

Chapter One

ADVOCACY ON BEHALF OF CHILDREN

Address by Laurie O'Reilly, Commissioner for Children
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INTRODUCTION

It is my intention in this address to highlight the importance of advocacy on behalf of children and young people. As the statutory advocate for children I have the responsibility of promoting and protecting children's rights. Legal rights are not abstract rights: they exist to meet the needs of children. Underpinning my approach to children's rights is the belief that there is huge potential for adults to advocate on behalf of children and young persons. Hence, much of my work with community and professional groups is to promote a child-centred advocacy role. Effective advocacy requires those who take up such a challenge to take a broad perspective of needs, to see behaviour in the broader context of the child's total environment and to be proactive, ensuring that every child has the opportunity to reach his/her full potential as a human being.

I also wish to address the issue of Fatherless Families.

It is not my intention in this address to postulate *fatherlessness* as the downfall of society, in order to promote fatherhood as a positive concept or to promote the notion that children are better off in a two-parent family.

There is some evidence that marriage, may in fact, be safer for children and mothers. We can support and promote the intact nuclear family whilst acknowledging that it is not in society's interest to condemn parents or children to a violent relationship.

It also needs to be remembered that when a biological father is excluded from or leaves a family, the members of that family are often exposed to and involved with other men e.g. stepfathers, or other surrogate fathers, who place women and children at risk.

I suggest that we need to address a range of attitudes that affect parenting by men. Some would suggest a good starting point would be to address relationships and the perceived emotional illiteracy of New Zealand males. Certainly promoting an ethic of committed relationships and responsible parenthood would be a start.

We need to remember that many men live in the family home but may be emotionally absent or unavailable to their children.

I wish to comment on some particular issues to do with fatherhood. I am optimistic that with goodwill and collaboration we can achieve much better parenting by fathers; that should help fathers and mothers, but more importantly, children.

ADVOCACY

It is timely to reflect on the concept of advocacy and our approach to advocacy on behalf of children and young persons.

In much of my work I am guided by the United Nations Convention on the Rights of the Child 1989 which was ratified by New Zealand in 1993. The Convention should inform and guide policy, planning and practice. It provides a conceptual or philosophical framework on which all advocacy for children can be based. Rights can be classified in various ways

1. Affirmative rights eg freedom to express an opinion, freedom of association, privacy
2. Entitlements eg rights to education and health, rights of disabled children, rights of ethnic minorities
3. Protections eg right to be protected from child abuse, neglect or from harmful media

The United Nations Committee on the Rights of the Child reported on the NZ situation in January of this year. The Committee expressed concern that in NZ the approach to the Rights of the Child appear to be somewhat fragmented and that there is no global policy or plan of action which incorporates the principles and provisions of the Convention. The Committee noted with concern the insufficient measures adopted to ensure effective co-ordination between different governmental departments as well as between the central and local authorities. The Committee was concerned about the impact of economic reform on children and families, the vulnerable position of Maori as indicated by negative statistics, the high rate of youth suicide and the number of single parent families.

It is not possible for me to deal specifically with the Convention in this address, but I urge you to utilise this important advocacy tool.

"Advocacy" has been defined as an *act of pleading for, supporting or recommending; active espousal of a cause*. Commentators tend to identify three main forms of advocacy, namely, *self advocacy, citizen advocacy and legal advocacy*¹.

¹ See particularly: Bateman, N. (1995) *Advocacy Skills: A Handbook for Human Service Professionals*; Standing Committee on Social Issues (1996) *Inquiry Into Children's Advocacy*, Report No. 10, Parliament of New South Wales Legislative Council, September

The NSW Standing Committee on Social Issues classified *advocacy* as follows:

- *systemic advocacy*;
- *individual/representative advocacy*;
- *parental advocacy*;
- *self/peer advocacy*; and
- *citizen/voluntary advocacy*².

Parents can often be a child's most powerful advocate.

The "*Inquiry into Children's Advocacy Report*" noted

Advocacy for children is about systems and individuals recognising the rights and needs of all children and young people and responding to those rights and needs. It also involves allowing children and young people to have a say in decisions that are likely to affect them.

