

Children and domestic violence as a human rights issue.

In order to talk about DV and therefore violence against children from a human rights perspective I will first refer to the Declaration on Human Rights and the Convention on the Rights of the Child.

The Declaration on Human Rights was adopted by the UN General Assembly in 1948 , two years after the UN was formed, partly in response to the atrocities committed during the First and second World wars.

In November 1984 the Convention on the Rights of the Child, as part of Human Rights Treaties, was adopted, opened for signatures in 1989 and came into force in 1990.

This Convention refers to the basic rights and freedoms to which all human children are entitled: civil, political, economical, educational, social and cultural.

Translating those rights into childhood form those rights include:

I have the right to be respected regardless of my race, colour, language, religion or physical appearance.

From birth I have the right to have a name, a nationality and to be cared for preferably by my parents.

I have the right to grow in a healthy environment, to receive food and clean water, to have a home and to receive medical care.

I have the right to go to school, to play, to rest and to socialize with other children.

I have the right to be protected from all types of abuse

I have the right to feel safe at all times , to be able to talk about my concerns and worries

If I have any kind of disability I have the right to receive special care and support, so I can maintain my integrity.

This is the most widely ratified human rights treaty in the world with only two countries not signing the Convention: Somalia and the USA.

Australia ratified the CRC in December 1990, pledging to ensure that all children in Australia would be given the rights set out in the treaty.

Despite being a signatory to international treaties that make up the International Bill of Rights, none of the treaties are legally binding nor is there a Bill of Rights in the Australian Constitution. This makes Australia the only western democracy with no constitutional or legislative Bill of Rights, the government believing that people's rights are protected by laws in the constitution.

In practice there are numerous examples that raise doubts about Australian commitment to protect the Human Rights of all Australians and there have been various times when criticism has been justified for immigration policies, treatment of asylum seekers, Government hard handed responses to our Indigenous population and foreign policies. In regard to the rights of children an example of stepping away from such commitment is shown by the numerous cases of children born and raised in Australia facing deportation when their parents have overstayed their visas. This is a case where Australian law (via the Minister for Immigration) has taken precedent over consideration of the "best interests of the child".

The UN Committee cannot legally force the Australian government to implement its recommendations but it can provide guidance to the government about how to better protect children's rights.

What is important is that the information and recommendations in the UN Committee's reports can be a useful tool for Australian children's rights advocates to influence government action.

1. The gaps between rhetoric and action.

It would seem however that although countries have signed the Convention on the Rights of the Child there exists a fraudulent omission that pitting pen to paper (rhetoric) does not mean honouring that contract in terms of human rights obligations and child protection rights.(action)

A small book by Kay Castelle, “In the Child’s Best Interest: A Primer on the UN Convention” argues that complacency concerning children’s rights is an international epidemic with “no country protecting the rights of all its children or providing them with adequate standards of health care, education, day care, housing and nutrition, or properly protects them from abuse”, neglect and exploitation”.

In March last year the UN released the results of a global study on “violence against children”, the most comprehensive consultation ever conducted among poor and wealthy nations of the world.

- An estimated 53,000 deaths of children worldwide in 2002 were homicides.
- Some 150 million girls under 18 and 73 million boys have been victims of forced sexual intercourse or other forms of sexual violence.
- Between 100 million and 1240 million girls and women have been subjected to some form of genital mutilation.
- Of the 218 million children working in 2004, 5.7 million were in forced or bonded labour in 2000; 1.8 million were in prostitution or pornography; and 1.2 million were victims of human trafficking.
- **Each year, as many as 275 million children worldwide are estimated to witness domestic violence.**

The author of this report, Dr Paulo Sergio Pinheiro stated that he “was shocked to see the high level of acceptability of violence against children, not just socially, but legally.”

The report noted that although violence against children is pervasive there is a chronic lack of data which undermines understanding and action.

The guiding principles of the report were statements that sought to re-stamp a seal of outrage concerning children.

- 1. No violence against children is justifiable. Children should never receive less protection than adults.**
- 2. All violence against children is preventable. States must invest in evidence-based policies and programs to address factors that give rise to violence against children.**
- 3. States have the primary responsibility to uphold children's rights to protection and access to services, and to support families' capacity to provide children with care in a safe environment.**
- 4. States have the obligation to ensure accountability in every case of violence.**
- 5. The vulnerability of children to violence is linked to their age and evolving capacity. Some children, because of gender, race, ethnic origin, disability nor social status, are particularly vulnerable.**
- 6. Children have the right to express their views, and to have these views taken into account in the implementation of policies and programs.**

2. Children and Domestic Violence.

How might these principles fit when we look at the issue of domestic violence and children in this country.

