

**RESPONSE TO THE INQUIRY INTO THE STATUS
OF THE UNITED NATIONS
CONVENTION ON THE RIGHTS OF THE CHILD
IN AUSTRALIA**

prepared by the

Non English Speaking Background Youth Issues Network

INTRODUCTION

This submission is from the Non English Speaking Background Youth Issues Network (NYIN). The NYIN is a coalition of over 100 people from mainstream organisations and workers from ethnic minority groups. This coalition seeks to:

- identify the needs of young people from non-English speaking backgrounds (NESB),
- raise awareness within the community of the needs of young people from diverse cultural backgrounds,
- advise on the development and establishment of appropriate responses to meet the needs of these young people, and
- to promote equitable access by young people from NESB to services and service providers.

The Network is a Queensland based coalition so this submission will mainly deal with the situation for NESB young people in this State, except when the national situation impacts on the rights of young people within Queensland.

This submission will highlight only those Articles which relate to the difficulties of young people from NESB. Terms of reference of the Inquiry are covered generally under the headings in this document.

There are recommendations in this response which are designed to bring the Queensland situation for NESB young people into line with the Convention on the Rights of the Child (CROC). A summary of these recommendations follows the introduction.

The membership list of the NYIN is included as Appendix A.

SUMMARY OF RECOMMENDATIONS

Recommendation 1

That the Federal Government construct holding facilities which are more akin to a village type environment and where young asylum seekers can have ready access to the same kinds of rights as other children living in this country.

Recommendation 2

The Federal Government should provide further funding as a matter of urgency to ensure that children and young people who are refugees or seeking asylum receive the support needed to make the transition to life in this country. Further, the federal government should ensure that State and Local Governments of Queensland contribute funding to services as they also have a responsibility to ensure that children and young people settling in Queensland have the support they need to settle without further trauma.

Recommendation 3

That the Federal Government fund more youth specific workers in Queensland and, further, that the Department of Immigration and Multicultural Affairs fund cross cultural youth work training for existing workers.

Recommendation 4

That the Federal Government put pressure on the State Government to ensure that the Queensland Health Department allocate funding for health care which is NESB youth specific.

Recommendation 5

That the Federal Government review these changes to eligibility criteria for Department of Social Security payments in order to ensure that Australia is in line with the CROC.

Recommendation 6

That the Federal Government enforce the development and implementation of access and equity policies in community organisations by making the provision of public funding hinge on their existence.

Recommendation 7

That the Federal Government provide increased funding to Queensland and, further, that the Federal Government ensure that Queensland increase the allocation of State funds to English as a Second Language programs.

Recommendation 8

That the Federal Government request the Queensland Education Department review the dismantling of the Cultural Equity Unit and, further, that the Federal Government request an external review of the effectiveness and extent of the Queensland Education Department's policies and strategies aimed at preserving and valuing young people's cultural identity.

Recommendation 9

That the Federal Government ensure that all state legislation relating to young people and Juvenile Justice is in line with the Articles of the United Nations Convention on the Rights of the Child.

Recommendation 10

That the Federal Government make public statements through every means available (drawing on their own research through the Department of Immigration and Multicultural Affairs) which emphasises the importance of multiculturalism in Australia and the benefits migration brings to the country.

REFUGEE YOUNG PEOPLE AND YOUNG PEOPLE SEEKING ASYLUM

Article 22.1 and 22.2 relate to the rights of refugee young people and young people seeking asylum.

Australia does not have a good record regarding the protection of children's rights as they are seeking refugee status.

Many children and young people are held in detention in Port Hedland, Western Australia as they seek refugee status. The Convention on the Rights of the Child (CROC) states in Article 22.1. and 2. that refugee children or asylum seekers should be afforded the same rights (education, health care, safety and security) as other Australian children. Instead, children and young people who are asylum seekers are held in a prison like environment without equal access to these basic rights.

The NYIN is concerned that children held in these conditions may experience further trauma due to their enforced detention and lack of access to support services. Refugee young people and young asylum seekers have already experienced great upheaval and much damage due to pre-migration experiences. Their detainment in Port Hedland adds to their victimisation as refugees in armed conflicts beyond their control or comprehension.

The Australian Federal Government should not allow children and young people seeking asylum to be held in these conditions.

Recommendation 1

That the Federal Government construct holding facilities which are more akin to a village type environment and where young asylum seekers can have ready access to the same kinds of rights as other children living in this country.

LACK OF SERVICES

Refugee young people

Articles 24 and 39 concern children and young people who have been subject to cruel behaviours such as torture and trauma.

Only one service in Queensland is youth specific and provides support to unattached and detached minors. This service is grossly underfunded by both state and federal governments and can only provide minimal support.

