

**ART OF SOCIAL CHANGE:
CHILD WELFARE, EDUCATION & JUVENILE JUSTICE**

**Professor Elizabeth Bartholet
Lecturer on Law Jessica Budnitz**

Fall 2009

Course Information, Syllabus and Schedule

COURSE INFORMATION

Course Materials

Bartholet, *NOBODY'S CHILDREN: Abuse and Neglect, Foster Drift, and the Adoption Alternative* (Beacon Press 1999) [hereafter *Nobody's Children*] will serve as the course text together with additional course materials in weekly assignment packets which will be available prior to each class through the Copy Center as well as the course website. Before each session, students should also read the relevant speaker biographies, which are posted on the CAP website (<http://www.law.harvard.edu/programs/about/cap/art-of-change/index.html>) and included in the assignment packets. Further details will be provided at our first class and by email throughout the year.

Administrative Details

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Course Website

To access the course website, log on to iCommons (<http://myhls.law.harvard.edu>), go to the My Courses box and click on *Art of Social Change: Child Welfare, Education, & Juvenile Justice*.

Cross-registrants will automatically gain access to the course website, once they drop off their completed Cross-Registration Petition with the HLS Registrar's Office. CAP will add **auditors** to the course website.

For questions about using the course website and for training materials, all cross-registrants and auditors should **contact the ITS Student Helpdesk** (617-495-9576), which is located in the basement of Hauser Hall, Rm 030.

For further information about cross-registration procedures, visit:

<http://www.law.harvard.edu/programs/about/cap/cap-courses/crossregistrants.09.html>

Course Requirements

Course requirements consist of brief questions and reaction papers related to the readings and class presentations, turned in weekly.

The course will meet weekly for 2 hour sessions during the Fall term. Practitioners, activists, and community members who are working on issues related to the session topics are invited to join the class and may participate in class discussion. Following each session, all are invited to a brief reception where students will have the opportunity to talk informally with the speakers and invited guests. Additionally, students will be allowed to sign up for one post-reception dinner during the year providing an additional opportunity to interact with the speakers, guests, and CAP faculty. Instructions for signing up will be emailed to all students at the beginning of the semester.

Session Questions: For your assigned dates, students should submit a brief question (or questions) for the upcoming speakers along with a short comment on why the question is significant. The questions and accompanying comments should be **roughly ½ a page (single-spaced)**. **Include your name and the session date at the top of your submission.**

To submit your assignment, first save your question/comment as a Word file¹ on your computer with the title “name_monthdate_questions.” For example, if your last name is “Jones,” title the file for your first submission “jones_sept10_questions.”

Then, log into the course website. Click on the “Supplemental Course Materials” tab on the left-hand menu column. Next, click on the relevant dropbox folder in the right-hand column (e.g., the box for this submission is labeled “Sept. 10 – Questions”). Click the Upload file link. Browse your computer’s file system for the document you want to upload. In the “Title” field of the Dropbox menu, name your assignment “Last Name – Date – Questions.” For example, if your last name is Jones, enter the following title “Jones – Sept. 10 – Questions.”

You should upload your assignment by **9 AM the morning of the Thursday session**. After 9 AM, the dropbox will disappear from your screen, so you won’t be able to upload your submission. **IMPORTANT NOTE: If your questions are LATE for any session, you should upload them to the dropbox labeled “Late Submissions – Questions.”**

Session Reaction Papers: In lieu of the session questions, a few times during the semester, students will be assigned to draft a brief reaction paper. This paper should give a brief analysis of the substance of the session, based on both materials and presentations, and then give your own reactions, including *e.g.*, your views on disputed issues, your thoughts *re:* interesting connections with themes and issues from other sessions. Reaction papers should be **2 - 3 double-spaced pages**. Be sure to **include your name and the session date on the top of your submission.**

¹ If you do not regularly use Word, contact Eleanor Topping (CAP Program Assistant) at etopping@law.harvard.edu and she will work with you to find an alternate word processing program which is compatible with the course website.

To submit your assignment, first save your reaction paper as a Word file on your computer with the title “name_monthdate_reaction.” For example, if your last name is “Adams,” title your file for your first submission “adams_sept10_reaction.”

