

INTERNATIONAL COMMISSION ON
COUPLE AND FAMILY RELATIONS



**BARRIERS TO ACCESS:
FINDING PATHS TO INCLUSIVENESS**

54th Annual International Conference

Edinburgh, Scotland
5-8 June 2007

Editor's Preface

I have immensely enjoyed revisiting these keynote papers for the purpose of editing the text in this publication. I am reminded of the richness and diversity, juxtaposed with commonality of thought, experience and concern that is represented in these meetings facilitated annually by the ICCFR. This conference hosted in Edinburgh, provided opportunity for participants from 20 nations and numerous disciplines to talk with and listen to the thoughts, ideas and experience of like-minded people.

The keynote addresses spoke to the theme of the Conference "Barriers to Access: Finding Paths to Inclusiveness". They represented the diverse professional and cultural comment from four continents, Australia, South Africa, the United States and India and set the scene for spirited and interesting debate throughout the conference.

Despite their origins in a broad practice and cultural base, one is struck in reading these papers, by the commonality of concern and focus. Interestingly, although it was not the formal conference theme, the underlying concern expressed in all was for the welfare of the vulnerable, in particular the child. The papers, which spoke respectively from judicial, medical, therapeutic and social work perspectives, highlighted the need for and also the possibility of finding solutions.

Professor The Hon. Nicholson's and Professor Mhlanga's papers addressed on a macro-level the struggle to maintain a child focus in the context of social change and overwhelming health and social problems. Dr Van Horn, Dr Balagopal and Ms Ramakrishnan reported, at the micro level, on therapeutic initiatives that have been successful in addressing the needs of vulnerable children and their families.

These papers are interesting, informed and inspiring reading. I can commend them to you.

Robin Purvis
Board Member ICCFR

Brisbane, Australia, April 2008

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PROGRAMME

Tuesday, 5 June 2007

- 14.30 – 16.30 CONFERENCE OPENING SESSION
- Welcome by ICCFR Chair Terry Prendergast
- Opening Address by the Lord Provost of Edinburgh George Grubb
- Welcome Speech on behalf of the host organisations by Mary Toner, Chief Executive
- Scottish Marriage Care
- PLENARY SESSION
- Introduction by Emeritus Professor Janet Walker - Newcastle University, UK, and Chair - AFCC International Committee
- Keynote Presentation:
"Barriers to Access between Children and Parents: Who is a Parent?"
Professor the Hon. Alastair Nicholson - University of Melbourne, Australia, Chair – Children's Rights International
- 19.00 *Opening Reception and Dinner at the Edinburgh Castle, hosted by Adam Ingram, Minister for Children and Early Years*

Wednesday, 6 June 2007

- 09.00 – 11.00 PLENARY SESSION
- Conference Preview: ICCFR Chair Terry Prendergast
- Keynote Presentation:
"Is a Child still a Child? Challenges 2007"
Prof. Edgar Mhlanga - University of KwaZulu-Natal, South Africa
Chaired by Simone Baverey, ICCFR Treasurer and Past Director - FAMSA Durban, South Africa
- 11.30 – 13.00 DISCUSSION GROUPS – Session 1
13.00 – 14.30 *Lunch*
14.30 – 16.00 PRESENTATION OF WORKSHOPS 1-5 (see Workshop sheets)
16.30 – 18.00 DISCUSSION GROUPS – Session 2
18.30 Round Table Dinner in professional groupings

Thursday, 7 June 2007

- 09.00 – 10.00 PLENARY SESSION
- Keynote Presentation:
"Access to service for parents after domestic violence"
Dr Patricia van Horn, University of California San Francisco, USA
Chaired by Claire Barnes, ICCFR Board and Executive Director - Kids' Turn, San Francisco, USA
- 10.30 – 12.00 DISCUSSION GROUPS - Session 3
12.00 – 14.00 *Lunch*
14.00 – 15.00 PLENARY SESSION
- Keynote Presentation:
"Parenting the Child - Accepting Diversity"
Dr. Indu Balagopal and Ms. Usha Ramakrishnan, Bala Mandir Foundation Chennai, India
Chaired by Suzie S. Thorn, ICCFR Board and President - American Academy of Matrimonial Lawyers Foundation, USA
- 15.30 – 17.00 PRESENTATIONS OF WORKSHOPS 6 – 10 (see Workshop sheets)
18.30 *Dinner followed by a "Ceilidh" Evening of Scottish music and dance*

Friday, 8 June 2007

- 09.00 – 10.30 DISCUSSION GROUPS – Session 4
11.00 – 11.45 PLENARY SESSION
- Group Feedback and Conference Resumé
Chaired by Terry Prendergast, Chair of ICCFR
- 11.45 – 13.00 - Panel Discussion
"Barriers to Access: Finding Paths to Inclusiveness"
Experiences and Reflections, with Panellists from around the world
Chaired by Robin Purvis, ICCFR Board, Child and Family Therapist, Australia
- 13.00 CLOSING SESSION
- Reflections on the Conference - ICCFR Chair Terry Prendergast
- Presentation of the official Invitation for the 2008 ICCFR Conference
- 13.30 *Lunch and End of conference*
-

CONFERENCE REPORT
"BARRIERS TO ACCESS : Finding Paths to Inclusiveness"

ICCFR Chair Terry Prendergast

Introduction

For the second time, I present to you my own report on what was a wonderful event in Edinburgh during June this year. As I said in last year's report, this is certainly not meant to be a resumé of the Conference, merely my own reflections and experiences. My hope is that it will provide a point of memory or reference for those who attended, sufficient to jog your own memories, and an impression for those who were unable to be with us (as well as a pull to be there in Finland next year!).

Beginnings – Tuesday 5th June

We all nearly arrived at the appointed time on Tuesday 5th June and assembled in Heriot Watt's fine conference hall. We were somewhat late in starting and I was a little anxious not least because the Lord Provost of the city of Edinburgh, the Right Honorary George Grubb, had arrived on time and was waiting in the hall. I need not have worried at all since George proved to be both patient and humorous. He welcomed us all most warmly to Edinburgh, and Scotland, and clearly had done his homework on ICCFR. He also amused us with his shared realisation that the man who had accompanied him to the university, whom he had assumed was there to protect him, was in fact there only to protect the be-jewelled chain of office he was wearing around his neck!

Mary Toner, Chief Executive of Scottish Marriage Care, welcomed us also on behalf of the Scottish organisations partnering ICCFR (Scottish Marriage Care and Relate Scotland). She outlined some of the social programme that we could look forward to but I believe few of us realised what an amazing impact these would have on the conference as a whole and each delegate in particular.

And then we settled into serious matters.

The Honourable Alastair Nicholson, AO, RFD, QC delivered the opening keynote presentation. The session was chaired by Emeritus Professor Jan Walker, well known to ICCFR colleagues and herself a keynote presenter at Conferences.

Within the theme of the conference, Alastair addressed us mainly in relation to children, and their experiences of legal and justice systems. Starting something off is always difficult but it is clear that Alastair got through to people since we had more than forty minutes of question, debate and discussion at the end of his presentation. He spoke both of his experience as a Judge in Australia and as the Chair of Children's Rights International, an international advocacy organisation for children. Clearly these experiences had shaped much of thinking about the plight of children in our modern world – forced to have contact with an unwilling parent, children cut off from both parents, and much of this within an adversarial system that favoured the articulate and powerful. I was reminded at this point of Deborah Tannen's important book, *The Argument Culture*, and how this has become a dominant mode of communication for many, even aspired to. Equally, in relation to the issues of violence, how this adversarial stance contributes directly to breakdown, anger, fear and threat.

He also shared with us some key facts – 20 million refugees in the world, and 30 million displaced persons – and how these factors weighed on family life and child support. Jan Walker, at the debate at the end, added in the fact that in the UK there were as many children separated from their parents by incarceration as from relationship breakdown or divorce. This was a rich diet we were being fed so early in the conference and, I noted above, the long

question, answer and discussion time when Alastair finished his talk was testament to the way he had touched our hearts, thinking and experiences.

Edinburgh Castle

Delegates had a little time after Alastair's presentation to get themselves ready for the evening's programme at the Castle in the centre of Edinburgh. We were taken in by coach, and the coach drivers attempted to point out various important and interesting landmarks and monuments on the journey. The conference's theme, Barriers to Access, really came to the fore here since many from the twenty-one countries represented at the event found it difficult to comprehend the broad, East of Scotland brogue!

Our host for the evening was Adam Ingram, the MSP and Minister for Children and Early Years. He proved to be a gracious host, managing to welcome each delegate personally into the Great Hall in the Castle, where we ate our meal. Clearly many delegates suitably overawed the magnificence of the setting, complete with Piper and Haggis, which was piped in and around the Hall (it should be noted that ICCFR has been treated to some truly magnificent venues for social events throughout its history).

The Minister proved to be an interesting dinner companion and he talked at length about his ideas and plans for family support in Scotland. He, like the Lord Provost, was new in post following the election. The central ideas that he would like to put in place would have graced any ICCFR presentation, since he was so in tune and sympathy with the Commission and its work and perspective. He welcomed us warmly and, at the end of the dinner, delegates were taken on a tour of the Crown Jewels of Scotland, before being whisked back to Heriot Watt at the end of a long, tiring but essentially rewarding afternoon and evening.

Delegates settle to work – Wednesday 6th June

There was a buzz in the air on Wednesday morning, with delegates still reflecting on the previous evening's entertainment and setting. Professor Eddie Mhlanga addressed us at the start of the day, focusing on the plight of children particularly in South Africa, and specifically in relation to HIV/AIDS.

I found myself uncomfortable, not for the first time in these settings, with the challenges that Eddie threw down, mainly that we men were never in the correct fight, and that much of the sorrow and difficulty in the world is generated by the male species – difficult material to take in and accept. He spoke with passion and personal experience of the difficulties encountered by South African communities, particularly the poor ones. He also talked of the way women and children were left to fight on alone. He spoke movingly of how, where a parent had AIDS, the child was bereaved before the actual death, but he painted a graphic and moving picture of children suffering because of the actions of adults, mainly men. He told us of how one theme repeated itself regularly in this regard – how children could be stolen from, in many different ways, because they could do nothing! However, he also spoke with humour and humility, and I realised that he was bringing as many smiles to lips as he was tears to eyes.

Eddie's presentation was followed by the first of the four Discussion Groups sessions, a central feature of ICCFR, and unusual as a phenomenon in such gatherings. The Groups are closed sessions and allow delegates to process, discuss, debate, disagree and consider what has been presented, against the backdrop of each Group member's own personal experience, knowledge and skill. There were five different Groups ably led by Group Facilitators (Derek Hill, Sue Burrige, John Chambers, Chantal Lebatard and Judy Cunningham).

As I did last year, I will refrain from commenting on these Groups directly, though we had some interesting and varied feedback on the Friday morning. The problem in any kind of reporting, I feel, is how do you distil into a few minutes the interactions of six hours of intensive work, with people from twenty-one different countries? Yet, for me, this was probably where a lot of the personal interaction with the theme occurred. One of the major

barriers to access can be language and it was clear from what was shared that the Groups had spent useful time discovering their own and unique paths to inclusiveness.