*Children's advocacy is not about undermining the role of parents and families, nor is it about denying children the fact of childhood and their need for protection. It is about taking a proactive approach to ensure that all children have the opportunity to reach their full potential as human beings. As the Committee found during the Inquiry, parents can often be a child's most powerful advocate. Improving advocacy for children then, allows both children and parents greater access to the processes of government which directly affect children's daily lives.*³

The majority of complaints made to my Office are made by adults, usually parents, advocating on behalf of children and young persons. It is a concern to both myself and my Advocates that the Office is not appropriately resourced to regularly and fully involve young persons in the complaint process. Robert Ludbrook is currently addressing my Office's approach to the issue of "young persons participation" when they are involved in complaints, inquiries or projects with the Office. I need to acknowledge that the Office should have done much better in encouraging participation.

There is a real danger that adult advocates or advocacy services can make assumptions on behalf of their young clients and may fail, in particular, to hear the voice of the child or young person.

Increasingly, my Office is involved in *systemic* advocacy. In the new fiscal environment, gaps occur forcing professionals and agencies to argue for resources as well as for standards of practice. There is a danger that adult agendas will dominate in the advocacy process distracting from the focus on children's needs.

² Standing Committee on Social Issues (1996) *Inquiry Into Children's Advocacy*, Report No. 10, Parliament of New South Wales Legislative Council, September, p.17

³ Ibid, p vii.

By way of example I note that a number of unsuccessful litigants who complain about their experiences in the care and protection system or in custodial litigation become obsessed about the system itself and lose sight of the interests of the most vulnerable person in the process, namely the child. The child becomes the forgotten or unnoticed victim both in respect of the environment that gave rise to the initial cause for concern and the processes that flow from intervention.

The *Inquiry into Children's Advocacy Report* acknowledges many children and young people lack the knowledge or capacity to express themselves or to pursue complaints. The Report states:

*Children may at times find it hard to express themselves and may respond with anger and frustration. Complaints may not be sufficiently articulated to receive appropriate adult attention, and when children do assert their opinion they may be dismissed as being ungrateful or insolent.*⁴

Children and young people need access to advocacy at many different levels. They need the opportunity for self advocacy; they need quality individual advocates; they need opportunities and systems so their voice is heard, their views ascertained and taken into account. Such advocacy must always be child-centred and there must be a commitment to advance the individual needs and wishes of the child.

The United Nations Convention on the Rights of the Child 1989, "*recognises and finally acknowledges children as being fully fledged beneficiaries of human rights.*"⁵

Children are rights-holders but are not totally autonomous. Michael Freeman says:

To respect a child's autonomy is to treat that child as a person, and as a rights-holder. It is clear that we can do so to a much greater extent than we have assumed hitherto. But it is also clear that the exercise of autonomy by a child can have a deleterious impact on that child's life chances...

If we are to make progress we have to recognise the moral integrity of children. We have to treat them as persons entitled to equal concern and respect, and entitled to have both their present autonomy recognised insofar as it exists and the capacity for future autonomy safeguarded....

In looking for a children's rights programme we must thus recognise the integrity of the child and his or her decision-making capacities but at

⁴ Ibid p. 5-6

⁵ Nigel Cantwell, "The Origins, Development and Significance of the United Nations Convention on the Rights of the Child", in Sharon Detrick (ed) *The United Nations Convention on the Rights of the Child: A Guide to the "Travaux Preparations"*, p 27

the same time note the dangers of complete liberation. Too often writers of children's rights see rights in either/or terms. There is either salvation or liberation, nurturance or self determination. But to take children's rights more seriously requires us to take more seriously both the protection of children and recognition of the autonomy both actual and potential. Inevitably this imposes limitations of a child's autonomy.⁶

Professor Woodhouse recognises the paradox of children's rights. On the one hand the term "children's rights" refers to a collective social claim to protection based on children's essential dependence. On the other hand "children's rights" can represent the individual child's claim to autonomy. She says:

The tension between the two is inevitable since children must be dependent to grow into independence and children must become independent to function as autonomous citizens".⁷

The United Nations Committee on the Rights of the Child believes that the principles contained in Articles 2, 3, 6 and 12 of the Convention have overarching importance in that they underlie all rights.⁸