Then, log into the course website. Click on the “Supplemental Course Materials” tab on the left-hand menu column. Next, click on the relevant dropbox folder (e.g., the box for the first reaction submission is labeled “Sept. 10 – Reaction”). Click the Upload file link. Browse your computer’s file system for the document you want to upload. In the “Title” field of the Dropbox, name your assignment “Last Name – Date – Reaction.” For example, if your last name is Adams, enter the following title “Adams – Sept. 10 – Reaction.”

You should upload your reaction paper **by 9 AM on the Tuesday following the workshop session**. After 9 AM, the dropbox will disappear from your screen, so you won’t be able to upload your submission. **IMPORTANT NOTE: If your reaction paper is LATE for any session, you should upload it to the dropbox labeled “Late Submissions – Reactions.”**

Assignment Dates:

For the First Session:

There is no *written* assignment for the first session (9/3). However we expect all students to read very carefully the materials assigned for the first session, as they are critical to themes which will be presented throughout the course. We expect you to weave in your reactions to the ideas presented in the first assignment in your submission(s) later in the term, in particular sessions #5, 6, 7, 8, 9, and/or 12.

For All Subsequent Sessions:

We have divided reaction paper assignments based on the first letter of your last name. **For the weeks you are assigned reaction papers, you do NOT have to submit questions/comments before class.**

<u>Last Names Beginning With:</u>	<u>Reaction Paper Assignment:</u>
A-F	9/10* 10/8 10/29 11/19
G-M	9/24 10/15 11/5 12/3
N-Z	10/1 10/22 11/12 12/3

Each student will submit a total of 7 questions/comments and 4 reaction papers over the course of the semester. For example, a student with the last name “Adams” will submit reaction papers for these classes: 9/10, 10/8, 10/29, 11/19. S/he will submit questions for the remaining sessions: 9/24, 10/1, 10/15, 10/22, 11/5, 11/12, 12/3.

***IMPORTANT NOTE: For all students assigned to do reaction papers for the Sept. 10 class:** We have extended the deadline for submissions. The papers are due at 9:00 AM on Tues, Sept. 22 (instead of Tues., Sept. 15, which is during the HLS fly-out week).

Grading: Grades will be based on session written assignments, with the session questions counting for 40% of your grade and the session reaction papers counting for the other 60%.

Communication: Throughout the semester, CAP will send you important information about the course, including when the upcoming week's Assignment Packet is available, via email. All sent emails can be found in the "Student Emailer" folder and "Course Email Archives" sub-folder of the course website. **All students who ADD the course after the first class should review the messages in the "Course Email Archives" sub-folder.**

SYLLABUS AND SCHEDULE

Class 1 (Sept. 3): Course Overview

Reading:

- Course Information, Syllabus, and Schedule for Fall Classes
- *Nobody's Children*, Intro, pp. 1-8, 22-29

Speaker:

- **Elizabeth Bartholet**, Prof. of Law and Faculty Director, Child Advocacy Program

Attendance is ESSENTIAL for all enrolled in or interested in adding the course.

Class 2 (Sept. 10): Children Dying While In Prison

Reading:

- Assignment Packet #2

Guest Speaker:

- **Bryan Stevenson**, Executive Director, Equal Justice Initiative

Founder and director of the Equal Justice Initiative (EJI), Bryan Stevenson has long championed the unpopular cause of protecting the rights of indigent defendants and prisoners. In recent years, EJI has focused its attention on the plight of children in adult prison. In the wake of the 2004 *Roper v. Simmons* Supreme Court decision (forbidding the death penalty for youthful offenders), many advocacy organizations like EJI have been focused on challenging “LWOP” – life without parole for juveniles. Over 2,200 children across the nation have been given LWOP sentences, dooming them to die in prison.

Stevenson will describe the desperate situation for these children, and he will discuss the strategies EJI is employing to effectuate change for this vulnerable, yet overlooked, segment of the population.

Stevenson has won numerous awards in recognition of his effectiveness as a social change agent and his tireless efforts on behalf of the disenfranchised, including the MacArthur Foundation “Genius” Award and the ACLU's National Medal of Liberty.

