

# WHO SPEAKS FOR THE CHILD

JOHN McLAREN

In asking who speaks for the child, we are assuming both that the child has human rights and that he has some special status which allows these rights to be delegated to someone else. Neither of these assumptions is a truism.

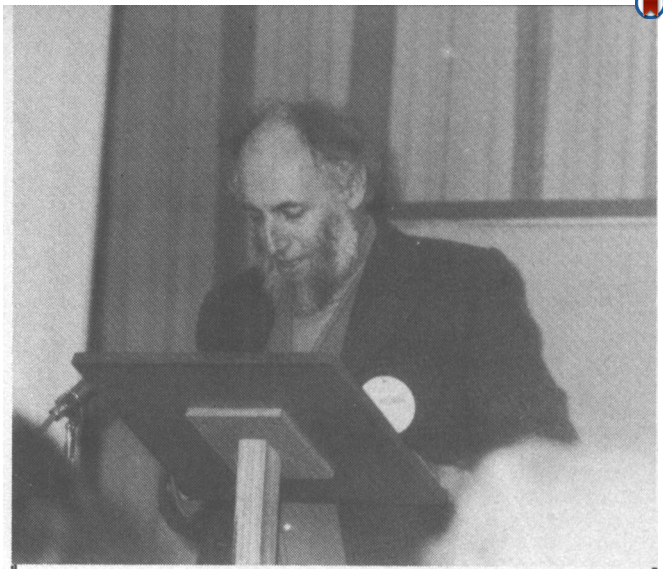
Children's rights do depend logically on a concept of universal human rights which is itself a relatively recent development in human history, and which is incompatible with the forms of slavery, racism and class distinction which have dominated most human thought during the evolution of our society. Even where human rights have been acknowledged, within the limited confines of tribe, religion, nation or a particular class, these rights have normally included rights over children rather than for children. The children of the vanquished would be brought up in the religion of the conqueror, the children of slaves were the property of the slave-owner, the children of the laborer worked for the same master as their fathers, or were sold into apprenticeship to keep their families from starvation. In western civilizations, children have shared this dependent or chattel status with women. It is only as they have emerged from childhood, or infancy, a word which literally means "not speaking", that they have been given any rights. Even the right to life has been limited, with the crime of infanticide being distinguished from other forms of homicide, and often not regarded as criminal.

The contemporary recognition that children have rights per se, inherent rights which stem purely from the fact that they are alive, is a product of the widening of the circle of those whom we recognize as creatures with whom we share an identity, and to whom as a consequence we owe a duty.

At the same time that our recognition of our human obligations has grown, so has our awareness of the distinct status of childhood. Until the later middle ages, western societies recognized only infancy, the state of not being able to speak, and the various ages of responsibility. Infants, like women and the senile, had neither rights nor responsibility, but once the male child emerged from the women's quarters he was given his own tasks and his own privileges, according to his status.

Such a system was, of course, possible only in an hierarchical society, where responsibility and dependence were not mutually exclusive. The concept of childhood as a separate entity coincides with the rise of the merchants at the end of the middle ages.

As the family, albeit an extended family, became the dominant unit of society, so childhood itself became an important state and children became the objects of special attention and solicitude. Schools ceased to be merely places of apprenticeship to the profession of the church, and became instead responsible for the whole intellectual and, eventually, moral and social development of their pupils. The whole process is outlined in Phillippe Aries' book — "**Centuries of Childhood**", a book fascinating in itself but invaluable for the way it reveals the historical dependence of so many of the concepts about childhood which we attempted to believe to be absolute.



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While the notion of childhood as something in itself originates in the thirteenth century, children still continued to be regarded, in such matters as dress, manners and needs, as merely small adults, and for many centuries the greater number of them, those who were not privileged to be born into affluent circumstances, continued to labor at adult tasks. Our present understanding of childhood is rooted in the nineteenth century, one of the products of the humanitarian imagination which rose in opposition to the excesses of industrialism and utilitarianism.

