitudes and sexual preference for children that they had when they were sentenced, often with attitudes reinforced by other paedophiles/pederasts. They may be required to undertake treatment as part of the parole agreement but I have met multiply convicted paedophiles who refused parole (to avoid the treatment “guilt trip”). Even if they have treatment during the parole period, this is likely to be terminated when their parole ends. Research by Briggs, Hawkins & Williams (1994)⁷ showed that most offenders were abuse victims who commenced offending as adolescents and need a lengthy and intensive treatment period.

3) How can the system be changed?

A few years ago, NAPCAN (National Association for the Prevention of Child Abuse and Neglect, South Australia), presented a multi-professional report to the State Attorney General, Trevor Griffin, drawing attention to the unsuitability of the adult criminal court for child sexual abuse cases. The Director of Public Prosecutions has publicly admitted that the system is unsatisfactory. NAPCAN suggested that a different kind of inquisitorial court should be created with a Judge who had the powers of a coroner, ie. to ensure that all evidence became available.

Given that most child sex offenders are neither prosecuted nor punished, it should be made easier for offenders to admit that they have a problem. In the late 70's, Giarretto⁸ ⁹(California USA) promoted a model in which the family offender could avoid prosecution for the first reported offence if s/he admitted guilt, left the family home, continued to support the family and undertook treatment. Counselling was made available to the non-offending parent, the child, the siblings and the family group before the offender was allowed to return home. In South Australia, there is no encouragement for offenders to accept responsibility for their offences; to the contrary, if they plead guilty, they are likely to receive lengthy sentences in non-segregated jails where denial is necessary to stay safe. Denial is the antithesis of rehabilitation..

A court involving children should deal with cases quickly. Currently, child victims may have to wait a year before a case is heard. If there is a re-trial, the delay can be very much longer. This constitutes a form of institutionalised psychological

⁷ Briggs, F., Hawkins, R.M.F and Williams, M. (1994) *A comparison of the early childhood and family experiences of incarcerated, convicted male child molesters and men who were sexually abused in childhood and have no convictions for sexual offences against children*. Report for the Criminology Research Council, Canberra. University of South Australia, Magill, 5072.

⁸ Giarretto, H. (1976) The treatment of father-daughter incest. *Children Today*, 5,2-5.

⁹ Giarretto, H. (1982) *Integrated treatment of child sexual abuse: A treatment and training manual*. Palo Alto, CA-Science and Behaviour Books

abuse given that neither the children nor their families can move on with their lives while cases are pending. Furthermore, the longer the delay, the greater the advantage for the offender and the greater the chance of confusing the victim.

Finally, because of the risk of causing further trauma, persons responsible for interviewing children should all have professional education relating to child development and child abuse, especially in relation to children's understanding, language and interviewing skills. I understand that such a course is now available in Birmingham (UK).

Some Australian Family Courts are failing to protect child sex abuse victims

In the last decade, there have been increasing concerns in Australia and the US that children are badly served by Family Courts when there are allegations of abuse in residence and contact disputes. A large American study (1998) undertaken by Thoennes and Pearson¹⁰ concluded that all recorded concerns were justified. These included poor coordination between the Family Courts and child protection services, and "case drift". Then and now, the US Family Court, like its current Australian counterpart, was plagued by jurisdictional problems (Brown, 1998)¹¹.

Brown (1998) found that although the proportion of child sexual abuse cases in the Court's total workload constitutes only 5% of child related matters, it is extremely significant in terms of the workload. While they start as 5% of the total, they grow to 50% at the mid-point of proceedings. Thus they are not resolved as other cases, with minimum court intervention. Brown (1998) found that an increasing number of cases previously being managed by the Children's Court and welfare services were now being "shepherded" to the Family Court by state child protection authorities. The researchers argued that child protection has become the core business of the Family Court and that the Court is a part of child protection services.

Analysing 150 Melbourne and 38 Canberra Family Court child abuse cases, the researchers found that the nature of alleged abuse was more serious than the profile of allegations notified to the State authorities. Sexual abuse was alleged in 48.6% of Canberra cases and 32.2% of Melbourne cases.

¹⁰ Thoennes, N. and Pearson, J, (1988) *Summary and findings from sexual abuse allegations project* in B. Nicholson and J/Bulkley (Ed), *Sexual abuse allegations in custody and visitation cases*. National Legal Resources Centre for Child Advocacy and Protection, Washington.