- UNICEF Australian Ambassador, Dr Fiona Stanley recently stated that at present there are 600,000 Australian children being exposed to domestic violence
- Between 2006//7 approximately one in three reports received by the Helpline were listed as Domestic violence.
- Special Commission of Inquiry into Child protection Services found that Domestic violence was the most commonly reported issue in child protection reports but often these reports being assessed as lower risk. (Wood report 2008).

- Women with children are three times more likely to be subjected to domestic violence than childless women. (Humphreys, 2007)
- The ABS 1996 found that 61% of women who reported violence by a previous partner and 49% of those who experienced violence by a current partner, had children in their care during the relationship.
- Statistics cited in the Australian component of the International Violence Against Women Survey (2004) show that the rate of domestic and family violence victimization for Aboriginal women may be 40 times the rate for non-Aboriginal women, despite representing 2% of the total Australian population.
- A study by Tomison (2002) estimated that there was a 40-70% overlap in domestic violence and physical abuse of children. This study also found that the rates of emotional abuse, neglect and sexual abuse were also over represented in families where violence occurred between caregivers in an intimate relationship.
- The correlation between sexual abuse of children and domestic violence is also significant. An Australian study by Goddard and Hiller (1993) found that domestic violence was prevalent in 40% of cases of child sexual assault. Such studies are providing recognition of the close relationship between all forms of abuse against children and the existence of domestic and family violence.
- Research indicates the prevalence of re-abuse of children occurs in environments where domestic violence exists and mothers' emotional availability and wellbeing, because of that violence, is restricted. 76% of women interviewed in a study (Abrahams 1994) reported that depression affected their parenting..
- Reports in several studies (Mullender et al,2002; Irwin et al 2002 and Humphreys et al 2006) document the ways domestic violence (perpetrator tactics) undermines mothering and subverts the mother-child relationship.

3. Against their rights : Attitudes toward violence against children.

A representative sample of 500 adults aged 18 years and over were surveyed regarding their attitudes about child abuse in Australia. (Australian Childhood Foundation, 2003).

- 1 in 5 respondents believed a parent who causes an injury to a child whilst administering “discipline” should not be convicted of assault.
- Almost 1 in 10 respondents believed that a parent who has been convicted of sexually assaulting his/her child should not receive a jail term.
- 35% of respondents believed that children make up stories of being abused.
- A further 20% could not make up their minds whether to believe children’s stories about being abused.
- 54% of respondents did not identify child abuse as a great cost to Australian society.

“The cost of domestic violence is considerable.

It affects the social, psychological, physical and financial well-being of victims and their families and has significant social and economic impacts on the community”.

(DV Strategic Framework 2008)

Access Economics, in their 2004 study for the Commonwealth Government, estimated the cost of domestic violence to Australia as \$8.1 billion. The report found that of that amount, approximately \$4 billion accounted for the cost of pain, suffering and premature mortality to the victims, predominantly women. The additional cost in terms of trauma to children was not assessed.

4. Ideas regarding children and the impact of domestic violence.

(Seen and not heard.)

Ideas prevailing in regard to children and the impact of domestic violence include:

- Children are too young to be aware of or appreciate what is going on around them.
- The effect, if any, on children will be short lived.
- Children are resilient and will naturally recover from the effects by forgetting the experience, getting over it or growing out of it.
- A lack of behavioural or psychosomatic responses means that the experience has not negatively impacted on the child.

Research by Irwin, Waugh and Wilkinson directly with children who experienced violence in their homes found that children had been subjected to physical assault, sexual assault, threats to hurt them or their mother, having their personal belongings destroyed and being verbally degraded and humiliated.

Yet often when looking at the impact of domestic violence we continue to construct children as witnesses, somehow hidden, passive and disconnected from the violence occurring between adults.

Children must be seen as active recipients of the violence that is occurring and we know that in these situations they are constantly make decisions about how to be safe, how to protect themselves their mum, their siblings, whether or not to intervene.

How they intervene: they shout, “be there” as presence calms things down, deflect attention to them by being naughty/angry, get in between, pull or push the offender.

5. The attack on the mother-child relationship.

“The attack on the mother-child relationship as an aspect of domestic violence highlights the need to link the protection and support of women with the protection and support of children”
(Humphreys & Houghton 2008)

There needs to be a closer working together between the domestic violence sector and child protection sector.

Children often come to notice of child protection and concern when the health and well-being of their mothers is undermined to the point where it impacts on their parenting.

The attack on the mother-child relationship is understood and addressed the domestic violence may fall into the background and not be recognized as the primary issue. Instead there is a re-categorisation as one of neglect as a result of parental substance use or parental mental health problems.