## Distinct Stage

At its best, this movement recognized that childhood is a distinct stage in human development, a stage with its own peculiar needs. This recognition freed children eventually from the stifling excesses of adult convention. At its worst, the movement led to a sentimental conception of childhood innocence and purity in need of protection from the immoral designs of a naughty world. Both these attitudes continue to influence our current practices. At the same time the twentieth century has been a further division in the concept of childhood itself, which beyond infancy can now be divided into at least three stages — childhood, pre-adolescence and adolescence. While each of these stages can be seen as making its special demands on the community and as having its special rights, the conceptual problem for all of them is identical, as at each stage we have individuals who stand in a dependent relationship to adult society yet make a special claim on it.

The problem of children's rights arises from this situation. Our recognition of their rights is coupled with an awareness of their incapacity to exercise them. Because of this incapacity, we feel that it is necessary that they be protected, from themselves by guardians, from others by advocates. Their

relatively helpless, or at least powerless status, creates special needs, and these needs in turn engender a whole bureaucracy of educational, medical, legal and welfare institutions to take care of them.

Where these institutions emphasize the special needs of children to such extent as to segregate them from their parents, whether through inter-racial adoption, special schooling or institutional incarceration, they may in fact be denying the original recognition which provides the sanction for their operations. Yet even where the interference is not so absolute, the normal fact of childhood is a lack of control over one's own life. It is this fact that accounts for the compelling desire of children to be "grown up", not to mention the conflicts of adolescents with the various people who wish to make their decisions for them. Such desire and conflict are an inherent part of the process of becoming adult. The distinct features of the process in today's society are the collapse of organic social institutions within which the conflict occurs, their replacement by deliberately planned intervention, the increased complexity of the society into which the children are maturing, and the prolongation of dependence.

The first of these phenomena, the collapse of social institutions, is easily misunderstood as a retreat from some kind of mythical golden age where social problems did not occur. This is of course manifest nonsense. What I am saying is **not** that earlier times had superior social institutions to those of our own age, but that our ideas and expectations were shaped by institutions which no longer exist, and that we must find new ways of looking at today's society in order even to recognize its problems. Central to these problems is that of the family. We still regard the family and motherhood as good things, while disregarding the fact that, other than in the biological sense, neither exists as it did even a generation ago. It is all very well to form organizations in defence of the family, but the nuclear family is not being destroyed by forces outside itself, but by the fact that we still expect it to discharge the same functions as the extended family of a century ago. The change in the family in turn has engendered changes in the role of the school, which in turn lead to endless, and irrelevant, debates about school standards. It is not a question of whether the schools should, or should not, take over responsibility for the whole social development of their students or should restrict their attention to the teaching of mental skills. The one is dependent on the other, and where the family, by its very nature, is incapable of providing the child with the support needed, other institutions must fill the needs.

### Isolated

Yet if these institutions remain isolated from the wider society, as the family never was, then they will fail. If schools are to meet these demands they will therefore have to change not only in their aims but in their nature and their relationship to the rest of society.

This leads to the second major characteristic of the society in which our children are growing up — the enormous extent of the deliberately planned intervention in their lives. Modern democratic industrial society, by reducing all individuals to the common measures of production and consumption, destroys the signposts of deference and dependence by which earlier societies were ordered. In their places, we have bureaucratic hierarchies in the professional and working worlds, and conspicuous consumption in our private lives. This pattern leaves no coherent systems of support for those who are not yet producing members of it. We add to this problem by providing specific bureaucracies to take care of these needs generated by the bureaucratic society itself. As

well as the bureaucracies delivering the immediate services, we have a further growth of professional organization designed to maintain the standards of the service, and behind this of course another growth of educational organization to provide the professionals. There is nothing wrong with these developments in themselves. They represent a necessary response to the incorporation of society, the only way of maintaining effective concern for the individual in a society which has removed authority from the family and the neighbourhood and the community and concentrated it instead in company boardrooms and government offices. The problem of the welfare bureaucracies is, however, that while they provide a means of bringing help and support to the isolated individual, they do nothing about restoring him to the effective centre of his own world. While acting as a countervailing force to the vast organizations caring only for productivity and profit, they may in fact abet the sense of individual powerlessness which it engendered by the corporate society.