¹¹ Brown, T. (1998) Children and family violence in the Family Court: Research into action. Paper presented at the 6th. *AIFS Conference, Melbourne*.

There are major concerns that delays in the Australian Family Court add to the emotional abuse of the children involved in cases under consideration. CAMHS confirms that some Family Court Judges forbid parents to take child sex abuse victims for counselling while the cases are in progress. Given that cases can be delayed for several years, this constitutes psychological/institutional abuse. Some parents complain (and hospital child protection unit staff confirm) that Judges have banned parents from (a) taking alleged victims for medical assistance and (b) making further reports of abuse while the case is in progress. Thus, offenders can continue to abuse their children with little fear of being apprehended.

Most delays are said to have their origins in the inadequate coordination between State child protection authorities and the Federal Family Court (Hallett, 1995¹²; Faulks¹³, 1997; Brown 1998¹⁴). Mothers also often claim that the accused persons' lawyers deliberately delayed cases until the mothers run out of legal aid. Some women have had to sell their homes to pay legal bills to try to protect their children. Whatever the reason for delays, children are the sufferers.

Coordination problems begin at the point of notification. State child protection services investigate only about half of the reports they accept (Brown, 1998). In the author's considerable experience of making reports to South Australian authorities, none of those involving incest have ever been accepted by the social worker on the Child Abuse help Line. One social worker suggested that it might be better for a 15 year-old girl to tolerate her incestuous unsupported father than have to leave her home. In a report involving the anal rape of a young child, bestiality and being used for pornography, the workers said, "The mother has a case in the Family Court. She probably told him to tell you this to spite his dad". Explaining a lack of action in the case of an Arab boy allegedly raped by his father and father's friends, a social worker said, "The boy didn't think his father had done any wrong because that sort of thing is accepted in his culture".

In the cases surveyed in Victoria and Canberra, the State took no action in 77.6% of all cases (Brown, 1998). Thus, no information found its way to the Court, leaving it in the position of having to investigate the allegations again. This appears to be a nationwide problem.

Melbourne State authorities only substantiated 22.5% of cases and they took up to 180 days to reach their conclusions. The average period was 42 days. Most of the children were aged 4-5 years. There were differences in definitions of child abuse between police, State services and Family Courts and further differences

¹² Hallett, C. (1995) *Interagency Coordination in Child Protection*. Studies in Child Protection, London HMSO.

¹³ Faulks, J. (1997) *The language of help and resolution*. Paper presented to the 5th Biennial Conference of the Australian Association of Social Workers, Canberra.

¹⁴ Brown (1998). *ibid*

were apparent between States (Hume, 1997¹⁵; Brown, 1998¹⁶). Outcomes for children were poor because the process was very lengthy and involved many hearings, each of which caused tension in the care-giving family. Court ordered changes of residence occurred in 37.2% of all cases and contact changes were made in almost all cases. Children suffered emotional trauma with each change. Twenty-nine percent of children involved in abuse cases were noted to have experienced severe emotional problems, depression, high levels of anger and distress.

An important finding was that the legal process did not focus on the child although children are the supposed basis of the legal application. Brown(1998) noted a that Family Court personnel had a poor theoretical understanding of the complexity and nature of family violence and child abuse. She recommended that a new, child focused, specialised interventive system should be created with short time lines and new mechanisms for coordination, especially in cases of sexual abuse.

The Chief Judge of the Australian Family Court, Alistair Nicholson, suggested some time ago that these cases should be heard in a different kind of setting.

Given that child sexual abuse is about power and control, it is not surprising that, once they realise they are safe from prosecution, sex offenders are turning to the Family Court to seek full control of their victims. Unfortunately, all too frequently, they succeed on grounds that can only be described as bizarre.

If the mother witnessed the sexual abuse, her evidence is usually discounted. If there is medical evidence confirming what the child has said, the abuser is likely to say that, yes, the child has been abused but by someone else. Access may then continue.