There are two torture and trauma services in Queensland, both are in the southeast corner of the State. They receive some funding from federal and state governments. Neither service provides much support for young people, mainly because of lack of funds and because generalist NESB services seem to prioritise work with older members of the communities. This is because of cultural factors and lack of youth work skills

Recommendation 2

The Federal Government should provide further funding as a matter of urgency to ensure that children and young people who are refugees or seeking asylum receive the support needed to make the transition to life in this country. Further, the federal government should ensure that State and Local Governments of Queensland contribute funding to services as they also have a responsibility to ensure that children and young people settling in Queensland have the support they need to settle without further trauma.

Young people from NESB

Articles 18.2, 18.3 and 27.3 relate to lack of services for NESB young people generally.

Although the Department of Immigration and Multicultural Affairs (DIMA) have set 'youth' as a priority for funding in Queensland, there are only two workers funded part time to focus on young people as a specific target area. Many generalist workers funded federally to work within ethnic communities do not work with young people; do not have youth work skills; and, when they try to work with young people, may do so inappropriately. One of the concerns of the Network is the cultural dilemmas ethno-specific workers face working with young people. Many cultures do not acknowledge children and young people as having the same kinds of rights as outlined in the CROC which means that ethno-specific workers will work from the parents agenda rather than the young persons.

Recommendation 3

That the Federal Government fund more youth specific workers in Queensland and, further, that the Department of Immigration and Multicultural Affairs fund cross cultural youth work training for existing workers.

Health Care

Article 24.2(b) and (e) relate to health care for children and parents.

Currently, the Brisbane Migrant Resource Centre and the Qld Program of Assistance to Survivors of Torture and Trauma provide some help in accessing health care for refugee families, largely through a voluntary health professional referral system and through groups discussions with guest speakers. This is not enough.

There is no culturally or linguistically appropriate pre-natal and post natal support for young women who speak languages other than English. Hospitals do not even employ interpreters on a regular basis. No generalist youth specific health services target young people from NESB.

Recommendation 4

That the Federal Government put pressure on the State Government to ensure that the Queensland Health Department allocate funding for health care which is NESB youth specific.

Social Security

Article 26 relates to access to social security benefits.

The Federal Government has recently changed eligibility requirements for entitlement to pensions or benefits for migrants in the first two years of their arrival. The changes are complex but basically, migrants arriving in Australia now will not be able to claim most income support payments unless in extreme emergencies. This is a discriminatory practise and has a negative consequence for young people and children from NESB, many of whom will now be condemned to live in poverty for those two years.

Recommendation 5

That the Federal Government review the changes to the eligibility criteria for Department of Social Security payments in order to ensure that Australia is in line with the CROC.

Access and Equity issues

Article 3.3 and 3.4 relate to access and equity (A&E) issues.

There is much research documenting lack of access to services by young people from NESB. Mainstream youth services are often unaware that NESB young people need their support due to the low rate of request from NESB young people. NESB young people do not access mainstream services because of service barriers such as lack of information in community languages about youth services, lack of cross cultural youth work skills within mainstream services (including use of interpreters and cultural knowledge), racism from some Anglo Australian focused services etc. O'Connor, Gowing and Macdonald have documented these barriers in a report called *Accommodating Difference* (1994).

This lack of access to mainstream government funded services amounts to discrimination. Services (community and government) should have access and equity policies in place and implemented. As part of an A&E strategy, services should ensure that staff reflect a diversity of cultures so can advise on cultural issues and have language skills.

Recommendation 6

That the Federal Government enforce the development and implementation of access and equity policies in community organisations by making the provision of public funding hinge on their existence.

Education

Article 28 refers to education. Articles 6.2 and 8.1 relate to the preservation of a young person's cultural identity which has implications for the education system.

Young NESB people's access to education is largely reliant on their English language skills as the education system reflects the dominant Anglo Australian culture.

Lack of English as a second language (ESL) resources continues to be a major problem for NESB young people. Young people from NESB have higher than average rates of unemployment, particularly refugees. English language acquisition is one crucial element in the transition to becoming a fully participating member of this country. The Queensland Government does not provide the same level of resourcing that other state governments do in the area of ESL learning. Network members have anecdotal evidence that lack of English skills is one reason that some NESB young people truant and are eventually excluded from schools. These young people feel 'stupid' and cannot keep up with their Anglo Australian counterparts in class. Their self esteem is damaged and school becomes another trauma they have to deal with in this new country. It is easier to leave than continue the struggle in school. The State Government must allocate more funding to ESL learning to break this downward spiral.

Recommendation 7

That the Federal Government provide increased funding to Queensland and, further, that the Federal Government ensure that Queensland increase the allocation of State funds to English as a second language programs.

EDUCATION

Article 28 refers to education. Articles 6.2 and 8.1 relate to the preservation of a young person's cultural identity which has implications for the education system.

Another recent change effecting the level of support for young people is that the Queensland Education Department has recently restructured leading to the dismantling of the Cultural Equity Unit. The Unit has lost staff but is expected to do the same amount of work. There are now only two workers employed to cover the whole of Queensland.