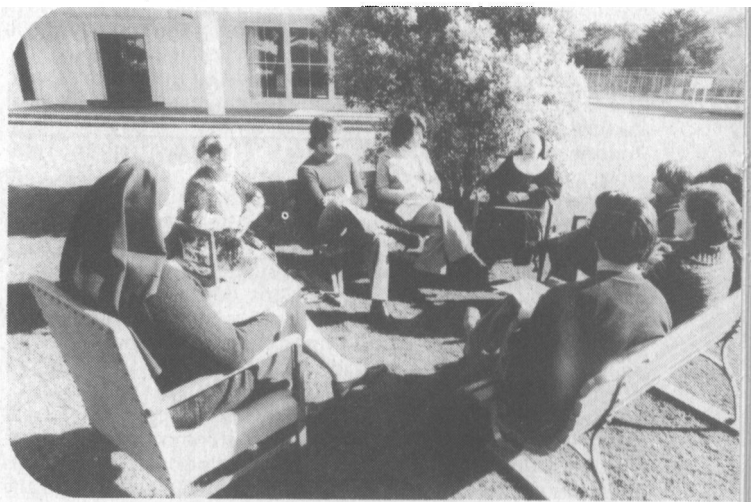
In this way, the welfare organizations themselves may contribute to the social complexity which creates individual bewilderment. I am not referring only, or even mainly, to the administrative confusion which may prevent those most in need from discovering the help they want. More particularly, I am referring to the development of what Fred Emery and his colleagues refer to as a "turbulent environment".

This is a social environment in which the actions of particular organizations to achieve particular goals create an effect in the total environment which has consequences, unplanned and unforeseeable for every other person and organization in society.

(See "**The Futures we're in**", by F. E. Emery — A.N.U. Centre for Continuing Education, Canberra — second edition, 1975.)

This kind of society in turn requires an enormous number of experts to guide it. Not only their decisions, but the facts on which they base them, are often incomprehensible to most of us. This characteristic directly affects both education and welfare services both by placing a greater demand on them and by making the task of meeting the demand more complex, and therefore a matter for still more experts. Not only are the causes of the problems we encounter more complex, but the measures we take to meet them have wider-reaching consequences, and so call for more precise information and planning. Yet this in itself adds to the complexity of the whole environment. As experts multiply, the client is left on the periphery, the object of attention rather than the subject of his own life.

Group at work!



It is this complex society which leads to the prolongation of dependence. Not only does it take longer to train the experts needed to maintain its functioning, it takes longer to learn enough about it, and enough skills, to be able to live independently within it. Indeed, it is probably true that those who fail to complete at least secondary schooling will remain, in a real sense, dependent for the whole of their lives, not because they will necessarily fail to earn an adequate income, but because they will be doomed to remain forever the uncomprehending consumers of other people's decisions. It is among such people that the recruits of political extremism are found, for the mark of the charlatan is that he sells a comfortingly simple but fallacious explanation of a complex problem. Yet the gravest danger is not in extremism, but rather in the exclusion of a widening segment of the community from any effective participation in its direction. Paradoxically, it could happen simultaneously that we have the most highly educated population in our history, because the complexity of society and the centralization and professionalization of authority are proceeding more rapidly than our ability to educate the community to match.

### Paradox

Yet the other paradox in the development of our children is even more urgent. At the same time that we are prolonging their dependence, they are maturing earlier both socially and biologically. This brings them into conflict not only with laws designed to protect them against others but serving now to complicate their desires, but also with the schools and other institutions designed to serve their welfare. Yet while they revolt against these institutions which seek to promote their interests, they fall easy prey to those other institutions which in the name of an illusory freedom offer only the reality of lifelong subjugation to commercial interests.

This brings us back to the conflict at the heart of all efforts in the field of children's welfare — how can their rights be reconciled with their need for protection? While there is no simple answer to this problem I would suggest that in the past we have given too much attention to the latter at the expense of the former, the right of the child to be himself. The only grounds for interfering with this right can be that the child's necessary, not legal, dependence is such that he cannot speak for himself. In some cases, such as that of battered babies, this fact may be easily established, although it does not follow that the nature of the interference allowable is as clearly determinable. Other cases, such as legal restrictions on sexuality, seem equally clear cut — they are attempts to protect the individual from himself, and thus incompatible with any form of human rights. These laws do not protect the child so much as soothe the adult. In most cases, however, the problem is the extent to which the child can be considered independent, and thus able to speak for himself, and the extent to which he must be protected from the neglect or exploitation of others. I want to look at these issues in the context of legal restrictions, compulsory schooling and community services. In doing this, I am not looking for solutions so much as examining the claims of the lawyer and criminologist, the schoolteacher and the youth worker to speak for the child.