Court papers and my students' research confirm that some Australian Family Court Judges and Family Court staff in all States are perpetuating the myth that mothers in general concoct sexual abuse to "spite" their partners. A team from Monash University (Brown,1998) found that only 9% of reported sexual abuse allegations in the Family Court lacked foundation, ie. mothers usually have very good reasons for trying to protect their children from having to live with or visit their former partners. This is in line with overseas findings. Other forms of violence were often present in the unconfirmed cases, especially episodic male >female battering.

Problems for children's safety when cases are in the Family Court can be summarised as follows:

¹⁵ Hume, M. (1996) *Disclosure of child sexual assault – Mothers in crisis*. Unpublished doctoral thesis. University of NSW.

¹⁶ Brown 1998) *ibid*.

- a) In 1988, the High Court of Australia handed down what is still the definitive judgment in the area of child sexual abuse allegations in Family Court proceedings: ie. it is not the Family Court's role to determine whether or not child sexual abuse actually occurred. *A Court must not grant custody or contact to a parent if that would expose the child to an unacceptable risk of sexual abuse.* The Full Family Court of Australia later added that if abuse is confirmed, only in the most extraordinary cases would further contact with the perpetrator of the abuse not be seen as exposing the child to an unacceptable risk of abuse. While this should have protected children from further harm, in practice, *fathers' rights to maintain relationships with their offspring seem to be given precedence over children's rights to safety even when they have been accused by the children of sexually abusing them.*
- b) Court documents show that Judges are making decisions based on flimsy knowledge and misinformation. This is because Judges are trained in law, NOT the dynamics and theory of sexual abuse, child development, children's language or how children think. Some Judges attend conferences and seminars on child protection issues but attendance is voluntary and Court staff often comment that the best informed are the ones who seek more information.
- c) Injunctions have been issued in the Family Court to prevent children from attending the State Child and Adolescent Mental Health Service (CAMHS) for therapy. This constitutes psychological abuse.
- d) It is feared that paedophiles or their supporters have gained access to the Family Court as children's legal representatives and professional witnesses. Thus the Family Court judge who lacks a sound professional knowledge of child abuse and child development can be misled.
- e) Children have no voice in the Family Court. Their "best interests" may be presented to the Judge by a legal representative who has no professional knowledge of child development or child abuse. Some do not even talk to the children they represent. Solicitors in this situation argue that they are not paid enough to interview their clients.
- f) Some mothers have been deemed to be "unfit parents" if they showed distress when they were at risk of losing their children to the alleged abusers. Distress is then labelled as emotional disturbance. Of course they are distressed if, after seeking the help of the Court to protect children from sexual abuse, they have reason to believe that the Judge is going to give the offender the care of those children.
- g) Some Family Court Judges ban parents from taking their children to the Children's Hospital or contacting the statutory authority when they have reason to believe that sex offences are continuing during access visits to their relatives. This suggests a lack of understanding about the serious, long-term effects of incest.
- h) Children are falling in the gap between the Family Court, which is Federally funded, and the State statutory authorities responsible for the investigation of suspicions of abuse. This is confirmed by Family Court staff. State departments do not appear to be investigating cases that are in the Family

Court. I have reported offences allegedly committed by custodial fathers : physical abuse (burning and belting with clearly visible scars), bestiality and anal rape only to find that, two months later, no medical or other investigation has taken place. A SA Family Court gave residency of a young child to the bisexual father who is alleged to sexually abuse her. He has AIDS. Using Freedom of Information legislation, the mother recently saw the assessment report of the Child Protection Unit at Flinders Medical Centre. This, she says, showed that sexual abuse was confirmed and although the father did not admit that he was an offender, he conceded that his 12-year-old son had used the 4-year old for sex and "He didn't think that it was anything to be concerned about". The mother says that FMC recorded that the child was in danger. That was 16 months ago and the child is still living with her father. It would appear that the Court expects the department to act and the department leaves it to the Court.