I should share, I feel, at this point the long and heated debates that I have been involved in within the Board meetings in relation to these Groups. Should we have such Groups? Should we have so many sessions? Should we provide more workshops? My personal view on this is undecided but what has become clear to me in my time as Chair is that delegates seem to have none of this ambivalence and embrace the process honestly and with energy. I guess if the Board had doubts, it need only pay attention to the feedback and see the commitment of people running along corridors to get to their respective group on time.

Wednesday also saw the first set of five Workshops, in the afternoon, and just prior to the second Group Discussion session. As always in ICCFR, we had five energised and innovative sessions:

- Professor Agnes Law Koon-chui, Professor and Chair of Social Work Research at Sun Yat-sen University in Guangzhou, China, focused on: *Overcoming cultural barriers: helping the families and children of migrant workers to integrate with the community in affluent cities of mainland China.*
- Dr Anna Vella, Registrar at the General Hospital in Malta, in the Department of Substance Misuse, focused on: *The impact of having a family member facing mental health problems on the caregiver and the family - How can social and psychiatric services be of help.*
- Carine De Wilde, Executive Staff Assistant for integrated youth policy support, in the Welfare, Public Health and Family Department of the Flemish Government in Belgium, focused on: *The participation of minors and parents: basis for an inclusive policy regarding youth care in Flanders.*
- Sonia Scott, Relationship Education Co-ordinator with REACT, and Kathleen Conroy, Counselling and Training Manager, both with Scottish Marriage Care, focused on: *The React Young Parents Project – Challenges and learning.*
- Anne Berger Joanne Wilder, Suzanne Harris, Anita Rodarte, all lawyers involved in family law in the USA, focused on: *Grandparents'/Grandchildren's barriers to Access.*

I could only attend one Workshop that afternoon, Carine de Wilde's on Youth Care in Flanders. The Workshop was well attended and provoked a good level of discussion, drawing participants in. This is the kind of experience I have had at ICCFR conferences, given the level of skill and expertise of presenters. What also struck me about the material presented were the similarities in the principles being employed in Belgium and the UK. Possibly there are finite policies and practices that can be pursued but it was interesting to see the longevity of the programmes and the attempt at ensuring that these remained in place over time to allow for ideas and practice to be consolidated. When a participant asked about the definition of some key terms, we all realised that we could have been in the Workshop for another week debating these matters!

The final part of the programme for Wednesday was a new idea for ICCFR but one that had been set in place as a result of the demands of delegates at previous conferences. Given the tightness of the programme, in terms of time, the request to have professional group discussions has always been difficult to accommodate. It was tried, with limited success in 2006 in Lyon but the conference programme in 2007 provided a much more formal and possible opportunity for meeting and discussion – around a dinner table!

Four different professional areas (therapy, legal, family policy, and social work) were set up on the dining tables and delegates sat down within these arrangements, aided by good food and wine. The analysis of the Evaluation Sheets will give a more scientific report on the success or not of the session but it appeared to me that the idea was a great success. Certainly I was one of the last to leave the dining room at a few minutes past midnight, and the evening seemed to have been a mix of professional discussion, conference processing and the sharing of more general matters. Within the theme, again, it certainly proved to break down any barriers that might have been present, providing a very inclusive setting that all seemed to be engaged in.

The Conference in full swing – Thursday 7th June

Thursday proceeded to be another full day. The first presentation of the day came from Dr Patricia van Horn, from the Child Trauma Project in San Francisco, with a focus on family violence, in the main where parents were violent to children. She noted that man-to-woman violence has a more adverse impact on children than the other way around, and how violence *per se* ruptures the attachment process, doing great emotional damage.

She also introduced an interesting if not innovative notion of breaching a key and often disputed barrier in therapeutic work, that of confidentiality. She told us of how, with all of the clients' permission, a therapist might breach confidentiality within the family if s/he had heard something from a family member that might help or move the family on in their search for resolution. It struck me how client-centred this was but also what courage any therapist might have to have in order to act on what would be a subjective rationale. She further worked with us on the notion of co-parenting, something that Eddie Mhlanga had talked of, though his was more related to community parenting, and an idea that would be returned to in a later keynote presentation.

Finally she reminded us all that we were engaged in work that generally did not make the news – we were swimming against the tide, in that very few people wanted to hear the good news of relationship difficulty resolution, again something that Eddie had referred to when he had said that “saving a family by healing is not reported news!”

The next keynote presentation was set after the second of the Discussion Groups, and was presented by Dr. Indu Balagopal and Ms Usha Ramakrishnan in relation to their work at the Bala Mandir Foundation in Chennai, India. They shared with us the work they are doing with children and parents, where there is a defined disability in the child. They also shared some resources with us that they had developed, that aided parents, teachers, and children to identify the special skills that those whom we label disabled have. Apart from a stunning Powerpoint presentation, they gave us some important information and ideas, though I particularly liked their version, on screen, of the *Snakes and Ladders of Life*, a classical child's game. They reminded us that it isn't how smart you are, but rather *how* you are smart, and they provided us with a quote from Antoine de St Exupéry that provides the perfect antidote to barriers, and is itself a unique path to inclusiveness and a reminder of the importance of listening and empathy: “*It is with the heart that one sees rightly. What is emotional is invisible to the eye.*”

Whilst Patricia van Horn had mentioned the issue, but as co-parenting, Eddie Mhlanga, Indu Balagopal and Usha Ramakrishnan spoke about community parenting and the way that in their cultures, the sense of such a community still exists. I was left with the feeling that many of our “advanced” Western Societies have lost much in the transition to a so-called progress. Certainly such a sense of community would now be difficult to find in the UK!

The second set of Workshops were:

- William J. Howe, a Family Court Lawyer in the USA, and Dianne Gibson, Director of Child Dispute Services in the Family Court of Australia, focused on: *Can listening to children moderate “zealous advocacy” and promote “best interests” in family law disputes?*
- Kimberly Fitzgerald, an accredited counsellor who has over 14 years experience in working with people with disabilities, from Ireland, focused on: *Managing Diversity in the Workplace: Focus on Disability.*
- Susanna Abse, Director of The Tavistock Centre for Couple Relationships in London, and a Couple Psychoanalytic Psychotherapist focused on: *Partnerships between the Voluntary and Statutory Sectors – Opportunities and Limitations.*
- Tatiana Tolkachova, a lecturer at the Far Eastern Medical University Khabarovsk, Russia, FEIPP on family psychology issues, and Managing Director of a project

on preventing domestic violence, focused on: *Cultural Diversity Specifics of Family Counselling in the Russian Far East*.

- Chantal Lebatard, of UNAF, France, and Board member of ICCFR, focused on: *Ethics...*

I attended Tatiana Tolkachova's presentation. I had become very interested in the area in general after reading the book, *Siberia*, by the Canadian writer, Colin Thubron, but the levels of deprivation, the extremes of climate and the creeping forward of the Chinese border into Russian territory were completely new. We were all struck, I think, by the lack of resources in Tatiana's working environment, but also by the quality of work and intervention. Further, thinking about cultural identity and inclusiveness in East Russia, it was noticeable that China was so much more accessible on all fronts compared to links with Moscow. Again, people were energised by the problems presented and the workshop, as with the others I am sure, offered all of us from our respective and different cultures, a glimpse of a different world and living environment.

The final event of Thursday was to provide us all with a great opportunity to be inclusive and mix in ways that we hadn't up to that point, by taking part in a Scottish ceilidh, a folk dancing session. It would be fair to say that there had been some who had wondered whether the idea would translate across twenty-one countries but any fears on that score were almost immediately removed. The dance floor was packed and delegates threw themselves (some literally) into the fray! And, when the band were just playing instrumentals or resting, it was then the turn of delegates from the different countries represented to regale us with songs from their homelands. The first social event at the Castle had set a scene and the dance on Thursday evening took us full circle and facilitated many new relationships that hitherto had been absent!

Final throes – Friday 8th June

There were some weary faces at breakfast on Friday morning though the energy levels were high. Delegates moved to the last of the Discussion Group sessions immediately after the breakfast period and we all gathered together in mid-morning to have feedback from the Groups.

As I have noted above, and I also made similar comments in my report last year, I would not attempt to convey the experience of the Discussion Groups because of their essentially experiential nature. It is impossible to re-capture that kind of experience. The five Groups gave feedback in various guises, and perhaps my own point here was echoed by the majority of the Groups who confined themselves to the barest minimum of reportage. What is not in doubt is the energy and the obvious use that was made of the time. You will have noted above my comments about the Board's own internal discussion about the Groups. Given the busy timetable of the Conference, and the work carried out by delegates during the whole event, it is testament to the Discussion Groups that they are so well attended.

Our final formal session on the Friday morning was a different event for the Commission. We invited a panel drawn from the Conference numbers to speak about their personal experience, learning and reactions to the event. The session was chaired by Robin Purvis, our Board member from Australia and the panel was made up of: Dr Indu Balagopal, India; Diane Gibson, Australia; Professor Ivo Mosny, Czech Republic; Rev Awe UmaAwa Ume, Nigeria; Dr Anna Vella, Malta; and, Mary Toner, Scotland. As with the Groups, it is difficult to offer a clear report on the whole discussion, and questions raised, but some of the themes touched on were the following:

- The changing nature of societies in general and how the Commission has kept pace with this (in a similar vein, one comment after Alastair Nicholson's presentation suggested that some of the issues we were discussing would not have been explored at all fifty years ago!).
 - The differences in family life, particularly in the role of women;
 - Gender changes that have resulted from advances in equality;
 - How communication is affected by this – you have to work hard to listen;

- How it is now possible to talk openly about men as an issue!
- How depressing it can be to hear and see the same or similar problems all over the world, and how easy it might be to give up!
 - How the Conference has also given us all a sense of privilege and proportion to our difficulties;
 - How it has also built up and developed a sense of hope.
- The importance important issue of inclusiveness that has been focused on in Edinburgh.
 - The importance of including children in discussions where at all possible;
 - Inclusiveness actually means no exclusiveness – there can be no exceptions;
 - Some of this, for the Commission, is about helping people to come to the Conference, that is, providing where possible the financial and legal support for this;
 - The discrimination on grounds of race and gender has to be actively fought against.
- Who is the parent?
 - The current impetus to put professionalism into parenting and whether this is both possible and helpful;
 - What do children want or need from adults?
 - How the focus had been on children a lot of the time and they need our time and attention, our careful listening;
 - The world can be a family and certainly communities can provide parenting.
- How the Conference had allowed for an appreciation of difference, especially how different peoples behaved in similar circumstances.
 - A drawback of this is that it can create barriers in itself and hence there is a need for vigilance on this matter;
- That we need also to remember the abilities and skills we all possess that will allow us to make a difference in respective countries.
 - Could our work in these Conferences lead to ICCFR projects?
 - There is a need for funding
- It is people who make a difference and we need to have the time to be with each other to listen to and take in the views of the other.
 - The conference has re-kindled hope;
 - We must focus on our similarities and listen deeply to others.

This is a mere snapshot of some of the comments. However, it seemed to be a successful session and helped to round off the conference with direct feedback and comment from participants.