This whole field of law, I would suggest, has been enacted, not to protect children, but to suit adults. In most cases however, the problem is the extent to which the child can be considered independent and thus, able to speak for himself — the extent to which he must be protected from the neglect or exploitation of adults.

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criminologist, the school teacher, the welfare worker, the youth worker, to speak for the child in each case.

If we look first at the question of the law and the child, we find that children are affected by it in three ways. First of all, various aspects of law, such as divorce laws, maintenance laws, laws against cruelty to children and so on demand that others fulfil their obligations to the child. I am not particularly concerned with this except to note that it is a necessary and vital sphere of responsibility by the community for the child.

The second aspect of legal concern with the child is in its concept of the child as someone of diminished responsibility, diminished to the extent of having no responsibility below various ages and then being within the field of the Children's Courts and the special provisions of Juvenile law, up to an age which differs from State to State, usually around 16 or 17. Again I do not wish to go into this question, as much of this law is again a recognition by the community of its special responsibility for children.

I want to look particularly at the relationship of law to adolescents, where the main effect of the law is to operate in such a way as to exclude them from society even further than they are excluded by their economic dependence, their failure to be given any productive function within the community. This applies particularly to the laws governing sexual behaviour at a time when the adolescent is beginning to discover the relationship of sexuality to life, to compassion and to human companionship.

Children will certainly make many mistakes but I would suggest they are more liable to make mistakes when we proscribe whole areas conduct, with which many of them will experiment. Consequently where they find themselves experimenting with sex, they automatically subject themselves to all forms of legal blackmail. In my opinion, the law has no more place in the bedrooms of adolescents than it has in the bedrooms of adults.

### Drugs

The question of legal proscriptions of drug taking is however, a more difficult one, because here there is definitely an element of protection involved. On the other hand, again a great number of the laws on drugs are designed to soothe adult worries rather than to protect the child. While the case for the safety of such soft drugs as marihuana is by no means established, it is, I think, well established that these drugs are no worse in their personal or social consequences than those drugs of alcohol or tobacco upon which my generation has been hooked. To proscribe this adolescent activity can be seen by them as another example of adult hypocrisy, another example of our restriction of youth from operating freely in society. I think a greater danger than drugtaking is any attempt to legislate for morality. Where the legislation is not backed by the overwhelming majority of the group for whom it is intended it will be broken if not by the majority, at least by the very large parts of it. Once they break the law, the law breakers are excluded from lawful society and so cannot see a necessity to observe other laws. In this light, it is true, I think, that the taking of marihuana can lead on to the taking of harder drugs, although I would not think in a significantly large number of cases. I think that this is a clear case where the law is contrary to the wishes, the ethos or culture of the group it is seeking to protect. The law, by seeking to protect, must therefore bring itself into contempt, and must help to drive large numbers of these people into other ways of conduct which would indubitably be damaging to themselves or to society.

I can come then to the third aspect of restriction and obligation, in that sphere of activities which we could label unhesitatingly as delinquent or criminal, the behaviour of those juveniles who are already outside the social norms, probably by their own choice, ranging from vandals through to other more serious forms of crime. But even here I would suggest that we must recognize there is a problem of adult hypocrisy. The papers are full of eminent citizens decrying the tremendous damage but these same authorities are those who have carried out such acts of public vandalism, of unparalleled magnitude as allowing the entire public transport system to decay while they push concrete freeways through people's homes. While we tolerate this sort of public hypocrisy we cannot adopt too morally superior an attitude to those juveniles who break the law. On the other hand, it would be wrong to attempt to put the whole blame for individual law breaking on society. While recognising social responsibility we must also recognize that the person who takes the law into his own hands as a way of asserting his own individuality is, in his own way, accepting responsibility for himself.

Whatever the sins of society may be, they do not exonerate the person who deliberately engages in acts that are destructive to other people or to public property.