Class 3 (Sept. 24): Reforming Juvenile Justice Systems: Spotlight on New Orleans Post-Katrina

Reading:

- Assignment Packet #3

Guest Speakers:

- **LaKeytria Felder**, Associate and Chesterfield Smith Fellow, Holland & Knight

- **Dana Shoenberg**, Senior Staff Attorney, Center for Children's Law and Policy

Juvenile justice advocates have long considered conditions for youth enmeshed in the juvenile justice system in New Orleans deplorable. Following Katrina, they grew worse. Recent Harvard Law School alumna LaKeytria Felder helped develop a lawsuit on behalf of children in detention in New Orleans, claiming substandard conditions of confinement and mistreatment by institutional staff. Felder will describe the conditions facing detained youth in New Orleans, the origins of the lawsuit, and the prospects for using the lawsuit to accomplish significantly improved conditions. Felder will also describe how as an associate in a large law firm, she has leveraged the resources of the private sector to do important social justice work on behalf of children.

Dana Shoenberg, a senior staff attorney at the Center for Children's Law and Policy (CCLP), will put the New Orleans suit in the larger context of institutional reform efforts, discussing some of the pros and cons of class action law suits, and alternative strategies for accomplishing real reform for youth in the juvenile justice system. By way of example, Shoenberg will describe non-litigation strategies including: the Department of Justice Civil Rights Division's use of investigatory powers to improve juvenile facilities; federal legislative advocacy to fix problematic legislation; and CCLP's collaborative work with multiple stakeholders to reduce racial and ethnic disparities and over-reliance on incarceration for youth.

Class 4 (Oct. 1): The Secret History of School Choice: A Civil Rights Perspective

Reading:

- Assignment Packet #4

Guest Speaker:

- **James Forman, Jr.**, Professor of Law, Georgetown; Co-founder, See Forever Foundation and Maya Angelou Public Charter School in Washington D.C.

We all wish there were a silver bullet: one single policy reform that could dramatically improve outcomes for children. Some in the education field have heralded the charter school movement as that silver bullet.

James Forman Jr., a former public defender turned legal academic and founder of an innovative charter school in D.C. for court-involved youth, will discuss both the potential and limitations of the charter school movement. The charter school movement (and more broadly the school choice movement) is often understood to be grounded in conservative intellectual and political ideas. Forman will provide an alternative perspective on the "secret history of school choice," emphasizing school choice's roots in liberal education reform movements, the civil rights movement, and black nationalism.

Forman will also describe his recent efforts to provide quality education to students languishing in incarceration. He will detail his work creating the first-ever Children's

Defense Fund Freedom School program inside Oak Hill Youth Center, a juvenile facility in Washington D.C.

Class 5 (Oct. 8): The Crisis in International Adoption: Two Sides of the Debate

Reading:

- Assignment Packet #5

Guest Speakers:

- **Paulo Barrozo**, Harvard University S.J.D. Candidate and Assistant Professor of Law, Boston College Law School
- **David Smolin**, Harwell G. Davis Professor of Constitutional Law & Director, Center for Biotechnology, Law and Ethics, Cumberland School of Law, Samford University

Intense debate surrounds the question as to what if any role International Adoption should play in providing homes for unparented children worldwide. Critics of such adoption include UNICEF and many international children's rights organizations, who argue that children should be kept in their countries of origin if at all possible, and that efforts should focus on building support for poor families and on expanding foster care, as well as on combating the fraud and babyselling they say characterizes International Adoption. Supporters of such adoption say that children's most fundamental human rights are to be raised in the nurturing families that often are only available in International Adoption. During the last five years increasingly restrictive regulation has resulted in a steep drop-off in the placement of children internationally, after six previous decades in which the numbers rose steadily.

Professors Paulo Barrozo and David Smolin, experts respectively in international human rights law and International Adoption, will share their thoughts on the debate and on directions for future law reform from their different perspectives on the human rights and other issues involved.

Class 6 (Oct. 15): Expanding Access to Early Childhood Education

Reading:

- Assignment Packet #6

Guest Speakers:

- **Margaret Blood**, President, Strategies for Children
- **Richard Weissbourd**, Lecturer in Education, Harvard University John F. Kennedy School of Government and Harvard Graduate School of Education

Widely accepted empirical research demonstrates the long-term benefits – to both the individual and to society – of high quality early education. Margaret Blood, founder of Strategies for Children, spearheads the “Early Education for All Campaign” to ensure school access to three, four, and five-year-olds. Blood will discuss how she has rallied unusual suspects in both the public and private sectors (i.e., banks, corporations, health

care institutions) to encourage legislators to support expanded access. While states across the country are facing severe budget cuts, President Obama has supported additional investment in early education. Blood will discuss the impact of the budget crisis and the new federal Administration on the prospects for expanded pre-K programs, and her strategies for accomplishing change.