Conclusions

In summation, it appeared to me to have been an extraordinarily good event, both the conference proper, and the various social events. There is something comforting about the commonality of our struggles even if they are concerning and daunting, with similar issues in our different lands – family violence, family support, the needs of children and how we define this (one delegate felt that this was a conference in itself!). And whilst there had been a continuing theme focusing on children, I was left uncomfortable because there was a real challenge to men, to be in the correct struggle and to consider how we create situations of conflict and violence.

But, the over-arching feeling I was left with was the importance of seeking solutions together – one of the main functions and rationales of the Commission, surely. Delegates seemed to go away replenished for the year ahead, and I was left with hope, and a faith, that staying with the struggles, facing them honestly with others, was surely the way forward. It is interesting to note that all of the major conflicts in the world take their roots from differences and difficulties in communication. What an inspiration and example this annual event, yet again, might be for the leaders of our respective countries in showing how it is possible to come together and work hard at complex issues!

I would like to thank colleagues on the Board of the Commission for their support during the year, and for the work they put in at the Board meetings involved in the planning of the event. During the Conference, all worked tirelessly to ensure that matters moved smoothly for participants. Equally, the General Secretary of ICCFR/CIRCF, Gerlind Richards, and our Administrator, Carol van Selm, were the people who held everything together both during the year and during the Conference itself, so my particular thanks go to Gerlind and Carol for all of this unstinting work.

I would like to thank all of those who made this Conference possible. Clearly, our partner organisations in Scotland and Jan Walker played a central role here but we are indebted to the work and skills of all of the keynote presenters (Alistair Nicholson, Patricia van Horn, Eddie Mhlanga, Indu Balagopal, Usha Ramakrishnan), Workshop Leaders, Robin Purvis and the Panel Members (from the Friday morning discussion) and the Group Discussion leaders as well. The technical assistance received from the University was outstanding and the services of our interpreter essential in providing translation in French. But, it was the enthusiasm, energy and community of all of the delegates that really made the event the success it clearly was.

If we had come more aware of barriers to access, our paths, though taking us in different directions on our homewards journeys, were inclusive, joined up and travelled in conjunction with companions from across the globe.

BARRIERS TO ACCESS BETWEEN CHILDREN AND PARENTS: WHO IS A PARENT?

Professor the Hon Alastair Nicholson, AO, RFD, QC

The current topic is a timely and important one. The subject of this address represents one of the most troublesome areas of family and interpersonal relationships. Additional complications have come from the increased mobility of people in our modern world, leading to many more relationships across religions and cultures and increased geographical separations between family members.

A further dynamic has been the increasing demands upon people to travel and/or resettle because of the requirements of their employment.

Trafficking in women and children also represents a significant barrier to contact between families. While much of this is for sexual purposes, it must also be remembered that it may be for child labour and even for international adoption or harvesting of organs.

The effects of war have also been significant, leading to the break-up of families and a huge increase in the number of refugees seeking a new life in other countries. Tonight, I propose to deal with some of these problems, although by no means all of them, given the vast range of factors that need to be discussed.

I commence the discussion very mindful of Article 9 (1) (2) and (3) of the United Nations Convention on the Rights of the Child (CRC) which provide as follows:

“1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests”.

Like all such international instruments, CRC must be read to glean its intention, rather than applied literally.

I propose to commence by classifying and discussing a number of the many matters that act as barriers to access and contact between children and their parents. I will then go on to discuss who is a parent for this purpose, for modern scientific and other developments sometimes render this issue important and one that can be quite difficult to determine.

Barriers to Contact

(a) Parental Failure to Seek Contact

Interestingly, one of the major barriers to contact is the fact that the parent who is living apart from the children often does not seek it. The question is what can be done about this? Assuming that there are no contra-indicative factors such as violence or sexual abuse, children suffer greatly because of not seeing a parent..

So far as I am aware there is no system of law that positively requires a parent to have contact with a child.

There are a few things that can be done and perhaps some of you may be in a position to suggest more. One possibility that occurs to me would be a continuing public education campaign, no doubt as part of other information campaigns about family law, pointing out the ill effects to a child of not seeing a parent and the fact that the law encourages contact with both parents.

A second approach would be to adopt more child and people friendly methods of dealing with children's disputes. In recent times, this has largely been sought to be achieved by mediation.

Another approach is to attempt to make litigation less daunting, more people friendly, speedier and less costly. In Australia significant reforms have been made to the process of litigation in children's cases with this in mind. The reformation of the process of family law litigation in Australia should be of interest to a European audience.

In its amending legislation of 2006, the Australian Government introduced a system that draws on the previous strengths of the Australian system in relation to mediation, but the conduct of the trial is largely based upon a German model for the conduct of children's proceedings and represents an abandonment of the adversary system for the conduct of trials previously used in common law countries such as Australia. Ordinary rules of evidence do not apply and the judge controls both the manner and type of evidence that is called.¹ An experienced social worker or psychologist works with the judge in each case and plays a significant role in assisting with the resolution of the dispute. It is an exciting development in family law and as one of its originators, I am taking a keen interest in its progress. The Family Court of Australia has recently published a detailed report concerning the system.²

A third approach and one that is not available in all countries and is under threat in a number of others, is the ready availability of legal aid in family law proceedings. If the adversary system employed in common law countries is to have any hope of doing justice, there must be competent legal representation of the parents and the child. In its absence the possibility of injustice is high.

The difficulties facing parents involved in litigation in an adversary system without legal representation cannot be over emphasised. This is particularly so for the inarticulate and poorly educated and for people for whom English is not a first language and for victims of violence. However, it is also difficult enough for people who do not labour under these handicaps, faced with the mysteries of rules of evidence and examination and cross examination.

(b) Distance

With the modern mobility of people and particularly young people, marriage or relationships often take place between people whose original places of abode are widely separated. The Internet has made its own contribution to this process. Not uncommonly the parties come from different cultures and have differing religious beliefs, particularly as to the upbringing of children. When the relationship breaks down, one or other often returns to their original location with the children, sometimes without the permission of their partner.

Contact is then made difficult, if not impossible, not only as a result of the ensuing distance, but also because of the bitterness and mistrust that has been engendered and sometimes because the law of the country to which the children have been taken does not recognise the rights of the children and the other parent to see and have contact with each other.

¹ Ibid Family Law Act (Cth) 1975, Division 12A.

² For a detailed account of the history and nature of this system see Margaret Harrison, *Finding a Better Way*, Family Court of Australia April 2007

At the international level, the Hague Convention on the Civil Aspects of Child Abduction that came into force in 1983 offers a partial solution in respect of those countries which are parties to it, which includes most Western countries. However its enforcement even as between those countries is not without difficulty and legal complication.

Where children are taken to a non-Hague Convention country, which includes most of the Islamic world, there is virtually no remedy available to the child or the absent parent.

The heartache for parents involved in these situations and for their children is considerable. I recently launched a book by a mother whose children were abducted by their father from Australia to Malaysia, which graphically describes a parent's predicament in these circumstances.³

(c) Culture and Religion

Culture and religion also operate as a significant barrier to contact with or without the problem of distance, particularly in countries with large immigrant populations.

Religious problems tend to be particularly acute where one or both parents are members of a fundamentalist religious sect. For example the tenets of the Exclusive Brethren and some other fundamentalist faiths involve the children having no contact with the outside world, including television, movies, newspapers and the like. This leads to extensive litigation where one parent has left the faith and wishes to maintain contact with the children.

Some might suggest mediation but these cases do not, in my experience, lend themselves to such an approach

Other cases involve issues of the physical discipline of children, often arising from literal interpretations of passages in the Christian Bible, but also from cultures where physical punishment of children is acceptable. It is of course inconsistent with CRC and has been banned in a number of countries, mainly in Europe, but unfortunately not in the UK or Australia as yet.

Islamic people have generally been brought up in societies where Sharia law is observed. Again as its observance forms part of their religion, there are obvious difficulties about the application of the best interests principle applied in western law. In a secular society however, is it possible for courts to have regard to Sharia law in making their decisions?

(c) War and Refugees

Recent years have seen an enormous growth in the number of persons seeking refuge from the various wars that have plagued the world. To name but a few, the continuing war in Afghanistan, and the wars in Iraq and Sri Lanka have produced many refugees. In Europe, we have had the wars in the former Yugoslavia and in Africa, Ruanda and now Darfur.

UNHCR estimates that there are 20 million refugees in the world today and 30 million internally displaced persons, so the magnitude of the problem is immense.⁴

This process has meant the separation of many families and children.

The attitudes of countries receiving refugees have been highly variable and have often paid scant regard for human rights or the rights of the child. There is a strong move amongst conservatives to reject these people and to treat them as almost subhuman. The Australian Government has been one of the worst offenders in this regard and there are signs that its harsh policies are being followed elsewhere.

³ Jacqueline Pascal; *Since I was a Princess*, HarperCollins Sydney 2007

⁴ http://www1.umn.edu/humanrts/center/asylum/ref_intro.html

There were many instances of children being held in detention with one or both of their parents for periods of up to four years. Of course many other refugees are being similarly held at various locations around the world, without hope or help. Unless and until the nations of the world pay something more than lip service to CRC, the problem will continue and children will continue to suffer. There are no obvious solutions and the sheer number of refugees means that countries become fearful of being swamped if they admit too many of them. Unscrupulous politicians pander to these fears and often achieve electoral success as a result.

(d) Child Trafficking

The US Department of State estimated in its 2005 Trafficking in Persons Report that every year approximately 6-800,000 people are trafficked across national borders. About 80% are women and young girls of whom 50% are children. ILO reports estimate that 12.3 million people are in forced labour, of which 2.45 million have been trafficked. Children are thought to represent about 50% of the victims of forced labour.

(e) Family Violence

Family violence takes many forms; it may involve physical attacks and may involve a combination of physical violence and psychological violence or it may consist of psychological violence/abuse alone. There seems to be a modern consensus that it should be defined broadly.

Family violence is not uncommonly associated with sexual abuse. It is more commonly inflicted by men on women and children, but women may also engage in such conduct. In such cases, there is usually a very real barrier to contact occurring, at least between the perpetrator and the children. In many cases, particularly where there has been sexual abuse of children contact is contra indicated. Even in the absence of sexual abuse, the conduct of the perpetrator may have been such as to leave their partner in fear. Children who have been either witnesses to or the subject of family violence are often detrimentally affected by it and may again live in fear of the person responsible.

Attempts at contact in such cases are often fraught with difficulty, particularly when the conduct in question recurs on handover. Sometimes this can be averted by the use of intermediaries and specifically designed contact handover centres. These centres can be very effective in maintaining a relationship between children and a previously violent parent.

Where a parent continues with violent and threatening behaviour in the context of attending such a service it is difficult to see this as a solution however, and questionable whether it is in the best interests of the child to perpetuate contact in such circumstances.

(e) Sexual Abuse of Children

The determination of whether sexual abuse has or has not occurred has continued to give rise to difficulty for courts exercising family jurisdiction. There are differences of approach between different countries. For example in the UK, a higher degree of satisfaction as to whether sexual abuse has occurred is required than is the case in Australia. The High Court of Australia has laid down a test which does not require the court to make positive findings as to the probability of sexual abuse having occurred before acting to terminate or heavily reduce contact or providing for it in a supervised setting.⁵ In arriving at this result the court, after referring to tests applied by courts in the past, said:

⁵ M v M (1988) 166 CLR 69

“To achieve a proper balance, the test is best expressed by saying that a court would not grant custody or access to a parent if that custody or access will expose the child to an unacceptable risk of child abuse”⁶

Where the judge finds that there is an unacceptable risk, it is still open to the judge to order contact, but that contact may be extremely limited and if direct contact occurs, it is usually strictly supervised.