### **Delinquent**

Now I am not suggesting that I have any answers to this problem of all, but I do suggest that there are some matters that we should consider in seeking an answer. The first is that if we accept that the adolescent delinquent is asserting himself against society, then the treatment model is not really an appropriate one. We often hear it suggested that juvenile courts, juvenile reformatories and so on should be regarded as institutions for treating deviant behaviour. I would suggest that the model of trial and punishment which we accept at an adult level is a far more appropriate one. It is something publicly understood, it is absolutely definite compared with the indeterminate nature of various forms of institutionalization, it deprives a person of clear rights, in a clear and stated way, for a clear cause. Others forms of institutionalization tend to deprive the person of all his rights for an unstated time. However, if we are to look at the trial and punishment model, I think we would need to look very closely at the forms of punishment which we have available to us. We probably need a much greater range of punishments. Certainly we need and this is probably equally true of adult crime, to avoid as far as possible, that form of punishment by deprivation of rights, which has as a secondary consequence the segregation and consolidation of criminals so that they can learn from each other, not only techniques, but more seriously a criminal way of life. They can be permanently socialized into the sub-culture of crime. We probably need instead far more varied forms of periodic detention, compulsory tasks, compulsory attendance at particular centres.

Beyond seeking remedies for crime, however, I suggest that we need to recognize that the social disturbance of adolescence, to a great extent, arises from the fact that our generation provides them with no rights of passage. The status symbols of the young adult, the music, the dress, the cars, the trail bikes, are all things which proclaim their adulthood and their sexuality and demand they be conceded their place in society. Effectively, however, we organize society in such a way as to deny adolescents any place where they can be at home, any lawful way that they can satisfy their desires or even come to terms with themselves.

We deny them any part of their lives over which they can exercise an affective control. So they have as their alternative their aggressive music, the inner migration to a secret life and,

with a significant group, to various forms of public delinquency. If we are to tackle the causes of this, I suggest that we can begin by providing these younger adolescents with a place in our society rather than by trying to treat them after they reject what we have to offer.

### **School**

I now turn from the law to the school. Again we find a product of the recognition of the separate status of childhood, and to that extent a way of removing children from our midst just as we remove criminals, lunatics, and other groups that we do not want to notice too often.

Why is it that school fails? I see that the Children's Welfare Association submission recognises that the school can and often does alienate students and does contribute directly to delinquency. It also recognises however, that education, in principle at least, can promote social maturity. Thirdly, it recognises that the school is not, in itself, a welfare agency. Why is it however, that so often it promotes delinquency and alienation rather than seeking and promoting the social maturity which is a possibility? I would suggest that it is because the teacher takes it upon himself to say too much on behalf of the student. The teacher takes it on himself to direct the student's life and thus the only way in which the student can assert himself is to reject the school. And yet again we are brought back to this problem, that some of the rights which children have include the right to learn. If they are ever to be really, rather than ostensibly, independent they must obtain the skills and the knowledge which are necessary to operate in our complex society.

### **Teachers right**

Perhaps, our first problem is that we fail to recognize just how much of this learning children can do for themselves. In "Looking at Children" by Leila Berg, the author describes children she has watched. In one place she just watches a girl, 4 or 5 years old, playing with her brother who is about 18 months younger. The brother is being a particular nuisance. She wants to play one game and he wants to play a much simpler one, corresponding to his stage of development.

A fight breaks out, and it is at this stage that any wise parent would of course intervene, and explain to the girl that they must take turns, that he has as much right as she does. We all know the reason we would intervene, because we want our children to respect other people's rights, to understand sharing and co-operation. The parents were distracted at the time and after a fight in which no one got hurt but both discharged a great deal of energy, the children came to exactly the accommodation that an adult would have forced on them. This is a simple example of how children left alone will learn. In schools, however, we assume that from whenever it is that we take children, we can sit them in the class rooms and from that time from 9-4 each day, we take the responsibility for their learning. The very first thing we are doing is incapacitating them from being responsible for themselves. On the other hand, while we may recognise that school in that form is no longer appropriate, if it ever was appropriate for the needs of most children, there are some functions, some kinds of learning, which essentially only the adult can organize. The most important of these is the development of languages. Every child has the right to develop a language which is capable of giving him freedom in society. We should however, also recognize that the child has the right to learn the language of his parents, to learn in the language of his home, a right which we have denied children during 20 years of mass migration to this country.

What I would suggest is that it is the teacher's right to say that this is how the child develops, this is what is available to learn and in some cases, this is what he must learn. The right we must concede to children however, is their right to decide when. I don't suggest that children should be freed of the school; I do suggest that to a great extent, we need to free them within the school, free them of the timetable, free them of the compulsory association only with their own immediate peers.