- i) Child sex offenders have a powerful support group which has access to "professional witnesses" who sometimes give bizarre advice to Family Court Judges who, being trained only in law, tend to accept the information uncritically. I am in possession of Court documents showing that a NSW forensic psychologist was commissioned to give evidence in a case in WA. He successfully convinced the Judge that the mother's interest in spiritual healing could have contributed to her 10 year-old daughter imagining incest and that the mother's belief in the child's allegations would be harmful to the child's psychological well-being. The accused father was given custody of the child.
- j) Children have been removed from the care of their mothers and handed to the fathers they have accused of sexually abusing them because (i) the Judge has decided that the abuse did not occur and (ii) the Judge says that, because the mother believed the allegation, living with her could result in the children continuing to believe that the abuse occurred when the Judge thinks it did not. Thus, the mother is said to be likely to cause emotional harm to the children she is trying to protect. This is extremely serious and shows a great deal of ignorance about child sexual abuse and children. Mothers who do not believe children when they report sexual abuse DO cause emotional harm. If the offender is their father and the mother does not believe them or ignores their cries for help, the children are psychologically orphaned. I have met many victims who, as adults, blame their mothers as much as their fathers because they did not act on reports of abuse and protect them.
- k) Family Courts may add further to the psychological abuse by employing male psychiatrists (some with no child focussed specialisation) to interrogate children who were sexually abused by males. This is happening even when children have already been interviewed several times by social workers and police were sufficiently convinced that abuse took place that they arrested and prosecuted accused offenders. Such is the ignorance relating to children that, if they become angry or uncooperative during the fourth, fifth or sixth interview, it is interpreted by the Family Court psychiatrist as children being 'caught out' lying rather than the possibility that they are behaving in a normal

way to abnormal circumstances or cannot relate to an incompetent interviewer.

- l) Re-interviewing is necessary because the State department fails to pass on information to the Family Court. However, some important information is not admitted: for example, police were not allowed to tell the Court that the father who successfully sought custody of his child had been caught 'red-handed' raping a student and was accused of raping and drugging his music students over a ten year period. The information was banned because he was not convicted. A Family Court was not allowed to know that an accused father is a Vietnam war veteran with a history of PTSD and mental illness because he has rights to privacy. He was given custody of the son who had accused him of anal rape.

2) What is needed

a) A serious weakness of the Family Court is the notion of "the best interests of the child". It is imbedded in legal principles which are embedded in a utilitarian philosophy. Children's interests will always be weighted against adult interests, which means they can easily be set aside and they often are. NAPCAN - SA's president, Lorraine Reed, refers to international lawyers in Australia dominating this interpretation of the best interests principle, keeping the discussion shrouded in 'gobbledegook' with the result that no-one can understand them.

Ms. Reed has argued in several submissions that there needs to be a team approach. "What works best for children is when they have a specialist child professional combine with a specialist child lawyer. Quite clearly the lawyers need to be trained so that they have some understanding of the role of the child specialist". The NAPCAN representative argues that this needs to be a public service located in a specialist child agency to promote the ideal of 'the child first'. It also needs to be a long term service, one that assists parents step aside from their conflict and focus on the child.

b) Education relating to child development and child abuse.

All professionals whose work involves interviewing, representing and making decisions about abused children should have to undertake education in the dynamics of child abuse and theories relating to child development. They should understand children's thinking relating to abuse, children's use of language and the effects of abuse. Currently, while pre-school teachers study child development for four years, the professionals who have responsibility for the assessment of children and the management of cases may have little or no professional knowledge in these areas.

c) Checks on professional witnesses and children's separate representatives

Given the risk that paedophile supporters have gained access to positions of influence in the Family Court, it is vital that the backgrounds of professional witnesses are thoroughly scrutinised. Male lawyers should not represent child abuse victims where there are allegations of sexual abuse by males.

- d) A different type of court is needed for cases involving residence and visiting rights where there are allegations of child abuse. The current Youth Court has been suggested as a possibility. Unfortunately, it cannot be assumed that Youth Court Judges have been appointed because of their knowledge of and experience with young people. Education would still be necessary.
- d) In the interim, all Family Court personnel should be re-educated, especially in relation to the myths surrounding sexual abuse, false reports, children's emotional needs and the effects of abuse.
- e) In Adelaide there are problems relating to the high number of Interim Orders where issues of child abuse are not being dealt with effectively. These should be fast-tracked.
- f) A major issue is the number of child abuse cases which are not investigated by State Child Protection Services because they relate to Family Court cases. One suggestion is for the Federal Government to provide funding for the State to carry out investigations affecting family Court matters.

Reports of abuse not investigated

South Australia provided national leadership in child protection in the mid-1980's. Most professionals are under the impression that we have gone "backwards" since the signing of the UN declaration.