The difficulty about the application of a test such as this is that it leads to an extremely harsh result (both for the child and the parent) if the reality be that no sexual abuse has occurred. On the other hand, the difficulty about a more stringent test is that it is more likely to leave a child at risk of further sexual abuse.

Opinions may differ, but in my view from a child welfare perspective, it is extremely doubtful whether contact should occur where a finding has been made that there is an unacceptable risk of child sexual abuse. At best, such contact should be limited to the provision of school and medical reports and perhaps some kind of written communication under careful supervision.

In some cases, contact is permitted as a child gets older upon the basis that the child is better able to protect itself from abuse. I have doubts about this proposition because experience shows that there are many instances where older children are also sexually abused by a parent or step-parent.

(g) Emotional/Psychological Abuse of Children

This similarly provides great difficulties in the determination of its extent and nature. However, a process of demeaning and humiliating children by a parent can be just as damaging to them as physical abuse and children have a right to be protected from it.

(h) Substance Abuse

The connection between substance abuse and family violence, poverty, homelessness and health problems is well known and documented, which in turn leads to its significance as a barrier to contact between families.

I think it important when considering substance abuse to make no mistake that the most serious area of substance abuse that affects more people than any other is the abuse of alcohol. Despite the wide media coverage they attract, narcotics affect a much smaller group in the community than does alcohol.

In this area Governments, commercial interests and the community as a whole bear a heavy responsibility for the problems that have developed.

The report of an Australian Drug Foundation conference conducted in Melbourne in 2005 commented:

“In the last two decades the largest alcohol producing companies have become economically stronger than many nations. Alcohol production and distribution is now largely controlled by a handful of multinational companies. These companies have a significant capacity to mount campaigns and resist individual government pushes for restrictions on promotions, packaging, marketing, alcoholic strength, product pricing and taxation”⁷

⁶ Ibid at 78

⁷ Ibid at p. 13

Huge sums are spent by the liquor industry on advertising, and any restriction on such advertising is likely to lead to a substantial loss of revenue for media companies.

In making these remarks I have emphasised the issue of alcohol.

There is no doubt that for a smaller number of people, other hard drugs also present a problem. Those who work in family courts are all too familiar with it. As is the case with alcohol, other substance addiction and abuse can lead to violence and the neglect and ill treatment of children. Their presence makes the preservation of the family structure difficult, if not impossible. In many instances grandparents play a significant support role and unfortunately, this also can lead to conflict in cases where the grandparents have cared for the children for considerable periods and the natural parent/s claim to have recovered and seek their return.

Paradoxically in comparison to alcohol, the solution of most Governments in response to this problem lies in a zero tolerance, law and order approach. Again this approach does not seem to work either and if there is solution to the hard drug problem I do not think it lies in this sort of response but rather in a much more measured one aimed at reducing the economic incentives to traffic in these drugs.

(i) Mental Illness and Personality Disorder

The fact that a parent has suffered a mental illness is often relied upon in contested proceedings relating to children as a disqualifying factor in making orders that the child should reside with or have contact with the person who has suffered the mental illness. This, I think, reflects the stigma that unfairly attaches to mental illness. I do not regard the evidence of past mental illness as having any greater relevance in determining these issues than evidence of past physical illness from which the parent has recovered.

Personality disorders are a more difficult problem in that there is usually no question of recovery from them. Obsessive-compulsive and hysterical personality disorders are not uncommonly encountered in people engaged in litigation and particularly family law litigation. However, it would be rare indeed for the fact that a parent is suffering from such a disorder is sufficient to prevent ongoing contact with children, although it might tell against such a person being the primary caregiver of the child.

(j) Physical Incapacity and Chronic Illness

Similar considerations in favour of contact apply with even greater force than applies with personality disorders. It would be difficult to imagine a situation where these factors should have any relevance in determining whether contact should occur between parent and child although they may operate to make such contact more difficult to achieve. There were some early cases where the fact that a parent was HIV positive was suggested as a barrier to contact but thankfully we appear to have moved on from that position.

(k) The Attitude of New Partners

It is not uncommon for contact arrangements between parents to work perfectly until one or other of them acquires a new partner, particularly if the new partner has children of their own. This often leads to a geographical move and also creates tensions and jealousies. In most cases, these problems can be overcome, but in some, they do lead to a total breakdown of contact between one or other parent and the children of the former relationship. Legal solutions are rarely the answer to problems of this sort, which are best dealt with by psychologists and counsellors. At best, the law operates as a blunt instrument in bringing contact about and it is particularly unsuitable for use against recalcitrant children.

(l) Children's Negative Attitudes and Parental Misunderstanding of the Developmental Stages of Children

It is obvious that a marriage or relationship breakdown has an extremely significant effect upon children and the outward manifestations of the effect may vary depending upon the age of the children. Many parents have no real appreciation of this problem and tend to blame any negative behaviour by the children upon the other partner. As conflict intensifies, some children feel that they have to take sides and the situation accordingly worsens. Again, I believe that the solution to this problem is an educational and therapeutic one rather than a legal one.

Cases where a child refuses to co-operate have been, in my view, wrongly categorized as falling within the so-called Parent Alienation Syndrome developed by Richard A Gardner in the USA.

It is not my purpose to enter into this debate further beyond saying that as a judge, I found the concept of a so-called parent alienation syndrome singularly unhelpful. The dangers to the best interests of the child by blindly changing custody in accordance with the Gardner formula are obvious.

(m) Imprisonment of a Parent

This can often operate as a very real barrier to contact between children and parents. All too often the children can become the unwitting victims of such a situation and there are serious deficiencies in many countries in making proper arrangements for continuation of the parent and child relationship while the parent is in prison. A New Zealand study found that 20% of children had more than one carer during their mother's imprisonment and nearly 25% were placed with strangers. In many cases siblings were separated.⁸

Who is a Parent and what is a Family?

I have so far been discussing some of the many factors that operate as barriers to contact between parents and children and between family members.

Melbourne University Senior Lecture in Law, John Tobin suggests that a child may well have different parents including:

- A gestational/birth parent being the woman who gave birth to the child.
- Genetic/biological parents being the woman whose ovum was used for the creation of the child and the man whose sperm was used to fertilize the ovum, whether by natural methods of conception or via an assisted reproduction procedure; and
- Nurturing/social parents being the persons recognized under the law of the State as being responsible for the actual care of the child.

He points out that these categories are not necessarily mutually exclusive and that the last category is not defined by the sexuality of those persons who care for the child, but allows the national law to reflect the identity of those persons who have formally accepted responsibility for the care of a child and are prepared to act for intent and purposes as the social parent of the child.⁹

While I agree generally with Tobin's views, I am not at all sure that nurturing/social parents should be confined to those recognized by the law of the State concerned as having that responsibility. Many States do not recognize same sex marriages as a matter of law and yet there are many same sex couples who bring up children as parents. I do not see why these

⁸ Kingi V *The children of women in prison, a New Zealand Study*, Women in Corrections: staff and Clients Conference, Adelaide, Australian Institute of Criminology & Department for Correctional Services South Australia (2000)

⁹ John Tobin, *Parents and Children's Rights under the Convention on the Rights of the Child*, Australian Journal of Professional and Applied Ethics Vol 7 No 2, Charles Stuart University, Australia (2005) 31, 33-4

parent/child relationships should be excluded from the CRC. Similarly, heterosexual couples may become nurturing/social parents without State legal recognition.

The confused legal situation of some children in relation to parents creates many difficulties for children and the law in most countries has either not caught up with these changes, or where it has attempted to do so, has reflected prejudice and discriminatory attitudes in this very sensitive area. Obvious difficulties for children arise in relation to issue such as status and inheritance and where parental consent may be required for medical treatment etc. If the law does not recognize the parent child relationship, the child can be left in a sort of legal limbo.

One of the problems in this area is that many countries have not incorporated CRC into domestic law, which leaves the determination of who is a parent open to all sorts of considerations that may be inconsistent with CRC.

Assisted Reproduction Treatment (A.R.T) Procedures and Parenthood

Difficult questions arise as to the identity of parent and the rights of a child in relation to them when children are born as a result of these procedures and there are a range of legal responses in various countries. In some there are quite complicated eligibility procedures which may also be discriminatory. In others there are no regulatory procedures at all, which may place children at risk. A useful comparative legislative review of the situation in Australia, the US, Canada and the UK can be found in an article by Seymour and Magri, „A.R.T., Surrogacy and Legal Parentage.”¹⁰

Anomalies can be found in most countries that have legislated in this area, or in others where there has been no legislation and issues are determined in accordance with pre existing law. The following comment aptly describes the difficulty of legislating in this area:

“When the Acts too narrowly define the techniques to which they apply, other techniques may be left unregulated. When the Acts are too specific, they do not leave room for developments in technology. In either case, there may be some forms of A.R.T. not covered by the legislation – access to these may be left to the discretion of individual practitioners.”¹¹

One could add that these anomalies have considerable effects upon the status and rights of the children born of such procedures and their parents.

However the consequences of not legislating at all are similarly unsatisfactory as too much discretion is then left to medical practitioners, who may impose their own ethics/morality upon the decision making process and lead to arbitrary or discriminatory decision making.

Surrogacy

Similar issues arise with surrogacy, which may also seek to rely upon A.R.T. when the genetic mother has her ova implanted in the surrogate, or when the male partner’s sperm is used to impregnate the surrogate. The primary feature of surrogacy is where the woman who becomes pregnant agrees to surrender the child to another person or couple with the intention that they will become the parents of the child. This may be done for financial reward, for payment sufficient to cover expenses, or it may be entirely altruistic.

Questions arise as to the eligibility for A.R.T, whether any form of payment to the surrogate mother should be made and the legal parentage of the child. Legislative solutions are different ranging from complete prohibition of the practice with criminal sanctions as apply in the

¹⁰ John Seymour and Sonia Magri, *A.R.T., Surrogacy and Legal Parentage: A Comparative Legislative Review*, Victorian Law Reform Commission Occasional Paper, Melbourne, Victoria (2004)

¹¹ Ibid Seymour and Magri at para 2.16

Australian State of Queensland, and some American States,¹² through acceptance of altruistic surrogacy arrangements as in Victoria, to others that provide that such arrangements are unenforceable, to others that permit and recognize arrangements subject to certain safeguards. Most prohibit the practice being pursued for reward, although some recognize the payment of expenses. There are a wide range of differing provisions as to the parentage of the child.

Adoption

In some cases adoption will provide a solution where there is doubt about legal parentage, particularly in cases involving surrogacy, or same sex couples, whether or not A.R.T. is used.

Different countries and States in the case of USA and Australia have different adoption laws, some of which discriminate against single person or same sex couple adoption while others do not.¹³

General adoption requirements can be quite restrictive however and not all social/nurturing parents qualify, whether married, living in a *de facto* or same sex relationship.