I would also suggest, while agreeing with the recognition that the school is not a welfare agency, that because the social welfare, social adjustment and social development of the child, and his learning in any more intellectual sense are inseparable, the school needs to be co-ordinated with other community institutions, including welfare services.

### Timetable

Finally, I would suggest that as well as freeing the younger child from the timetable, because school is an interference with the child's independence, we need to give him the right to leave at the earliest possible opportunity. While I am not sure that there should be any compulsory schooling age, I am sure that it should not be greater than 14. If we are to reconcile this right to leave with our protection of the child's right to learn, then we will need to guarantee his right to return to school at whatever age he chooses. There is a lot of talk done today about the learning community. If we are to have a learning community we need to have forms of financial support for adults of all ages who wish to return and continue their schooling. I would say that one of the gravest assaults of the last twelve months on the rights of children to leave school has been the abolition of the NEAT scheme for adult retraining.

Finally, I want to look at the principles of rights in relation to community welfare. Community services, would be the more appropriate term, because here we have an absolute multitude of helpers. We have youth services, of course, but don't forget we have also those very anxious providers of services for children, the media, the pop industry, who are only too anxious to occupy their hours; we have junior football leagues, junior athletics, in fact I don't think there is any adult in the community who cannot find some fulfilling hours looking after children. All of them are providing services for the child and most of these services are provided at the expense of the natural activity of ordinary children's games which they can organize for themselves. A great number of them are highly commercialized and are promoted by toy manufacturers, soft drink manufacturers and others in order to ensure that the fairly natural phenomenon of a succession of childish fads and fashions will continue to fill the coffers of adult accountants — those people who are least accountable.

### Access

What I suggest is not a diminution of all this activity, so much as continuing need to provide access at all levels to a multitude of experience. What we tend to have is a high level of activity in a very narrow range of codes. All children should have access to adventure playgrounds, to environmental centres, to play centres, to art centres, to places where they can choose their own activities.

These activities do not necessarily need professional assistance. Their function is as an extension of the family, an extension of the resources, once provided by the family, which it cannot now provide for reasons of space, finance or time. Children therefore need an extension of their living areas, and within these trained observers and counsellors, people who

can watch and understand, not people who will organize, so that where intervention is needed it can be made at an appropriate time. In this way it should be possible for intervention to occur far more frequently without removing the child from his environment.

### Financial support

Any form of welfare is dependent on a nationally maintained system of financial support for all families. Unless we have this we are ignoring children's most substantial need. The Federal Government should also be responsible for financial support for all the kinds of community programs that I have been suggesting and programs which include family support. I suggest that there is a danger in limiting financial support to programs where there is provision made for evaluation. I certainly believe that all programmes should be studied and criticized but I am concerned about the usual forms of behavioural evaluation which depend on the setting out of goals beforehand and then deciding whether or not the programme can achieve those goals. What I am suggesting about the nature of our society is that anything we do will have quite unplanned and unintended effects, and I think the sorts of evaluation we use must not be evaluation in terms of pre-stated goals but rather evaluation in terms of looking at the entire range of social consequences of what we do, looking for the cause and effect and relationships not just where we expect but where-ever it can be found, then evaluating it as desirable or undesirable in terms of range.

### Devolution of Authority

If we want devolution of authority we should look not to the States, but to local communities to control the programs. What we need is not a hierarchical bureaucracy, but a network. A network of all services affecting the family including education, employment, security, health and leisure. Emphasis should be on the variety of provision, the ease of access, so that the child is left free to speak for himself, as a functioning member of the community. We will not achieve this goal by separating children from the rest of the community, by regarding them as something apart, but by acting on the realization that the help of any part of the community is dependent on that of every other part, and in a turbulent environment everything we do affects everyone else.

### Speaks for All

Whoever speaks therefore, speaks for all. As never before the only alternative to a bureaucracy for experts is a multitude of counsellors — we must listen to them all, professionals, parents, children. Our support for them can be seen as directed not at providing people to speak for children but at giving children a voice for themselves. But we must also insist that this voice be listened to by the community before making any of the decisions which determine the shape of our future. And so we must speak for the children to all community organizations. Child Welfare, like all welfare, will be determined as much by the decisions of road builders, high-rise promoters and commercial developers as it would be by the welfare workers, unless these bodies insist that social priorities should come before all else.