This Unit was responsible for developing anti-racist strategies and policies for the Education Department. The Unit provided a focal point for community groups to work with schools to ensure that cultural issues were responded to appropriately. The Unit encouraged community initiatives aimed at developing links between NESB parents, students and schools (eg the Logan and Beenleigh Cultural Equity Coalition). The loss of the Unit sends the message to NESB community groups that the Education Department does not value cultural diversity and effectively lessens the ability of NESB community groups to support NESB young people within schools.

Another concern with the Queensland Education Department is the change in curriculum development processes. All curriculum will now be developed by an independent body called the Queensland School Curriculum Body. Reference groups will guide the development of each component. However, there is no guarantee that these reference groups will have representatives which can advise on cultural understandings, or indeed, that cultural understandings will consistently be included in any of the curricula developed. It is imperative that all young people and children have access to education which values cultural diversity.

Recommendation 8

That the Federal Government request the Queensland Education Department review the dismantling of the Cultural Equity Unit and, further, that the Federal Government request an external review of the effectiveness and extent of the Education Department's policies and strategies aimed at preserving and valuing young people's cultural identity.

LEGAL ISSUES

A number of Articles deal with children's rights in legal procedures. The Articles which have specific impact on NESB young people are: 9.2; 12.2; 40.2.(v) and (vi).

Recently, the Queensland Government has introduced a new Juvenile Justice Act. There are many aspects of this Act which infringe upon young people's rights generally. However, in this submission, the NYIN would like to draw attention to some basic problems which disadvantage NESB young people in particular under this Act. These problems are to do with language issues. The CROC states that States Parties should ensure that children and young people have the free assistance of an interpreter in legal proceedings. The new Juvenile Justice Act does not provide for this basic right. Under the section *Explanation of proceedings* [58.(1), (2)] the Juvenile Justice Act states that the child and the parent of the child should have full opportunity to be heard and participate in the proceedings and that the court must ensure that the parent and child understand *as far as practicable* what is happening in court. This is a loop hole which must be tightened. Perceived practical problems should not be used as an excuse to limit basic human rights as outlined in the CROC.

Under 58.3(c) of the Juvenile Justice Act some *examples of steps the court may take* for explaining proceedings - *having an interpreter or another person able to communicate effectively with the child and parent give the explanation*, is listed. The employment of an interpreter basically rests with the discretion of the court. This contravenes the CROC which states clearly that an interpreter be made available.

Members of the Network report that all too often, courts do not respect a person's right to an interpreter as many of the legal representatives do not recognise language needs. Many court personnel do not know how to use an interpreter, should one be required. The basic right outlined in the CROC for people to understand and be able to participate in legal matters which effect them, is contravened on a regular basis.

Legal interpreting is a skill that requires training. There is no guarantee that a relative or friend understands the legal terms and is translating them effectively. Legal interpretation requires an objective person who understands the system, not an untrained person who may be caught up in the proceedings emotionally.

Recommendation 9

That the Federal Government ensure that all state legislation relating to young people and Juvenile Justice is in line with the Articles of the United Nations Convention on the Rights of the Child.

DISCRIMINATION

A number of Articles relate to a child's right to maintain their own culture, language, religious practises etc, free of discrimination, and further, to encourage the development of the child's own cultural background. These Articles are: 2.2; 6.2; 8.1;14.1;22.1; 29.1 (c); and 30.

The spirit of these Articles recognises that it is imperative that a child's cultural heritage be preserved and respected by the community so that the child can grow into a healthy, well adjusted member of society and can therefore participate and contribute to Australian life.

Recently, there has been a 'race debate' raging in Australia, and in Queensland in particular. Members of the NESB Youth Issues Network report that NESB young people have been targeted for violent attacks and bullying due to their cultural backgrounds. These attacks have increased as the public debate about migration has increased.

The debate referred to is the controversy surrounding the statements of the Federal Independent MP, Pauline Hanson. Ms Hanson has made numerous statements about 'Asian immigration' and the cost to Australia. Federal, state and local politicians have been slow to correct her prejudicial statements, allowing Ms Hanson's misinformation to feed many Australian's racism. Young people from NESB are paying the price at schools and as they walk along the streets.

Unfortunately, we do not have statistical evidence that racist violence aimed at young people is increasing. However, we do have anecdotal evidence and young NESB people themselves believe that racist slurs and violence have escalated since the vocal controversy started. Members of the Network who support NESB young people are increasingly being called to schools by young people and teachers who are unequipped to deal with this violent backlash.

Recommendation 10

That the Federal Government make public statements through every means available, (drawing on their own research through the Department of Immigration and Multicultural Affairs) which emphasise the importance of multiculturalism in Australia and the benefits migration brings to the country.

Conclusion

The NESB Youth Issues Network believes that government and community institutions and systems fall short of the standards agreed to in the Convention on the Rights of the Child. This submission has outlined some of the key concerns for young people from NESB in Queensland. The Network welcomes the opportunity to discuss this submission further in a hearing if that is deemed appropriate. Thankyou for the opportunity to contribute to this inquiry.