Conclusions as to Parentage

In my view the CRC does provide possible answers to many of these problems, particularly if we accept the proposition that 'family' should be defined both broadly and inclusively and should not be used as a means to define what some people, for religious or other reasons consider to be unsuitable forms of the family. It is strongly arguable that there is a need to regulate A.R.T., surrogacy and the like but any such regulation should be non discriminatory and firmly based upon the best interests of the children born as a result. It must also be recognized that if the regulations are too restrictive, then people will operate outside such regulations and 'do their own thing' in relation to A.R.T. and surrogacy, in circumstances where the best interests of the child may suffer. There is much to be said for the following proposition put by a very distinguished Canadian judge in the Supreme Court of Canada:

"Given the range of human preferences and possibilities, it is not unreasonable to conclude that families may take different forms. It is important to recognize that there are differences that separate as well as commonalities that bind. The differences should not be ignored, but neither should they be used to de-legitimise those families that are thought to be different."

Madam Justice Claire L'Heureux-Dube in Canada (Attorney-General) v. Mossop [1993] 1 SCR 554 at 633.

¹² E.g. Arizona and Michigan

¹³ Same sex couples are permitted to adopt in a large number of counties of US States but only eight States permit it on a statewide basis. Same sex couples are eligible to adopt in the UK. The Australian States of Tasmania and Western Australia allow same sex couples to adopt but it is restricted in other States and Victoria does not recognise same sex relationships

ACCESS TO CARE: A NEW CHALLENGE FOR CHILDREN - WHEN IS A CHILD A CHILD?

Professor Edgar Mhlanga

Worldwide there is an increase in children who are in need of basic rights, as the rich get richer, and the poor get poorer. One of the major contributors to this state of affairs is a world not committed to the welfare of children. In the face of the greatest challenge humankind has ever experienced, children are thrown to the frontline to fight a war few adults are prepared for. It is a war created by adults, but left for children to survive. This war consumes resources. It is so that when resources get thinner and scarce, the vulnerable suffer first, and not those who are cushioned by extra layers of protection. The vulnerable do not have access to resources, to services, or to care.

The new millennium brings with it an increasing gap between the rich and the poor. Poverty is increasing as globalisation becomes entrenched. Humans become commodities for commercial exploitation, and interpersonal relationships deteriorate. We note an increase in human trafficking, violence (in the home and without), wars, emerging and re-emerging diseases, and an increase in the burden of disease. We are in a world where there are as many diseases and disorders resulting from over-abundance, as there are from want and destitution. In other words, we live in a world of inequality and inequity. It is in this kind of world that children are born and raised. They are at the end of a line, awaiting a future of bereft heritage.

It is the children who are at the end of the line, waiting. It is the children who seem to have little worth. It is therefore fitting that during this conference we address this issue of access: access to care, education, family, security and love, to a healthy environment and to acceptance.

In the face of emerging and re-emerging conditions and diseases, countries and nations adopt new ways of ensuring their survival and the protection of the able-bodied. The weak and infirm are often forgotten, unless there is a particular voice and activism for this group. Wars and conflicts are perpetuated by, to a large extent, male-dominated politics. Those who bear the brunt of these are children and women.

Children are affected more severely because of their physical and emotional developmental vulnerability and as the damage done to children is more likely to last into the next generation, "caring for the child is caring for the future".

It is over 20 years since the Convention on the Rights of the Child was ratified yet children are still not a priority in many United Nations Member States who have ratified the Convention. We still have child soldiers, commercial sexual exploitation of children. We still have children being deported from countries, irrespective of their needs. There are wars that kill and maim children, with no thought for children.

Women are symbols and foundations of future development. In many countries women are development and physical and emotional abuse of them threatens the very soul and fabric of society and humanity. If you break the clay pot, the water will not remain cold. The soul and integrity of the nation will not remain intact if women and children are abused, maimed and killed.

**A war is going on,
There is silence in the land
There is silence in the world
In that silence, children and women suffer
Children and women die
Because no one cares**

THE NATURE OF THE PROBLEM

One of the major challenges of the 21st century is the HIV pandemic. In some countries, HIV infection is mainly spread through sharing of contaminated needles for intravenous drug use. In others, it is through sexual activities between and among homosexual people. In the majority of developing countries though, where HIV infection is rampant, HIV transmission is through heterosexual intercourse. In these countries, therefore peculiar challenges emerge.

1. *Pregnancy and HIV infection are intertwined.* One cannot get one without a risk for the other.
2. *Parent-to-child transmission.* This relates to vertical transmission, because if one sexual partner is infected with HIV, the child is likely to be infected.
3. *High female to male ratio of those infected with HIV,* because of the multiple partners that males are “allowed” to have. It has been thus from the Biblical and historic days. As much as one infected man has the potential to impregnate many women, so it is that one infected man has the potential to infect many female sexual partners.
4. *High mortality among young women, especially following childbirth.* Women in general tend to outlive men by about five years in all the developed and most developing countries. However, a phenomenon is emerging in the developing countries where more women are dying younger than the men, partly because men tend to have younger sexual partners, and also because AIDS tends to progress faster among women. Pregnancy is also a peculiar feature of the female species. Indeed, the leading cause of maternal deaths in South Africa is now non-pregnancy related infection, the chief being HIV.
5. *Inadequate social networks to support the sick and dying.* The countries most affected have poor or no social security arrangements. It therefore becomes the responsibility of the family to look after its sick, dying and distressed.
6. *Inappropriate or inadequate or non-existent services for children affected or infected by HIV.* When the parent(s) die, the child is left at the mercy of relatives and neighbours. The situation is no different from the days of *Olive Twist* of the era of Charles Dickens. There are many street children, mostly boys, while girls are used as house helpers, or even child prostitutes. Child-headed households are common, even in countries that would seem to have reasonable child social security networks. This is the result of shortage of social workers and child oriented legal practitioners.
7. *Cycle of disease, poverty and under-development.* Chronic disease impoverishes households, because families hold on to the hope of recovery. Many newspapers in my country will have all types of remedies, for various situations and ailments, from job security to cures for incurable diseases. Families therefore take the little that is left, to get the person to the famed healer or doctor for recovery. No wonder therapies such as large doses of vitamins and faith are so popular! There was a trend over the past seven or so years to travel to Nigeria for healing there. Not only do these attempts rob the children of limited resources, it also will burden them with debt they are unlikely to escape. They will drop out of school and take on menial jobs in order to get food and shelter. Thus the cycle of poverty and underdevelopment is perpetuated.

Ways Children Suffer Long Before The Parents Are Lost To The War:

- The emotional trauma of watching and hearing their parents die. Many of us do not remember the time when it was dark in the room, and Dad or Mum was not anywhere nearby. We hardly remember when we could not shake the fear or angst that was ever present when going through the forest, not knowing the monster that will jump out. This is worse. This is watching a monster feeding off your parent. There is nothing the child can do. The child cannot cry anymore, the eyes are dry. This is one of the most traumatic experiences children can be exposed. HIV is a monster many children cannot run away from or forget.

- Nutritional deprivation because of reduced income, as expenses mount for the possible cure, debilitating hope, and children left to fend off hunger and want, as the relatives disappear with ill-gotten goods. Children do not have legal protection, unless the State or organisations take up their cause. Some are too young to care for themselves, so their nutritional needs are neglected.
- Emotional and psychological trauma as one parent leaves because of violence, divorce or death. With the epidemic, families are torn apart. There is blaming, in most times the husband blames the wife and ultimately leaves the woman with the children. In most countries, the disease is more vicious and rapidly progressive in women compared to men.
- The trauma of not being able to play, nor being allowed to associate with other children as in Children of a Lesser God; Of a Lesser Nation. Stigma does not end with the parents, but is extended to the surviving offspring. Neighbours also keep their distance from these children. This is not reflective of the tradition of poor countries, because children used to be cherished, because they are the future leaders and carers
- Responsibility for fending off hunger, poverty, disease and exploitative adults.
- Stigma now follows the death of parents, where in the past, children whose parents died would attract the sympathy and health of neighbours. Stigma also deters children, and others in need, from seeking assistance.

VULNERABLE 'OTHERS'

Although the major focus in this paper is on children made vulnerable by the HIV epidemic, let us be mindful of other children who face similar challenges. These are children in poverty stricken communities. Although there tends to be goodwill toward children in communities where materialism has not taken root, the children have to take on adult roles in order to survive. In developing countries there are many children working for very low wages, who provide the very beautiful tracksuits and the shoes that we wear.

'Others' are children without homes (the so-called street children), children facing abuse and neglect at home (children of commercial sex workers or shebeen workers), children who are survivors of war, crime and violence and children with physical and mental handicaps. The disabled are "imperfect" children some would rather "terminate" should they be diagnosed ante-natally, because we all want designer children. Many families have been torn apart by the birth of the imperfect child. Many parents hide these children so that other people do not see them.

Children are particularly vulnerable because they are often without protection outside the home. Many countries recognize that children are dependent upon their parents. However when the parents are absent there are no alternatives for the care of these children.

THE SIZE OF THE PROBLEM

The numbers of children in distress worldwide is not known, there are only estimates. It may be easy to count the number of orphans, but it is difficult to count the number of children in distress. Whatever the number, the count is increasing by the minute. Poor countries do not have effective monitoring systems to keep count. In many poor countries, every woman who dies leaves 3 or 4 children destitute, as orphans. Maternal mortality ratios in many poor countries are high, an average of over 500 maternal deaths per 100 000 live births. With the HIV epidemic these ratios are increasing, because HIV complicates every adverse condition. Communities (some rural) know the need. Governments however, often do not appreciate the enormity of the problem and frequently lines of communication between governments and local communities are undeveloped.

Add to these numbers the children who are vulnerable because either parent is ill and they have to care for the parent. In the process they may become infected and need help themselves. There is frequently no assistance for the promotion of children's mental and emotional wellbeing. These children are forced to be adults while they are still children.

Government and social agencies often only know of the problem once one or both parents have died. With an increasing shortage of social workers and other experienced health workers, it is difficult to provide cover for the majority of women and children so affected. Legal and counselling systems often do not respond timely to the needs of children.

Because children cannot legally approach state organisations, they are excluded from the assistance the State and other organisations offer. It also takes months if not years for the promised assistance to reach the child, if ever. So the challenge of 'orphanhood' is much more than material (financial). While some countries have grants to cater for these children, it is only a start, sometimes a late start. More needs to be done.

CHILDREN AND DEVELOPMENT

The care of our children is a real challenge facing the world. Children are the foundation of the future. Their nutrition, physical and emotional development is crucial for the welfare of the world. It is therefore of utmost importance that in the time that children are in such dire needs, the world needs to provide homes and environments that are secure and nurturing. It is as important for children within their family homes, as it is for those without parents. This is a challenge that the world has to find solution for.

The famed extended family network has disappeared with the entrenchment of materialism. Children have been sacrificed on the altar of instant and individual gratification. Within poorer countries the trend is the same. As societies become isolated and families no longer concern themselves with the welfare of the children of their neighbours, it is the responsibility of each family to look after its own children.