I agree with Professor Woodhouse that the UN Convention provides an important benchmark when considering children's rights:

The Convention creates a normative framework for considering children as dependent but evolving individuals; not automatic, and yet possessing rights; not articles of chaff but people whose care is entrusted to adults who are charged with acting in their best interests. Children are seen as individuals, belonging to and having claims upon families and larger communities. Most importantly for this discussion children's needs for continuity of relationships and for protection in the formation and preservation of their religious, cultural and family identity are articulated as children's rights and adults' responsibilities.⁹

It is vital that we understand the co-parenting philosophy and theme quite **explicit in the Convention.**

⁶ Freeman, M. (1993) "Whither Children: Protection, Participation, Autonomy?" *Manitoba Law Journal* Vol 22, 319

⁷ Woodhouse B. (1994) "Out of Children's Needs, Children's Rights: The Child's Voice in Defining the Family" *BYU Journal of Public Law*, Vol8, p331

⁸ Black, M. (1994) *Monitoring the Rights of the Child*, Innocenti Global Seminar Summary Report, Florence: UNICEF International Child Development Centre

⁹ Woodhouse op. cit. P.333

The Convention recognises the right of the child to a family environment without explicitly defining family environment. The Preamble and Articles place great stress on the importance of the family environment and the responsibilities of guardians and parents. (Consider Articles 3.2, 9, 14 and 18.)

The importance of parental guidance is explicit in Article 5, which recognises the State's duty to respect the rights and responsibilities of parents and the wider family, to provide guidance appropriate to the child's evolving capacities.

Article 5 provides:

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention.

In summary, it can be argued that the Convention is pro-family and pro-parent and supports the concept of shared parental responsibilities. It can be strongly argued also that parents and family members have a significant advocacy responsibility.

Pauline Tapp has recently warned:

Our attitudes and official policy all too often reflect the ideas that children are not unique individuals who are capable of making a contribution to society, but 'human beings in waiting' who should be seen and not heard, pre-social objects of concern who are vulnerable, immature, in need of protection, the responsibility of their parents rather than valued members of society who are entitled to the support of society, nuisances who should know their place and have responsibilities but not rights. Such attitudes entwined with fiscal concern, influence the degree to which our society is prepared to accord children the rights they require to develop into fully autonomous adults in a democracy.¹⁰

Pauline Tapp argues further that Articles 12 and 13 of the Convention entitle children:

to be given the information and context they require to form and express their views on matters affecting them and to have the expression of their views made through their actions, their expression of emotion and their

¹⁰ Tapp, P. "Are Children At Risk When They Are Denied Their Autonomy Rights?", Paper presented at Second Child and Family Policy Conference, 1997, in Children's Issues Centre (1998) "Enhancing Children's Potential: Minimising Risks and Maximising Resiliency", University of Otago, p 2

*words, considered seriously from their perspective and responded to sensitively and appropriately.*¹¹

Tapp identifies a number of circumstances in which children are not listened to appropriately (e.g. children who are the victims of violence in the home or the school,) but she pays particular attention to children who endure family break, children who are the subject of family group conferences and children in care. She warns:

That many children will continue to be placed at risk unless parents are given support and information so they can understand that children may feel unimportant, invisible, angry, frustrated and depressed if they do not respond to the child's communications positively and appropriately.

*As a society we need to learn to empathise with children, to treat them as worthwhile, unique individuals who deserve to be listened to.*¹²

All of us have the opportunity to advocate on behalf of children and young persons. We need to seize opportunities when they present, but our enthusiasm and self-confidence in advocacy skills must not overlook the participatory and autonomy rights of children and young persons so clearly expressed in the Convention.

FAMILIES AND PARENTS

Earlier this evening, I was a guest of the Family Courts Association and spoke at the launch of a new publication by a local social worker and custodial specialist, Trish Allen. Her very practical book is entitled *"You're Still Mum and Dad"*.