Richard Weissbourd, a Lecturer on Education and a child and family psychologist, has done significant work at the intersection of research and education policy. He will describe how and why he founded The Lee Academy in Boston, a new kind of public school, offering a continuous program between preschool and elementary school that will serve children ages 3-11. Weissbourd will discuss his work advising on the city, state and federal levels on family policy and school reform, focusing on early education.

Class 7 (Oct. 22): Prosecuting Child Abuse: Medical and Legal Perspectives

Reading:

- *Nobody's Children*, Chapter 4, pp. 98-110, and Chapter 2, pp. 44-55
- Assignment Packet #7

Guest Speaker:

- **David Deakin**, Assistant District Attorney and Chief of the Family Protection & Sexual Assault Bureau, Suffolk County District Attorney's Office
- **Alice Newton, MD**, Director of the Child Protection Team, Children's Hospital, Boston

There has long been a debate in the field of child welfare regarding how to treat parents who allegedly abuse and/or neglect their children. Parental advocates argue that the rights and interests of birth parents are too often trampled upon, that additional resources need to be invested in families who are – or are at risk of – maltreating their children. Others think the interests of parents are too frequently prioritized at the expense of children. They argue that to stop and deter child abuse and neglect, perpetrators should be vigorously prosecuted, just like other criminal offenders.

ADA David Deakin will discuss his position heading Suffolk County's Family Protection & Sexual Assault Bureau (which includes the Child Protection Unit), describing the role of the criminal justice system in the larger context of child protection. He will be joined by Dr. Alice Newton, a pediatrician who specializes in treating abused and neglected children and who regularly consults with Deakin on cases. Building off her years of experience treating children and heading the Child Protection Team at Children's Hospital, Dr. Newton will provide her insights into how responsive the criminal and civil systems are to child maltreatment cases, and whether they do enough to protect child victims and deter future misconduct.

Class 8 (Oct. 29): The Pros and Cons of Expanding Children's Constitutional Rights

Reading:

- *Nobody's Children*, Chapter 1, pp.33-43

- Assignment Packet #8

Guest Speakers:

- **James Dwyer**, Professor of Law, William & Mary Law School
- **Martin F. Guggenheim**, Boxer Family Professor of Clinical Law, NYU Law School

Children have been recognized to have constitutional rights only in a limited number of areas, which so far have generally not included basic rights to nurturing parenting. The U.S. Supreme Court and most state courts have accorded parents powerful constitutional privacy or autonomy rights to make most decisions about their children free from state intervention, and have argued that such rights are fully consistent with children's best interests, and help protect diversity, and group as well as individual autonomy, in ways that serve broader societal interests. There is an ongoing debate as to whether expanding children's constitutional rights would or would not be a good thing.

Professor James Dwyer will present his argument for recognition of children's constitutional rights to be protected at birth against placement with unfit parents, as an important step in protecting children against maltreatment and related developmental problems, and Professor Martin Guggenheim, a leading critic of the idea that expansion of children's "rights" will advance children's actual interests, will comment from his very different perspective.

Class 9 (Nov. 5): Strategies for Reforming Child Protective Systems: The Massachusetts Office of the Child Advocate and Other Strategies

Reading:

- *Nobody's Children*, excerpts from Chapter 3 (specific pages TBA)
- Assignment Packet #9

Guest Speakers:

- **Gail Garinger**, The Child Advocate, Office of the Child Advocate, Massachusetts
- **Erik Pitchal**, Assistant Clinical Professor of Law, Suffolk Law School

In April 2008, Gail Garinger became the first Child Advocate for the Commonwealth of Massachusetts, reporting directly to the Governor. An Executive Order gave Child Advocate Garinger broad discretion to work on behalf of children in the state to further the goals of child protection as well as the juvenile justice system. The legislature subsequently passed a law creating the Office of the Child Advocate (OCA), further defining the goals and priorities for the office.