The lessons from World War 1 and World War 11, the documented abuses of systems used in those times, have shaped attitudes towards care of orphans, who are the child victims of wars and displacements in the 20th and 21st century. With the result we have laid emphasis on community-based care and depended on the extended family network and family systems. Some countries have made financial assistance accessible to vulnerable and orphaned children, but have left these children in the community. What we have not addressed is:

Who makes decisions with regard to limited resources, in the child-headed household? It is the 12-13 year old who has to look after her siblings and

Ensure they eat enough

Ensure they eat nutritious food

Ensure they bath, play and sleep

Ensure they are healthy, and if ill ensure they go to the nearest health care facility.

She has also to look out for herself, doing her own schoolwork, forget about playing, being "mother" to all, except this is not a play. It is reality. She is unable to fend for herself, yet she has to fend off predators and greedy relatives Often she is vulnerable to sexual and other exploitations, as she tries her best to care for others and for herself.

The social welfare system will claim

She is not old enough

Not wise enough

Not to be trusted

To be assisted financially and materially.

Many adults have failed

Where she is expected to succeed

Operate on a shoestring budget

Ensuring health for her family

The barriers to access of care and support can therefore be stated thus:

Invisibility, Poverty, Neglect, Stigma and Lack of Legal Documentation

Invisibility

The Convention on the Rights of the Child is an attempt to advance the needs of the child. It is however still a major challenge to many countries, including some so-called democratic nations, to put the child first in word and in deed. It is perhaps this invisibility that contributes to the neglect of the issues of children. In some countries, children are not counted in official documents.

Neglect

Some children are looked after by their immediate families, but it is the wider society that neglects children. Children make very good political photo opportunities. However politicians often forget these children once elected into office, only to remember them at election time. Because these children do not vote, they are not taken seriously. Many developing countries do not budget for the education of children, thus plunging these children into a never-ending cycle of poverty and underdevelopment. Neglected children fall prey to exploitation and abuse. They also become exposed to drugs and trafficking

We have to consider ways of supporting communities to care for these children, as poverty and the self-interest of materialism has all but destroyed the community spirit and extended family network.

INNOVATIVE STRATEGIES

Poverty Reduction

The strategies for reducing poverty have to start with the nurturing of children and caring for them. Education is one of the tools to give young people the foundations for survival and development. In situations of crisis it is the schooling of children that is disrupted first.

Poverty reduction starts with the nutrition and proper care of pregnant women, and preconception care. Proper growth and intellectual development is essential for later productive cerebral functioning. This also prevents congenital abnormalities. In many instances simple remedies are available. For example, folic acid supplementation has been demonstrated to prevent neural tube defect.

Challenges To Providing Care Of Children Without Homes

The system of *orphanages* has fallen into disfavour, because of experiences of many western countries during the World Wars where they were often places of abuse and persecution, and many adults recall those days with apprehension and horror.

I would suggest orphanages as an option that communities could consider, especially as communities are poor, and individual care of the orphans is neither possible nor sustainable. Individual families could also visit the centres on a rotational basis to provide social connectedness. The orphanages were able to act as a point of focus, where the carers could be held accountable by authorities and communities, and today there are efficient systems of monitoring. While the risk of system abuse is ever present, it can be managed. Some models include a combination of community based *orphan homes*. These are homes for five or six children with a caregiver for them. The caregiver is accountable to the government for the wellbeing of the children. The caregiver is also responsible for the health and the oversight of the activities of the children. This is also a family oriented approach to the care of children, however there is a slow uptake of this model in some countries.

Other models would aim to keep the children within their homes. In Botswana, children stay in their parental home, but get their meals and time for studying in a special centre. In that centre, there is someone who is accountable to the community and the government. It is this

person who checks whether the child is depressed, ill or hungry. In this way, the amount of food is monitored, and the physical and mental health of the children is promoted and protected.

Community based care of the children in vulnerable situations is a romantic notion (although we should all aspire to such caring communities), there is so much poverty that whatever little is given to orphans is shared by the whole family. The challenge therefore is caring for the whole family, and not just the individual child. However if such is not possible, these children should be offered shelter and care for the time that they are dependent. Communities should be encouraged, with support from government, to care for the children

There is no universal model for addressing the barriers to care in solving the challenges that children face today. I have detailed some of the challenges faced by many children.

Solutions To Providing Care For Children Without Homes

Solutions to these problems may be an even greater challenge. It is difficult to provide a child in an abusive home with an alternative. Where drugs in the home are a problem, it is difficult to ask other people to care for the neglected or 'at risk' child. Emotionally and psychologically it is easier for a child to accept that the parents have died, than to know that the parents are declared "unfit" to parent.

Children today are left alone to face the challenges of life. Adults often do not accept their responsibility for nurturing and protecting children. This neglect of responsibility we often see, as with the epidemic of obesity, takes a stranglehold of the community of children. Governments have often abandoned this young generation.

***Who will hear their voice? Who will see their tears?
Who will feel their anguish? Who will hear their call?
Who will respond? Who will speak for children?***

Let us return to the call of yesterday that "***Your child is my child, a child does not belong to one person***", because a world that ignores children is a world without a future. It is a world without love. It is a world without hope. A nation not caring for its young is a nation that is destined to disaster and extinction.

Any child is my child, irrespective of colour, creed, religion, gender, social class or health status. No boundary will separate me from my child. ***Your child is my child***

If we live for our children, we shall live forever. In them our future and our legacy is assured. Let us allow children to be children.

Let us put children first.

It is now beyond question that when parents are violent with one another their violence affects their children. Some of these effects are direct. Watching and hearing their parents fight is terrifying for children, especially young ones for whom witnessing the battery of their mothers can elicit more symptoms of posttraumatic stress than even direct assaults on themselves (Scheeringa & Zeanah, 1995). Other effects are indirect, as conflict between parents, especially violent conflict, affects the ways in which parents behave toward their children. Parents who have high levels of conflict with one another are more rejecting and hostile toward their children, less warm and emotionally available, and more withdrawn (Faucier & Margolin, 2004). And while both mothers and fathers in families with husband to wife aggression have been observed to show high levels of anger, frustration and disapproval toward their children (Margolin, Gordis & Oliver, 2004), most studies have found that fathers' behavior is more negative than mothers' (Kitzmann, Gaylord, Holt, & Kenny, 2003). Violent fathers are more authoritarian, especially with their sons (Margolin, John, Ghosh, & Gordis (1996), and less empathic (Margolis, Gordis & Oliver, 2004) than are non-violent men.

In spite of the presence of clear need, there are few hands-on services to help high conflict and violent fathers develop more positive, nurturing relationships with their children. Clearly violent fathers are frequently responsible for the care of their children and spend a good deal of time with them. In the United States, even in states such as California where there are rebuttable presumptions that parents who have been found by the court to be violent with the other parent should not have legal or physical custody of children, courts routinely order that that violent parents have large blocks of unsupervised time with children, even very young ones. Courts in the United States place high value on parents' rights to spend time with their children and to children's rights to frequent and continuing contact with their parents. Indeed, violent fathers are frequently more aggressive in seeking custody of their children than are non-violent fathers (Liss & Stahly, 1993), apparently using the courts as a means to continue their control over their former partners even after separation, using the children as pawns in their tactics of control. Children in these families suffer, and the policy of favoring contact between parents and children over other factors adds needlessly to that suffering in some families.

Case Example: *Sam was three when his parents separated. His father had frequently assaulted his mother, sometimes causing her sufficiently severe injuries that she required medical attention. She had twice had him arrested, but then declined to press forward with criminal charges. When she finally separated from Sam's father, his mother sought and received a domestic violence restraining order. Sam's father sought custody of Sam, arguing that his mother used drugs and was mentally unstable. He did not present evidence of these charges beyond his own testimony. On the other hand, Sam's father had a considerable history with the criminal justice system. He had spent 18 months in state prison for assaulting another woman; he had spent time in jail after a fight in a bar. Nonetheless, the court found that Sam had never been hurt by his father, and ordered that Sam spend every other week in his father's home.*

Sam's father was never regular about claiming his custody time. He sometimes didn't pick Sam up from preschool on his assigned Friday evening, leaving Sam angry and confused. One Friday, he appeared at the school clearly under the influence of alcohol. The school refused to hand Sam over to his father and instead called Sam's mother to pick him up. Before she arrived, Sam's father called the police, showed them the custody order and demanded that he be allowed to take Sam away. When his mother arrived, the police gave Sam to her and arrested his father while Sam looked on, crying and pleading with them not to hurt his dad.

Sam's mother went back to court after this incident, and asked for a change in the visitation order. The court cut Sam's father's time with Sam back to every other weekend, but left the

time unsupervised. In the meantime, Sam's father had moved in with a new girlfriend, who had him arrested for a violent assault.

Sam was not doing well, either at home or in pre-school. He was aggressive with peers and the teacher. He had nightmares. He was wild at home and would not listen to his mother. Sometimes he hit her when he was frustrated, or threatened to make his dad come and hurt her. Although Sam's mother sought treatment for herself and Sam, there was little improvement in his symptoms.

Sam was trapped between his two parents. He continued to witness violence in his father's home. He stalwartly insisted that he loved his father, and refused to talk about him with his mother or with the therapist who worked with them. Though Sam loved his father, his predominant experiences of him were violent and unpredictable. Sam's mother, for her part, was trapped in a situation in which she was legally compelled to deliver Sam periodically to a man whom she experienced as dangerous and cruel. She was afraid for Sam when he was in his father's care and whenever Sam was with his father she felt that she had failed her duty to protect her son.

Co-Parenting Model of Child Parent Psychotherapy

How to help families like Sam's? Legal policy demands that children have frequent and continuing contact with their parents. Yet we know from the literature and from our clinical experience that parents in high-conflict and violent families often lack the relationship skills to provide their children with the nurturance they need. To address this gap that my colleagues and I at the Child Trauma Research Project developed what we have come to call the Co-Parenting Model of Child Parent Psychotherapy.

The Child Trauma Research Project has years of experience working with young children exposed to domestic violence and their non-offending parents. For many years we worked with children under the age of six, and their mothers to develop and test a model of Child-Parent Psychotherapy that could help children and mothers recover from the traumatizing effects of domestic violence in their lives. Child-Parent Psychotherapy is an intervention in which parents and children are seen together and in which the therapist intervenes with the goal of strengthening their relationship and helping them understand and empathize with one another's points of view. It is based in one of the central truths of attachment theory, that young children instinctively rely on their caregivers for protection and that caregivers instinctively seek to protect their vulnerable children from danger. When dangerous experiences become traumatic ones, as is often the case with domestic violence, children's trust in their caregivers to protect them is shattered. Child-Parent Psychotherapy seeks to restore the child's faith in the parent's capacity to be protective, and faith in the parent's view of herself as a reliable protector. Restoring both partners' faith in the parent's protective functioning also restores a sense of safety and competence in both the parent and child. It frees the child from the bond of self-protective vigilance, leaving energy and attention for exploring the world in the service of positive development. In the process of treatment, as mother and child play together, the mother becomes more aware of the child's anxieties and concerns, and more able to offer the child comfort and reassurance. Mother and child become better able to tolerate one another's multiple points of view about the violent father and each of them becomes better able to integrate those disparate points of view into a multifaceted understanding of the father as a complex human being with strengths as well as vulnerabilities. To return to the case of Sam for a moment, one goal of Child-Parent Psychotherapy with Sam and his mother would be to help Sam understand that the father he loved and the father he feared were the same, and to release him from the need to split off and consciously idealize the loved aspects of his father, meanwhile unconsciously identifying with and acting out the aggressive ones.