It is perhaps indicative of society that I am obliged to regularly access such books and reports as

"Surviving the Breakup". (Wallerstein and Kelly)

"Second Chances" (Wallerstein and Blakeslee)

"Dividing the Child" (Macoby and Mnookin)

"Access and Other Post-Separation Issues " (Children's Issue Centre)

"Family Law and the Rights of Children and Youth" (NZ Law Society)

Perhaps, more pertinently, there is a wealth of research and literature emerging from the United States and the United Kingdom on the issue of Fatherless Families. Consider such text as

"The Human Carnage of Fatherlessness and Life without Father" (Popenoe)

"Fatherlessness America - Confronting Our Most Urgent Social Problem" (Blankerhorn)

¹¹ Ibid p.4

¹² Ibid p.21

In my opinion, the issue of Fatherless Families, is the greatest social challenge facing New Zealanders today. It is no co-incidence that the negative consequences of Fatherlessness are manifest when they occur with those other evils of poverty and violence.

Although there is strong debate as to the causal link between father absence and particular outcomes, there is evidence that strongly suggests that father absence whether through divorce or other circumstance is associated with a number of negative outcomes for the family and for children. One of the difficulties is that a number of deprivations or victimization may overlap or be concurrent. Negative outcomes include, poverty, youth violence, substance abuse, adolescent child birth, increased risk of suicide, an increase risk of abuse of children.

Many fathers are confused about their parenting role, others are frightened and have strong feelings of inadequacy. Many lack parenting skills. Many shirk their parental responsibilities.

I have been a strong believer in the ecological perspective of human development. Many of you will be familiar with the work of Bronfenbrenner and Garbarino.¹³ Bronfenbrenner talked about an irrational commitment to children - being crazy about children. He stresses the need for family support and he used the metaphor of a stool - the first leg of the stool is the person primarily cared for, the second leg is the primary carer and the third leg, those who care for the carers. May I suggest that we often fail to care for the carers.

In August of this year, the Governor General The Right Hon. Sir Michael Hardie Boys commented on statistics relating to de facto relationships, separation, ax-nuptial births, abortions, violence and sole parenthood. He said:

These are distressing and depressing figures. If you accept the premise - and most people did until quite recently - if you accept that the family is the basic unit of society; that society's health depends on healthy family life; and that healthy family life is best assured by a loving permanent relationship between husband and wife, then there is something, plainly, that has gone dreadfully wrong in New Zealand society. It is no consolation whatsoever to know that other western societies are in a similar predicament.

Sir Michael issued us with a timely challenge:

You know, here in New Zealand, we have a real enigma. For this is a vigorous, innovative, vital society. We have great skills and enormous talent in every sphere of activity. And there is a vast amount of

¹³ Bronfenbrenner, U. (1979) *The Ecology of Human Development*, Harvard University Press, Garbarino, J. (1982) *Children and Families: Their Social Environment*, Aldine Publishing Co: New York

dedicated, loving service being done, usually quietly, and unsung. How is it then, that we have let the traditional values of home and family slip so badly? How is it that so many fathers abandon their families, or take little interest in them, or fail to see how essential it is that they share in the nurturing of their children?

These are fundamental questions that should be troubling the souls of all conscientious New Zealanders. As a society, we need to address them urgently.¹⁴

FATHERS WHO CARE: PARTNERS IN PARENTING

Over the last two years I have promoted, through my Office a project, *Fathers Who Care; Partners in Parenting*. The project was formally launched in June of this year; with support from "The Save the Children Fund". Already there has been a survey of parenting programmes available to fathers. Preliminary analysis of the data would indicate the issue of fatherhood receives little specific attention in parenting programmes and paternal participation in programmes is generally low.

The project team has planned a number of steps to advance the Project.

The first step is to identify perceptions and beliefs about fathering and to identify what inhibits or facilitates a parenting role by fathers. The second step is to better identify societal attitudes to fatherhood. The next step is to provide resource material for communities and agencies to upskill and support fathers in a positive parenting role.

The project will involve interviews with groups of adults and children and interviews with key informants from interested groups. These initiatives will be followed by a national survey. Resource material will then be developed from the findings of the research and consultative process. Following this research there should be a clearer understanding of what it means to be a father in New Zealand.

We envisage that the Project will promote further research into parenting in New Zealand.

Research carried out by the National Centre for Fathering in America is interesting. A 1996 Gallup poll demonstrated that 79% agreed that fathering was a most significant family or social problem facing America. There was overwhelming agreement (90%) on the need for both parents with over 50% strongly agreeing with that premise.