While increasing numbers of cases and suspicions of child abuse and neglect are reported, the reporters are frequently "fobbed off" by the staff operating the Child Abuse Helpline. For example, a married university student, in my presence, reported that she had seen a single father naked in bed with his adolescent daughter. The student said that she had been sexually abused by this man from her early years until she married. She did not wish to prosecute him because it would alienate her family *but* she was concerned about his daughter who was exhibiting emotionally disturbed behaviours including alcohol and drug abuse and sexualised behaviour. Although the daughter was a child by law, the response from the Department was that "she is old enough to report it herself if she wants it to stop". The social worker commented to me that "some kids prefer to put up with abuse than to have to leave home". Although mandated to report suspicions of abuse, the school counsellor confirmed the suspicions but she had not reported them because the father is violent. The department's social worker said that she was not allowed to contact the school and the case was not investigated.

Another student teacher reported that a 15 year-old pregnant girl took her baby in a pusher to volleyball every Tuesday night then blatantly "knocked the child out with a bottle of vodka and orange" so that she could socialise uninterrupted until midnight. The girl lived with three boys and proclaimed that she didn't know who

had fathered the children. The social workers said, "We know the girl". The reporter expected the Department to attend the centre to see what was happening but there was no intervention and the mother continued to abuse the baby with alcohol on a regular basis.

Social welfare departments throughout Australia claim that they have insufficient funds to investigate all the reports of child abuse and neglect. This seems to be a matter of political priority rather than a shortage of money given reports that this State Government paid \$40million (approximately) to renovate a now unwanted soccer stadium for six Olympic soccer matches and more millions have been spent on building a stand at Football Park and a wine centre in the Botanic Gardens.

One of the problems is, of course, that politicians are mostly males who are not informed about child abuse matters, have short-term contracts and short term goals and child protection is not perceived as a "vote-catcher". However, we ignore child abuse at our peril given that among today's victims are tomorrow's criminals, child abusers, drug abusers, psychiatric patients, suicide victims, divorcees and, of course, sex offenders.

Children as Carers

A neglected group of children only just reaching public notice is the group who act as primary and secondary carers for family members (usually unsupported mothers) with disabilities, serious illness or mental illness.

In their 2001 report, Carers SA, quoting ABS statistics claim that there are 13,300 children experiencing role reversal in this State. Only thirty receive carers' allowances.

My investigations in primary schools showed that 8% of children enrolled were caring for mothers who have serious mental ill health, some relating to drug abuse. These children have fallen through the gaps in services. School principals advise that mental health services will only take referrals from close relatives. However, the women have often been abandoned by relatives because of their behaviour. Schools have failed to get assistance from the statutory authority because, "If there is an adult in the home, it isn't a child protection case". Parents are also likely to move on if they suspect that the department might remove the children to foster care. My investigations showed that these children are as young as eight years. They are responsible for shopping, house cleaning, cooking, laundry, sometimes attending to the personal hygiene of their mothers and lifting them inappropriately. The caring role can adversely affect their school attendance as well as socialisation and emotional development.

When schools are unaware of the mothers' problems, they are often unsympathetic to the children who arrive late or are absent; eg. mothers with

mental illness rarely send notes to explain absences, they may not attend school or answer the door or phone to school staff.

Thus, teachers can inadvertently increase the anxieties for the children.

Carers SA is trying to attract public awareness to the needs of and services for this group of children but those caring for mentally ill and drug addicted parents are unlikely to benefit.

In Southern CAMHS staff have been very concerned about the children of parents with a mental illness/drug abuse. They run groups for children called *Off Spring*. However CAMHS has few referrals as "Adult Mental Health services claim that they don't see many patients with children". The group is now going to approach schools because staff believe that the teachers will be able to identify those families where the parent has a mental illness. Of course there is no funding and staff add this to their very heavy workloads.

CAMHS staff are also very concerned about the infants at risk and parents with mental illness are a special group. They are currently leading a stock-take of agencies in the south who deal with infants and toddlers to see if they can identify a collaborative approach to this very important area. Overall these children have been forgotten. Adult Mental Health services do not even ask on their intake form: "Are there any children in your life?" These children are especially vulnerable and need more assistance than they are getting.