We learned through a randomized trial that compared Child-Parent Psychotherapy with treatment as usual in the community, that Child-Parent Psychotherapy was superior to usual treatment (most commonly individual treatment for mother and/or child) in resolving the mothers' symptoms as well as the children's and in sustaining the improvement after treatment ended (Lieberman, Van Horn, & Ghosh Ippen, 2005; Lieberman, Ghosh Ippen & Van Horn, 2006).

Given the success of Child-Parent Psychotherapy, our community partners began to ask whether we could use our treatment model to help violent fathers form more nurturing relationships with their children. As we considered this question we saw the opportunity to fill the gap in service described earlier: to help fathers who were spending substantial amounts of time caring for their children to better understand their children's point of view. We saw the possibility for a treatment model that could help fathers come to terms with the fact that they had frightened their children, and to acknowledge and make amends for the damage that they had done.

We further considered the question of what children from conflicted and violent homes need if they are to develop into confident adults, not at risk for reenacting their parents' violence in their own intimate relationships, and came to the belief that these children need a champion who understands and supports their relationship with both parents, but who also struggles to form an alliance with each parent, much as the child must do. It was from this core belief that the co-parenting model of Child-Parent Psychotherapy emerged.

In the co-parenting model, we work with families that have separated after at least one incident of physical violence between the parents and in which both parents spend a significant amount of unsupervised time with their children. All of the families that we treat have at least one child under the age of six. A single clinician is assigned to the family. The intervention starts with an assessment period that lasts for approximately four weeks. During the assessment period the clinician meets individually with each parent once a week. The clinician explains that he or she will be working with both parents together with their children, and explains that at the end of the assessment period s/he will make recommendations to both parents about the suitability of the intervention for their family.

The clinician also explains the centrally important facet of the intervention relating to confidentiality, which sets it apart from most psychotherapy. In the co-parenting model, each parent must consent to two separate types of breaches of confidentiality. First, the clinician must be able to share information about one parent with the other if, in the clinician's judgment, the sharing of information will assist in the co-parenting relationship that the parents are trying to establish. Second, the clinician must be able to advise the court if a court order, such as an order of protection, is being violated in a way that places the safety of the child at risk. If there is not agreement from both parents, we are unable to offer the family the co-parenting intervention.

During the assessment, each parent is asked to report on the child's functioning, using instruments that capture both vulnerability and strength. Each parent is asked to report in detail on the violence, psychological, physical and sexual that he or she expressed and sustained during the relationship with the other parent. Parents are asked about their own lifetime histories of traumatic events and about their symptoms of posttraumatic stress. Finally, each parent is asked to report on his or her own history of substance use as well as the other parent's history of substance use. The same cross reporting is done to assess the antisocial personality traits of each parent. A significant part of the assessment is also devoted to open-ended questioning in order to determine whether both parents have the capacity to hear and accept their children's point of view, to atone for their own frightening and violent behavior, and to offer their children appropriate reassurance. Finally, each parent is videotaped performing a series of structured and unstructured tasks with a child.

At the end of the assessment period, we can generally make a sound determination about whether it will be safe and therapeutic to offer child-parent psychotherapy to each parent and the child. We have declined treatment under two different circumstances. First, we will not offer co-parenting treatment to parents who are not ready to take responsibility for their violence and to acknowledge that their behavior may have been frightening to their children. Second, we will not offer this model of treatment to parents who seem predominantly interested in using the therapeutic relationship to maintain contact with or control over the other parent. Both parents must be primarily motivated by a concern for their children and a wish to help their children recover from the damaging impact of witnessing violence.

If the family is offered treatment, it can take a variety of forms. Most commonly, the clinician meets each week with the father and child and mother and child. In some cases there may be additional collateral meetings with the parents individually. In some cases, we hold joint meetings with the parents together to work on specific issues that have emerged as they terminate their relationship as romantic partners and move to living separately but parenting their children together.

Co-parenting Child-Parent Psychotherapy makes particular demands on clinicians. In traditional child-parent psychotherapy, the clinician forms a therapeutic alliance with one parent and his or her child. We empathize with that parent's point of view, and accept the psychological reality of that parent's point of view. The co-parenting intervention makes a different demand. The clinician stands fundamentally in the place of the child, and as the child must, forms an alliance with each parent, attempting to understand and empathize with each parent's point of view. Clinicians working in this model must be very clear about their role. It is not their role to decide who is being factually truthful. In almost every case, the parent's narratives of their relationship are factually different. Rather, the clinician must strive to understand each parent, to find the psychological truth in each parent's narrative, and to help each parent understand the child's view of both parents. This presents a challenge for parents as well, because typically an adult in therapy expects that his or her therapist will empathize and support with his or her point of view. We use the assessment period to explain this stance to parents and to help them anticipate how it may feel if the clinician seems, by seeking to understand how both parents saw the relationship, to side with the other parent. We help the parents to understand that their children are also caught in their conflicting world-views and struggling to forge an alliance with each parent. In this model, we become the child's ally in that struggle.

Case example: Carla and Frederick and their children

Carla and Frederick have two daughters, Emily (3½) and Kate (2). They were married five years before Emily was born. They were referred to our co-parenting intervention by the family court. Frederick applied to the court for an order of protection. He asserted that Carla had committed many acts of physical violence against him and that she had threatened to take the children and return to Canada, which is her home country. Based on Frederick's declaration, the court issued a preliminary order awarding him full custody of Emily and Kate and allowed Carla to see them three hours each week in a supervised visitation center. The court also gave Frederick a temporary order of protection against Carla. In response, Carla filed her own papers asserting that Frederick had been violent against her beginning shortly after Emily's birth. She assured the court that she would not take the children out of the country and volunteered to place her passport in the hands of the court clerk. After a hearing, the court denied both parents' request for orders of protection against one another, awarded physical and legal custody of both girls to Frederick and gave Carla unsupervised visits with them each day Monday through Friday from noon until 6 p.m. The judge indicated that she would consider overnight visits once Carla had found suitable place to live. At the time of the hearing, she was staying with a female friend. Frederick and his daughters remained in the family home, which had belonged to him before he and Carla married.

Assessment: Both parents were eager to participate in the co-parenting intervention. Both stated that they knew that their children loved the other parent and needed a sound relationship with the other parent. Both believed that the girls were doing reasonably well. Although Carla endorsed more problem behaviors than did Frederick. Both parents told the same story about their separation. In essence, Carla had come home one afternoon to find the police in her home. They served her with an order of protection that required her to leave the house immediately. She was allowed to pack a few personal belongings, and the police escorted her out of the house. All this was done in full view of her children, who were upset and crying.

Frederick and Carla told very different stories, however, about the violence in their relationship. According to Frederick, Carla had hit him, thrown objects at him, and scratched his arms and face. He denied that he had ever been violent with her, and stated that he had only "held her arms to restrain her". Carla admitted her own violence, and acknowledged virtually every incident that Frederick had reported. She said, however, that he had also been

violent toward her, and that his violence had preceded hers. Both of them said that the discord in their relationship had begun after Emily's birth. She was premature and sickly. It was difficult to feed her, and she had numerous health problems for the first six months of her life.

Carla said that Frederick was angered at the time that she spent caring for Emily. He shouted at her about it, and when she tried to leave the room to stop his shouting, he cornered her, refused to allow her to leave. Once, she said, he dragged her by the hair out of the baby's room as the baby cried. Carla reported that Frederick was focused on his own needs and ignored the children. She said that she had been their primary caregiver and that she was worried that now that he had primary responsibility for their care they would be neglected. Frederick, on the other hand, claimed that he had always taken care of the children during the marriage. He said that he was worried about Carla's "mood swings", and feared that she would become angry and punitive toward them when she discovered how difficult it really was to take care of two young girls.

By my observation, Emily and Kate were comfortable with both of their parents. They turned to them for help and comfort. They sought physical intimacy with both parents. They were playful and had moments filled with joy with both parents. But I observed a major difference in the ways in which Carla and Frederick handled their children's emotions: Carla seemed comfortable with a full range of positive and negative affect. She was spontaneous and playful with them, but if Emily or Kate became upset, she tried to help them understand what was making them feel bad, comforted them and then helped them find ways to feel better. Frederick, on the other hand, though he was comfortable playing and being silly with the girls, seemed unable to tolerate their distress. His strategy was always to try to distract them from any negative feelings. Carla was aware of this tendency in Frederick. She said that he had always tried to "fix things" when anyone was distressed, and said that she was afraid that he would give their daughters the impression that they could only bring their positive feelings to him and that they would have to hide their negative feelings.

The following describes the intervention and treatment episodes as they unfolded with this family over the course of the year:

- I. First session with Carla: Kate and Emily play out the incident in which the police took her away from home.
- II. Pretend play with Frederick: refusing to be the villain.
- III. Drawing with Frederick: "Draw a picture of mommy"
- IV. Sharing Frederick's response with Carla
- V. Pretend play with Carla: Kate becomes overwhelmed and frightened.
- VI. Frederick is impatient and angry with Emily
- VII. Sharing play themes with the other parent

Outcomes of treatment:

- I. Carla has increased time with the girls until a 50/50 custody arrangement was reached.
- II. Carla and Frederick voluntarily increase their co-parenting contact.
- III. Carla and Frederick each positively support their daughters' relationships with the other parent.

Conclusion

Although Kate and Emily were both functioning reasonably well at the beginning of treatment, their parents were embroiled in conflict and distrust. Treatment helped Frederick better tolerate the girls' full range of feelings and comfort them when they were sad or frightened. It helped Carla understand how fully Frederick supported her relationship with their daughters, and vice-versa. The conflict between Frederick and Carla has ended, and they are able to work collaboratively on behalf of their children.

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INTRODUCTION

Every child is a miracle with unique potential, and is entitled to human rights. Rights such as survival, to develop to the fullest, protection from harmful influences, abuse and exploitation and to participate fully in family, cultural and social life. These basic standards are founded on “respect for the dignity and worth of each individual, regardless of race, colour, gender, language, religion, opinions, origins, wealth, birth status or ability, and therefore apply to every human being everywhere” (United Nations Charter).

Our focus in this paper is on early childhood, the crucial years developmentally. Early positive experiences enable lasting feelings of self-esteem and self-worth, while negative early experiences of prejudice and exclusion can leave indelible scars on the psyche that last a lifetime. Some children are born in environments and circumstances that enable them to enjoy these rights. They are nurtured with love and they develop their potential. Our concern is for the very many who despite potential, are unable to develop to their optimum, and due to various barriers of discrimination are prevented from accessing their rights.

AGAINST ALL ODDS

The most common forms of discrimination are gender, caste (especially in India), race, religion, colour, economic status, educational level, alien language and disability. (There are also many other forms of abuse.) To elaborate:

Gender

Children are discriminated on the basis of gender from birth. Girl children, unwelcome in some communities, are starved and not educated due to poverty, or due to lack of protection. The preference is for boys who are expected to uphold family honour and contribute to the family's earnings.

Caste

There are many castes in India and a strict hierarchy is practised, with the result that children of “lower” castes are sometimes discriminated against in schools and elsewhere. They are not allowed to mingle with children of “higher” castes. In other contexts, this could be translated as racial or ethnic discrimination. The implications are the same.