6. Dealing with truths- when mothers abuse.

When working with women who have experienced domestic violence we as workers are also made aware that they may also hurt their children. This often challenges us as a woman and as mothers who also may have some ties, even if loosely, to the mythology of motherhood as all protecting and nurturing that seems to still pervade.

Any consideration of violence against children should address both the violence of men and women. Acknowledging women's violence does not deny the seriousness and prevalence of men's violence towards children nor does the existence of domestic violence inflicted upon women excuse any violence they perpetrate against their own child.

7. Mothers as protectors.

However research is united in acknowledging that the greatest protective resource is the child's positive relationship with their mother and therefore one of the best ways to protect children is to support women who are experiencing domestic violence.

8. Children's rights infringe the rights of others.

"Children's needs, interests and views are central. In regard to domestic violence, the protection needs and views of the non abusing parent and measures to address the action of the perpetrator critical are when intervening for the child." *Humphreys,2006*

When advocating for the rights of women and children to safety and freedom from harm there is an excruciating "BUT" that seems to echo silently. I say silently because I am not certain who actually starts the echo and where it comes from. No one seems to want to know it but it is there, resonating the walls of every system that interacts with families.

"But what about the rights of parents...of fathers?"

"But what about the sanctity of the family"

"But children need both a mother and a father to develop as healthy human beings"

And somehow in this "but" explosion the rights of parents oozes over into also the rights of violent parents.

Even knowing how many offenders of domestic violence inflict how much pain on how many victims is unknown. Statistics concern victims but the offender remains invisible.

When we talk with women and children about their rights for safety and trying to find ways for them to gain this , the ongoing actions of the offender remain invisible or, if made visible by the testimony of victims, beyond accountability.

When children are brought into the division between the rights of their parents and their own rights it is within the context of being a child in a society that routinely elevates adult rights, feelings and convenience over the needs of children".

As discussed in the recent Discussion paper on NSW Domestic and Family Violence Strategic Framework, 60% of couples cite family violence as a contributing factor in the breakdown of marriages and 30% describe it as a major reason why their relationship ended.

In 2006 significant changes were introduced to Australian Family Law with strong messages about equal shared parenting following separation and an emphasis on dispute resolution between separating parties before or instead of attending Family Court for family law cases.

Defenders of father's rights, particularly in Family Court matters, take an uncritical assumption that children's contact with both parents is imperative and in the best interests of the child, the Court more likely to make orders for contact rather than suspend contact where there is a high level of conflict between the separated parents.

Children have also been caught in the crossfire in the Family Court arena:

- Repeated court applications for enforcement of contact, or in relation to parenting decisions
- The use of court ordered or privately negotiated contact as an occasion to continue abuse and/or to undermine parenting
- Actual or threatened abduction, or non-return of children
- Applications to prevent relocation away from the area where the perpetrator lives.
- Instances where police were reluctant to take action on breaches of protection orders when these occurred in the context of contact handovers, perceiving them as family matters and not police matters.

Such challenges wind back the legal protections available to victims of violence and also to wind back the legal sanctions imposed on perpetrators.

The beguiling stance of looking at family violence from a family dysfunction, and therefore gender neutral, perspective provides a space where the perpetrator of the violence can also take the position of victim who therefore needs to have his rights protected.

In the child protection field workers, in the absence of resources and strong multi-agency collaborations see the only safe option for safety when children are living with domestic violence is to encourage/pressure the woman to leave or be separated from her children.

There are women and children who can find higher levels of safety and protection once they leave.

There is also evidence which shows that separation does not stop the violence.

Approx. one third of separated women continue to experience violence, harassment and abuse.

Men who are most violent when living with women continue to be the most violent after separation.

Separation is a time of increased danger but often this is not understood and safety plans have not been created

But child protection workers do hold essential evidence to inform others of the impending danger for children if contact with a domestic perpetrator, even their father, occurs without safety measures.

To explore the complexity of issues surrounding the ongoing prevalence of violence against children it is imperative that we step outside the confines and mythology of parenthood and family unity and look through a lens that holds on to an understanding of family violence that maintains a social and therefore political framework.

“ Women (and children) are particularly vulnerable to abuse by their partners in societies where there are marked inequalities between men and women, rigid gender roles, cultural norms that support a man’s right to inflict violence on his intimate partner, and weak sanctions against such behaviour”.

(Domestic and Family Violence Strategic Framework Discussion Paper 2008.)