Assessment and treatment of child sexual abuse victims, young offenders and counselling for parents

The Australian Government agreed to provide treatment facilities for child victims and non-offending parents.

My information is that, for many years, there has consistently been a long waiting list for the assessment and treatment of child sexual abuse victims at Children's Hospitals, eg two months or more.

I am informed that there is no treatment for young offenders (who are usually either victims of sexual abuse or live in sexually violent environments). Funding for programs for adolescent offenders is unreliable. Treatment for young offenders is important to try to reduce the risk of them becoming life-long offenders.

The current Government stopped the funding for groups to support non-offending parent (eg. FACT and PACSA). These groups operated with one salary of approximately \$30,000 a year. They were in outer low socio-economic suburbs and offenders were usually the women's partners. Mothers were often childhood

victims who had not dealt with their own abuse and could not provide the necessary support for their children when they reported abuse. The Minister of the day argued that he had increased funding for the organisation Victims of Crime which is city-based, homicide focussed and had no special group for these mothers. When I visited a Noarlunga group in the outer Southern suburbs, the coordinator (who received a half-time salary) was handling more than 100 cases a week. Not surprisingly, she suffered a breakdown.

Education for child protection

- 1) The State Education Department and Catholic Education adopted a 1970's American safety program *Protective Behaviours* in May 1985 and this was adopted as core curriculum in State schools in 1990. Paradoxically it is the only core curriculum that is not compulsory. Teachers have to undertake a six-hour program to teach it. It is not offered to Junior Primary and Primary undergraduates in South Australian university courses.
- 2) Although *Protective Behaviours* is better than no program at all, research with children has shown that there are serious weaknesses in this program. No attempts have been made to update or amend it. And although the most effective programs are those that involve parents, parents have traditionally been excluded from *Protective Behaviours*.
- 3) Research also shows that it is rarely used and where it is, it is often taught badly and vital information is withheld. Teachers avoid telling children that they can say "No" to adults. They tend to avoid discussion about touching and children are not informed about what constitutes wrong, reportable behaviour. Teachers tend to avoid information that might lead children to disclose abuse to them. NSW authorities experienced the same problems and employed specialist teachers for this work.
- 4) Child protection education for teachers, social workers and other professionals mandated to report child abuse is minimal or non-existent. I understand that the University of South Australia has never provided mandatory reporting education for social work students although these students are mandated to report child abuse and could ultimately be responsible for assessing and managing abuse cases.
- 5) Since July, 2000, the University of South Australia has not offered *Protective Behaviours* training for its early childhood student teachers because it attracts GST. It attracts GST because, although education for child protection is "core curriculum" in State schools, the training is not essential to obtain employment.
- 6) In the early 1980's the Education Department employed 12 child protection curriculum advisers to support teachers and provide training. Now there are none.
- 7) There is little, if any, community education relating to child protection and services for parents have diminished in number since the 1980's.

Conclusion

With the exception of the introduction of facilities for taking video evidence, Australia appears to have neglected victims of child sexual abuse and, far from providing the agreed services, legislation, education and treatment (etc) to protect children, South Australia in particular is perceived as moving backwards. There is less interest in child protection than there was in the mid-1980's. It has become harder to obtain help for children to stop abuse. Services have been drastically cut and reports are not being investigated by statutory authorities.

An independent, national Child Sexual Abuse Law Reform Committee has been set up. This consists of all State Directors of Public Prosecutions, some members of the judiciary and the two State Commissioners for Children in NSW and Queensland. Given that this group only meets bi-annually at DPP's regular meetings, there would appear to be no sense of urgency in the desire for reform.

Given their commitment to the protection of children in the UN Convention, it is surely time to demand that State and Federal Governments concentrate on these responsibilities.

I had the opportunity to discuss these matters with the Prime Minister and Governor General earlier this year. It was obvious that they were unaware of the problems.

I wrote to Justice Einfeld who shows an interest in children. I received no acknowledgement.

I also wrote to the Chief Justice of the Family Court after being inundated with cries for help from mothers who have lost custody of their children to the men these children had accused of abusing them. A meeting took place at Adelaide Family Court earlier this year. Staff agreed that children are not being protected by the current system and many are falling in the gap between State and Federal services.

Clearly there is a need for a new system that involves professionals who have specialist knowledge relating to childhood and abuse.