Religion

People who belong to a non-majority religion are referred to as “minorities” and are denied many facilities. Sometimes these restrictions are not overt.

Colour

All over the world people of lighter skin seem to find favour. Not merely white versus coloured, but also the ‘not-so-dark’ versus the dark.

Economic status

It is ironical that children who suffer material deprivation also face denial of access to certain facilities that are reserved for the rich and privileged.

Education

There is an innate prejudice amongst the literate against the unlettered, even though they may have inherent traditional wisdom.

Language

Children who speak a different language from the local one are often discriminated against.

Disability

Any disability or developmental delay is considered a disadvantage and children with disabilities are marginalized by society. They have poor facilities. Access to mainstream schools and other public places is typically not available to them.

Family status

Children born out of wedlock or from broken marriages are marginalized and are not accepted as equal to other children.

HIV

The AIDS virus is the latest factor impacting on exclusion of children. An HIV positive child is denied admission in schools for fear of contagion.

CHILDREN IN DIFFICULT CIRCUMSTANCES

Children in difficult circumstances due to marginalization of their families face a double disadvantage. Some of these are:

Migrant families

Families can be forced to move because of deprivation due to poverty, failure of crops, drought, famine, disasters or discrimination. This denies the children civic amenities and opportunities for education. In addition, their psycho-social experiences are stressful and they often have no friends to call their own.

Homeless families

Poverty, exploitation and war are the most common causes of families being homeless and living on the streets. Their very existence is uncertain and children grow up under very difficult circumstances.

Sudden disasters

The Tsunami and major earthquakes are examples of sudden disasters, which leave children uprooted and orphaned.

Institutionalized children

Children grow up in institutions for many reasons such as one-parent families, migration, sudden disasters or frequent movement of families. They are deprived of personal parenting and do not have a sense of belonging.

Religious mandates

Some communities are prescriptive regarding children's religious education and this puts an enormous strain on them. Some restrictive practices prevent these children from taking part in mainstream activities.

Working mothers

Though many mothers try to find a fine balance between their jobs and home, children are often left to fend for themselves. If they are children of migrants or commercial sex workers they have additional stresses.

Tribal or aboriginal groups

This is a separate category, not because they are different, but because they are often fairly isolated and relatively unexposed. Most of them tend to be unlettered, and may not even realise the importance of educating their children.

War, international or civil produces other traumatic experiences that isolate children.

BARRIERS TO ACCEPTANCE FOR THESE CHILDREN

The discrimination continues throughout life and can be described as a spiral that flows from one area to the other.

The family is the first milieu into which the newborn arrives. In many communities, if the baby is a girl, or dark complexioned baby, or of the same gender as an earlier child, or born with a disability, it is rejected straightaway.

Social isolation through lack of playmates is common. Adults determine whom their children can play with depending on religion, race and economic status and children tend to shy away from any child who looks different.

At school age, classmates as well as teachers discriminate against these children in many ways. They face a lot of unkindness, a result of innate prejudice and fear of difference and the unknown.

The community can discriminate against differences of any kind, with the result the children are marginalized. Difference in appearance, colour, religion, language, or ability is not accepted easily by the community.

Society, on the whole, does not include children with special needs in the mainstream of life. These children have no access to many places due to lack of facilities. Quite often the public is not sensitised to children from different cultures, or with special needs.

One can only imagine what it must be for a poor illiterate migrant family to have a child with a disability. Children with disability are not a category apart, they are in every socio-economic group and have to develop their potential against many odds, and every adverse circumstance plays a powerful role in undermining a child's self-esteem and potential.

Informing and Empowering Parents

A major encouraging factor is that parents want the best for their children no matter how adverse their circumstances are. Often lack of awareness of the importance of the early years and the absence of good parenting practices are responsible for the child's underdevelopment physically, emotionally, socially and educationally. Enlightening and empowering the parent is the first step towards a child's potential being realised. Supporting and enabling the caregiver are essential to achieve this.

THE NEED FOR A NEW PERSPECTIVE

In this conference, we present a tool that helps to focus on the emotional wellbeing of every child, and assists in accepting the diversity we see in children. It enables us to view and nurture the child holistically, and is inclusive of all children. It makes it easy for the community and individual families to accept children with their differences, appreciate them for their special abilities or needs and help them to achieve their potential. Initially we focused on the child with special needs, but we now find that it is applicable to all children.

Children grow at different paces and have different character traits unique to them. They can develop their full potential when all areas of development are considered and nurtured holistically. A child's sense of self, physical development, relationships, understanding and communication form the different areas of development. They are interconnected and equally important, and weave together to form the child's personality.

It is a matter of great concern that in the case of special children, the focus is mainly on the disability, and on "normalising" the child. Children with high-risk birth histories may have an uneven developmental profile, lagging in some areas of development, while doing well in others. The child's strengths remain unnoticed and untapped. Often the domain with the lowest level of attainment overwhelms the attention of the parents. The emotional well-being of the child is, all too often, least understood and therefore given scant importance.

The child's abilities and potential in other areas may lie hidden beneath the more obvious disability. As people with disabilities themselves say, "Just because I cannot walk, it does not mean I cannot think", or "Just because I cannot speak, it does not mean I have nothing to say". Abilities need focus and attention, for they contribute vitally to the child's self-esteem, the core of a personality. Disability tends to be mystified by the medical model. There is a need for the human rights approach in early intervention. Children with disabilities have the same rights as other children. They need equal opportunities to play and learn in the early years, in a way best suited to their individual profiles.

Parents of children with special needs find their role very demanding and may become totally dependent on professionals for guidance. They need to feel equal to professionals in the partnership of dealing with these children, even as they seek information, support and guidance from them. Even traditionally trained community workers who are aware of the support needed should feel equal to the task of social inclusion.

'LEARNING THROUGH PLAY' CALENDARS

The Learning through Play Calendars are a resource for parents, enabling them to discover enjoyable ways of nurturing and playing with their child at each stage of development. The calendar represents pictorially, with simple, clear, messages, a child's important developmental stages and needs from birth to six years. It focuses on all-round development and follows a child as her sense of self, and her physical skills, relationships, understanding and communication develop. The calendar is an excellent parent education resource, presenting in pictures a range of activities that parents can do with children, to promote holistic and healthy development.

The package "Parenting the Child: Accepting Diversity" comprises the Quadrant, the Oval and 'Learning Through Play'. The Quadrant and Oval formats are support materials to be used with the calendar. They enable the user to chart out a holistic profile of the child and plan management strategies.

The original calendars were designed by experts in the field of child development from the Hincks Dellcrest Centre, in collaboration with Toronto Public Health, Babies Best Start Program Toronto, and Aisling Discoveries Child and Family Centre. It was based on the earlier work "Good Beginnings" by Judith Evans, and revised to reflect current research findings. Bala Mandir Research Foundation, Chennai, India, in partnership with the Hincks Dellcrest Centre used the calendar for parent information in various socio-economic settings. The move to applying the tool with families and professionals working with children with special needs was an obvious and exciting next step, undertaken by the Foundation.

The experience gained in the training programmes, and the feedback obtained, underscored the tremendous value of the calendar in reaching families and professionals, and suggesting ways for working with children with special needs. The calendar retains its value as a handy reference guide for the adult to understand the child's current achievements and needs, to think of ways to support the child and to monitor the child's progress through the early years.

ADAPTING THE CALENDARS FOR SPECIAL NEEDS

All children have different capabilities, and may be better at certain skills than others. The calendars' simplicity allows people with little experience and knowledge in the area of impairments or special abilities to appreciate the child's needs. Such understanding empowers adults to participate meaningfully in planning and caring for the child with special needs.

Initial experience in using the calendar with parents and professionals led to the Foundation's decision to adapt the calendar format to reflect specific considerations when

working with children with special needs and their families. The calendars were reformatted into two sets, each covering 14 stages from birth to 6 years.

Calendar 1 has 14 stages depicting the child's development at each age (two months, five months and so on). Each page illustrates the normative development at that stage with salient features and instruction of how learning occurs through play. The pages are color-coded to match corresponding stages in Calendar 2.

Calendar 2 also has 14 stages, but with reference to stage instead of age, in order that parents could see the sequence of development, rather than focus on age norms. The stages are color-coded to match corresponding stages in Calendar 1. Each of the 14 stages contains, in 5 columns, messages and pictures illustrating the development of the child's sense of self, physical development, relationships, understanding, and communication. In the adapted version, the five columns are segmented to be independent of each other across the 14 stages.

The reformatting allows for multi-segmentation of the developmental profile and for an individual holistic profile to emerge, where a child can be at different developmental levels in the different domains. The profile obtained enables attention to be focused appropriately on the five segments individually. To make it user-friendly and inclusive, some of the illustrations were modified, to include children with disabilities.

BENEFITS OF THE CALENDAR

The calendar is able to convey complex principles of development and explain the interaction between learning and the environment available to the child. This makes it an ideal bridge for professionals to reach families and other adults who regularly interact with the child. Several features of the calendar are found to be effective in reinforcing a more holistic way of looking at the child with special needs.

Holistic perspective

The calendar depicts all areas of development, including the vital and least understood sense of self. The segmentation of each domain allows the profile of the child to emerge, helping the user to keep the child's abilities in view, while noting areas where support is needed. The individual profile serves as an interaction guide for the adult. For example, the cognitive level for an activity (U), the interactions with the child (R and S), the physical challenge and appropriate postures (P), the level of language to use and the response to expect (C). For many parents, seeing their child's abilities highlighted so clearly makes them more positive about their child's potential. For experienced as well as new professionals, typically trained to look for areas of delay and impairment, it enables a shift in perspective from a focus on disability to an appreciation of the child's abilities.

Ease of understanding

The illustrations and easy-to-understand comments make it accessible to people from a variety of educational and socio-economic backgrounds. The calendar can even be used with siblings, to help them understand why their brother or sister behaves in certain ways and what they can do to help. The illustrations suggest activities appropriate for the child at a given stage. This opportunity for self-learning, which the calendar provides is both unexpected and powerful. It demystifies intervention for children with special needs into simple, typical child-rearing activities. It also places information in the hands of the parents and workers with little formal training, whose interactions have a substantial impact on the child.

Attention on the environment; not the impairment

In each picture, the voice of the child tells the adults how their actions can support the child's learning and development. The message that changing the environment rather than changing the child can achieve much is a positive one. The illustrations capture everyday activities in the home and imaginatively include adults and siblings to highlight the importance of the social and physical environment. The activity ideas that emerge are easily incorporated within the child's natural routines and environment.

CONCLUSION

In one simple move of segmenting the columns of the calendar, a new vista has opened, enabling a child's unique profile to appear. All children will be understood in a different perspective, and appreciated for their special abilities or needs, and helped to achieve their potential.

The package also enables the professionals to demystify disability, while conveying information and skills to the parent. The pictures and the messages speak the "thousand words" that empower the parents with the knowledge that their child can be different, and equal. It enables a parent to be a proactive partner in the planning and execution of the child's activities. The attractive pictures make it user-friendly even for the unlettered. This adapted calendar is sure to produce a paradigm shift in the way a child's development is studied and assessed.