In regard to men who are violent, and therefore in regard to the protection of women and children “The system must matter” and must ensure:

- The safety and protection of children is paramount.
- Empowerment and safety for women
- Their needs are ensured through strong multi agency partnerships which must provide a powerful network of protection.
- Attention to strengthening the relationship between mothers and children and other family members
- Offenders are responsible and must be held accountable for their violence and effective intervention must occur.
- Men must be challenged about their violence and assisted to change but
- BUT in the meantime the safety and wellbeing of their victims must be ensured.
- Legal impositions must be utilised consistently and ongoing advocacy by those working in the field to ensure these safeguards are implemented.

The safety of children remains paramount if a dilemma occurs between child safety and empowerment and safety of women and also, the safety and empowerment of women needs to be placed as a priority over potential work with men.

9. The politics of abuse.

In advocating for the rights of children in our work we must adhere to a political understanding of the places they occupy which removes such rights.

When children are individualised due to poverty and abuse, intervention is often still governed by a clinical sickness model that fails to address the political meaning of inequity, deprivation and violence.

Such a model fails to pay significance to the toxicity of environments in which children are trapped in, be it the family they live with or the community that fails to recognise their rights to safety and how their community is failing them.

We may extend an arm of interest and ask how the children are. We may gasp with sorrow and despair when the truths of their lives are revealed before us. And then we may turn away because we have nothing to offer them.

Or we may do the exact opposite and turn totally to them, asking and expecting them to heal themselves without addressing what has caused them harm in the first place.

We need to ask questions about the social context of the weight of problems that children carry. This may also need us to re-evaluate the ways they carry those problems, not as failings or inadequacies but rather voices of protest and resistance. For what I have learnt most over the years of my work is that although adults may give up on children they rarely, totally, give up on themselves.

We need to ask questions which do not accept adult explanations but rather create opportunities for us to enquire about children's experiences first and then seek understandings of their meanings about those experiences, especially about themselves.

We need to understand that the beliefs they may hold such as self blame, guilt, responsibility for others and self erasure need to be examined against their experiences of abuse and neglect which create and foster those beliefs.

We need to provide a space to have their experiences acknowledged and also a space to respect their decision to remain silent and loyal and protective of others, even if those others are their adult carers,

Often the first step in working with children is to jointly discover with them what space they require that is enabling of their rights rather than disabling.

In that process of discovery there is one space that we as adults must hold onto. This is the absolute that children's safety is paramount and it is the responsibility of those adults surrounding that child to know when and how those spaces of safety are taken and take action. And in doing so we may have to lunge past other adults to gain that space.

If we give children the space to enable them to find their words and to have their words listened to then what can we as the listener learn so much from them.

Signed:

Catherine Want

Conclusion.

The writing of stories with children and mothers at our service is an imperative part of our work. Over the years we have uncovered and documented many stories about our clients and have been privileged to produce those stories into books.

Dinosaurs Do Dance gathered together just a few of the many stories we have encountered with children as we work with them to unravel the abuse they experienced but also their stories of resilience and in particular their connection to hope.

And so began the collection of many stories that replicated hopefully held beliefs by children. However rather than write those words themselves the children we spoke with gave us the basic script, identified key characters and then asked us as scriptwriters, to develop the storyline until a final story was written. What developed has been aptly described by other writers of similar work as “wisdom narratives, odes to the victorious, joyous, compassionate aspects of self.”

What occurred for us as the adults placed with the responsibility of scribe was the creation of not only the children’s story but the child themselves as an integral part of that story. The characters have a strong resemblance to those children we spoke with; taking on the ways they dealt with problems or viewed the world or held on to their hope.

The following story is an example of what this work created.

Dinosaurs Do Dance.

The story of Dip personifies so many stories of what children have carried as they travel through the gauntlet of helping professions who are earnestly looking for answers to solve difficult situations. What is so often the case is that the answers being sought are never found because the reality is that the wrong questions are being asked

The story of Dip serves to remind us as workers in the field that all too often we may inadvertently be trying to quash actions of protest and resistance that children make against untenable situations of violence they deal with.

Dip reminds us that children's behaviour ultimately makes sense but also such behaviour remains a comfort, a source of support and does not necessarily need to be rid of. Yes, as was the case of the young child who belongs to this story, is had it's moments. Restlessness and agitation can be exhausting for the child and those around them. It can make concentrating difficult and can cause problems when children are required to sit still and listen. But agitation also has energy and action and perhaps something important to tell us. They may just need, as was the case for the child who carried them, a chance to be taught how to calm down, make that action useful and have timeout so everyone can have a rest.

And, in particular relation to the child of this story, an absolute requirement that the child be safe. Once this was established all such agitation really needed for this particular child was a venue to productively release that agitation in dance.

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