



Day 2 session 5 - Workshop Session

Linking the Syllabus Themes to the Preliminary Course

Law in Focus

Group 6: Children.

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Focus Group 6 deals with “Members of any OTHER groups covered by human rights legislation, including anti-discrimination legislation” of which children are an excellent and relevant example.

The syllabus tells us that:

“In applying the framework, students understand the nature of the disadvantage encountered by children, the legal and non-legal means adopted to address that disadvantage and the limitations those measures have in addressing the disadvantage”
p 37 syllabus

Rationale for choosing children in this focus group:

- It is the group that all (or most) of our students belong to and enables them to study relevant and topical issues in a legal framework.
- Students are able to better connect to the issues discussed
- By using a topic relevant to the student it is easier to address the themes of the course.
- This focus group also links well to a number of HSC FOCUS STUDY AREAS:
 - ◆ Crime
 - ◆ Consumers
 - ◆ Family
 - ◆ Workplace
 - ◆ Shelter
 - ◆ Tech Change

Content can be accessed from all of these areas of the syllabus, and relevant parts of different textbooks.

To begin programming the first place to start is with the themes. In the syllabus these are grouped under three areas or headings (Page 26)

AREA 1: Status under the law:

That is, where and how are children recognised and treated under the law? Should they be treated differently? If so, how?

Themes:

Culture, values and ethics

- **the extent to which law reflects the culture and values of different societies and groups within society.** This is an excellent opportunity to look at, in conjunction with the theme **Continuity and Change**, the manner in which children have been recognised and protected at law. Eg child labour, child marriage, children in history eg Dickens novels.
- **the importance of ethics in the functioning of society.** Rights of parents to punish children, in the past and in other societies and jurisdictions.

Continuity and change

- **the evolution of legal rules and institutions.** The recognition of children as legal entities with rights at law, domestic and international law and conflict between the two.
- **the importance of precedent in establishing rules.** Precedent setting cases involving children eg. Corey Davis, Child's "divorce" "In the Marriage of A 1981 FLR 439
- **the effects of social, political, economic and ideological factors and of community attitudes**
- **the means and processes by which the law changes.** Which parties are able to influence law makers – lobby groups, LRC, Children's Ombudsman, Talkback Radio.

Content ideas:

Legal status of children

- **International Law:** Human Rights Declaration, & Conventions
Convention on the Rights of the Child

Covered in LIAC Hot Topics issue 44 2004 – "Children & Families"

- **Domestic Legislation:**
 - Changing status of children "when can I Lawstuff website is good for information which is easily accessible by students.
www.lawstuff.org.au/
 - Workplace law
 - Consumer law – children & contracts
 - Criminal laws: Legal age of criminal responsibility - doli incapax

Children (protection and Parental Responsibility) Act 1997

Young Offenders Act 1997

Crimes Amendment (Detention After Arrest) Act 1997

Summary Offences Act 1988 etc see P. 3 Hot Topics Issue 23

- Family Law – “best interest of the child”, Hot Topics Issue 44

Children (Care & Protection) Act 1987 (NSW)

Family Law Act 1975 & amendments

Family Law Reform Act 1995 (Cth)

Federal Magistrates Act 1999

Family Law Amendment (Child Protection Convention) Act 2002

Family Law Rules 2004

How have the laws dealing with children changed over time?

Compare the present laws to those in the past & in other jurisdictions around the world. Why does Australia have different age limits in different areas and how have these changed eg age of marriage, age of legal responsibility /age of consent/ - same sex relationships/ driving, drinking/ voting/ - the 18th Century child labour laws – child labour in developing countries.

How have community attitudes as expressed in the media influenced the laws dealing with children? – juvenile crime, gangs, knife laws/ Hot Topics 23

How have political factors affected the law? eg sentencing of young people – mandatory sentencing, - tough on crime. Parental Responsibility Act. Nicholas Cowdery – Getting Justice Wrong

How have economic factors affected the law or access to the law? – children’s access to the criminal justice system – access to legal aid

AREA 2 Mechanisms for achieving justice:

Themes:

Legal process and institutions

- how laws are made
- the nature of legal institutions such as parliaments, courts, the United Nations
- the adjudication and settlement of disputes and enforcement of legal rules

Conflict and cooperation

- the nature and extent of conflict in society
- the place of law in resolving conflict and encouraging cooperation

Content ideas:

How are laws made that deal with children, what protections do they have from inappropriate laws being made which affect them? What is the role of the Children’s Commissioner?

What is the role of parliaments, courts and the United Nations in protecting the rights of the child?

What legal process and institutions are there, that allow children to achieve justice under the law?

- Children's courts
- Children's magistrates,
- Youth conferencing
- Police youth liaison officers
- DOC's and child protection officers
- Legal Aid & Family Court proceedings
- Lack of a Children's Ombudsman
- Commissioner for Children

What is the nature & extent of conflict between children and the law in society?

How do legal institutions help to resolve conflict and encourage cooperation?

AREA 3 Responsiveness of the legal system

Themes:

Effectiveness of the legal system

Effectiveness within the legal system has a number of meanings. They include:

- the extent to which an issue can be dealt with by the law
- if an issue is dealt with by the law, how well it is dealt with in terms of ease of access, simplicity, consistency, predictability and delivery of just outcomes
- the capacity of a law to stop or change human behaviour.

Justice, law and society

- the interrelationship between the concepts of justice, law and society

Content Ideas:

Are our often 18th and 19th century laws sufficient to deal with 21st century issues?

Do our laws favour children who commit crimes? Do they let them get away with committing crimes?

Should parents be held responsible for the actions of their children?