Child Advocate Garinger will provide an overview of OCA, how and why it was established, its mandate, and how she envisions effectuating change through the Office, focusing on the child protection area. Professor Erik Pitchal will provide a comparative perspective, describing Child Advocate or Ombudsman-type Offices in other states, and

the pros and cons of different models. More generally, Pitchal will describe the efficacy of these kinds of Offices as compared to other strategies for accomplishing reform in the area of child protection. Before entering academia, Pitchal represented individual children in the child welfare system in New York and brought class action law suits on behalf of abused and neglected children.

Class 10 (Nov. 12): Social Entrepreneurship Under the Obama Administration: The New White House Office of Social Innovation and Civic Participation

Reading:

- Assignment Packet #10

Guest Speakers:

- **Eric Schwarz**, C.E.O. and Founder, Citizen Schools

Class 11 (Nov. 19): Social Entrepreneurship: “A Kind of Genius,” and the Afterschool Alliance

Reading:

- Assignment Packet #11

Guest Speakers:

- **Herb Sturz**, Senior Adviser, Open Society Institute; Founding Chairman, The After-School Corporation; Founding Director, Vera Institute of Justice; Board of Directors, Afterschool Alliance
- **Jodi Grant**, Executive Director, Afterschool Alliance

Herb Sturz – who has been described as the “Michael Jordan of social change” – is the subject of the recent biography “A Kind of Genius: Herb Sturz and Society’s Toughest Problems.” This biography describes Sturz’s remarkable career as a veritable model for what we have learned to call the social entrepreneur. Sturz’s legacy extends back to the 1960s, when he began his career by founding the Vera Institute of Justice and reforming the bail system through what became his trademark method of working with the system to change the system. Sturz then moved on to develop and spin off a dizzying succession of Vera progeny organizations, taking on a wildly varying series of challenging issues of social reform, all of which involved addressing the most vital needs of those most desperately in need.

Sturz served as New York City’s deputy mayor for criminal justice under Ed Koch. He is currently Senior Adviser for the Open Society Institute (OSI), where he is again playing the role of designing and implementing reform initiatives. In recent years he has been instrumental in the creation of high-quality afterschool programs for children, engaging community-based organizations as partners. He has taken his model to scale, leveraging an initial investment by OSI to raise three times as much money in matching private and public sector funds. Thousands upon thousands of children now have access to enrichment opportunities who otherwise would not. As part of his efforts, Sturz helped

create the Afterschool Alliance, now headed by Jodi Grant, to lobby for universal afterschool programs for children. Grant will describe her work with Sturz and the creative partnerships they have developed with the private sector, government, philanthropy, schools, and the community to move their agenda forward.

Class 12 (Dec. 3): Evaluating Success in Child Welfare Reform: Spotlight on Early Home Visitation

Reading:

- *Nobody's Children*, Chapter 7, pp. 163-175
- Assignment Packet #12

Guest Speakers:

- **David Olds**, Professor of Pediatrics, Psychiatry and Preventive Medicine; Director, Prevention Research Center for Family and Child Health, Univ. of Colorado, Denver
- **Katya Fels Smyth**, Founder, On the Rise; Founder, The Full Frame Initiative

Intensive early home visitation programs represent a preventative approach to child abuse and neglect. They are designed to protect children by providing support for fragile families, enabling parents to learn successful parenting skills and to connect with productive educational and employment opportunities. Professor David Olds has developed a unique home visitation model, called the Nurse-Family Partnership, which has been shown to reduce child maltreatment. Rigorous social science evidence documents not only the efficacy of the model but also its cost-effectiveness. The Obama Administration has heralded NFP as a promising social program with a track record of success.

Increasing emphasis in the social sector has been placed on evaluation, measuring which social interventions work. Funders, policy-makers, legislators and non-profit directors are demanding “accountability,” and place increasing emphasis on programs achieving clear, measurable results. David Olds’ ability to expand his model, taking it to scale throughout the nation has benefited from this emphasis in combination with the nature and quality of his research. Katya Fels Smyth will question the emphasis currently being placed on experimental-design studies, noting their inability to always reflect which programs are truly effective. Recently Smyth founded the Full-Frame Initiative which is a practice-based, evidence-rich approach for helping marginalized individuals, families and communities. Before this initiative, Fels founded and directed On the Rise, a Cambridge-based organization which supports homeless women and women in crisis.