We need research on the issue of the effects of divorce and separation. One problematic aspect of such research is that of causation. Did the conflict leading to divorce generate the ensuing problems or did the actual divorce and attending father absence create

¹⁴ Right Hon Sir Michael Hardie Boys, National Marriage Education Conference, Auckland 15 August 1997

them?¹⁵

As a society I suggest we need to urgently re-assess our attitude to marriage. For some time, social scientists have promoted the concept that divorce and fatherlessness are the better and more feasible options for children when there is serious disharmony in their families. It seems to me that research now points quite strongly to the view that the average child does worse not better after separation.¹⁶

Take abuse by surrogate fathers and stepfathers. We continue to legitimate family break-up at our peril.

Strong attachment and bonding between father and daughter may be a critical ingredient for preventing later child abuse.

We need to address the issue of violent behaviour on the part of men, first, because of the need of protection for vulnerable family members, but also because it negatively impacts on societal attitudes to parenting by fathers. Although women's gender roles have expanded over the past decade, in respect of workforce participation, there has been no corresponding expansion of men's traditional roles to include competent and committed child care.

I suggest the Project can be justified from three perspectives:

- enhanced child development
- an anti-violence initiative
- a gender equity initiative

The concept of a caring father - sensitive, nurturing and responsive - is fundamental, but equally important is the concept of shared parenting, and the idea of a real parenting partnership. In an ideal world parenting would be best undertaken by mothers and fathers, who are committed, competent and available to their children in a true partnership. If children are to achieve their full potential then we need to enhance the skills and capacities of all significant adults in their lives, particularly those of their parents.

I appreciate that the issues traversed in this address can promote or provoke strong responses. The issues are complex. The danger is that our responses and our approaches will be dominated by adult agendas. We must take a comprehensive view of children's needs. We should consider the total bundle of children's rights recognised in the UN Convention and in our domestic legislation and not restrict it to the right of protection only.

¹⁵ Popenoe, D. (1996). *The Human Carnage of Fatherlessness Life Without Father*. Free Press. New York p.59

¹⁶ See McLanahan, S. and Sandefur, G. (1994) *"Growing Up with a Single Parent"* Cambridge, MA: Harvard University Press; See also Princeton Alumni Weekly, 1994, December 7 p.15

Remember the principle of the *First Call for Children* - children deserve the first call on our capacities and resources. It is in society's interest to apply those capacities and resources to positive parenting issues.

The issue of fatherless families, I suggest, is one of the most vital social issues facing New Zealand. It is our collective responsibility to respond. I am encouraged by the recent media interest on the issue of Fatherless Families. It is important in any effort to change societal attitudes that practitioners and social scientists provide balanced information for the media.

I wish to acknowledge the constructive media interest in the issue of Fatherhood. Over recent months the Christchurch "Press" has highlighted the issue and has published two editorials on the subject. Publications such as "The Listener" have addressed the issue. There was a compelling American production included in the "Assignment" TV programme and I am aware "60 Minutes" will televise a programme in late November.

The Christchurch City Council, as part of its youth strategy and broader social responsibility, is taking up the issue and will organise in collaboration with my Office, a national forum - "Fathering the Future".

It is my plea to you, to all religious denominations, to church based agencies and to community agencies - please see initiatives to support positive parenting, to support fatherhood and to support the family as advocacy on behalf of children. It is in the interest of society to take a childcentred approach to advocacy. Children benefit, but in the long run, so do adults. The Fathers Who Care project will benefit fathers, it will benefit mothers, but more importantly, it will, benefit children.

May I congratulate the Social Service Council of the Diocese of Christchurch. For many years, I have admired the work of Anglican Care. In particular, I have a long association with the Christchurch City Mission. I look forward to further collaboration with Anglican Care in my role as Commissioner for Children. At this stage of my life, I do not have time for subtle invitations. Please consider what role you can play to better promote the concept of sustained and shared parenting by fathers.

My first official function as Commissioner for Children was to address a youth group of the Salvation Army in Wellington. It is fitting that perhaps my last formal presentation is to address your agency. On a personal note I appreciate the support and prayers I have received from you over recent weeks. It is extremely sustaining.