

# Children's Studies: A Proposal

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The conference and law review symposium that stimulated the articles published in this issue develop many important ideas. Additionally, each Article frames questions about what values this society should embrace and implement in the treatment of children. The articles made me think about the opportunity universities present for sustained and creative attention to children. I will explore this opportunity in a proposal for "children's studies" after commenting briefly on the symposium articles.

## I. COMMENTS ON THE SYMPOSIUM

Allan Samansky and Anne Alstott make considerable advances to clarify the consequences of alternative tax treatments for children's economic well-being. By elucidating the effects of personal exemptions, standard deductions, the Earned Income Tax Credit, and the proposed Child Tax Credit, the authors also sharpen for debate the underlying normative questions: (1) Should society create economic incentives to limit a family's number of children or instead arrange tax (and other) policies to be indifferent as to family size? And (2) Should the tax system make life easier for poorer or for richer families with children?

Barbara Woodhouse provides not only an insightful analysis of the Proposed Parental Rights and Responsibilities Act of 1995, but also offers a lucid presentation of the basic normative issues at stake: Should children be viewed as the sole responsibility of their parents or should there be a societal responsibility to protect rights of children or respond to needs their parents do not meet? Deborah Merritt presents a compelling argument that the persistence of teenaged childbearing in this country is not due to the lack of effective responses, but rather to the absence of political will to embrace programs that work. She also frames a new and fresh policy question: Should the energy devoted to debating and criticizing teen pregnancy be shifted to addressing poverty—which is not caused by teen pregnancy? Finally, Edward Foley proposes an intriguing alternative to child allowances: personal allowances and government-guaranteed jobs. His proposal puts into stark relief a question

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worthy of debate: Should society make it possible for a poor or working class family to rear one or two children above poverty but make it more difficult to rear additional children without falling into poverty?

Each of the contributors speaks to particular and pressing policy debates usually confined to their particular topic, such as tax policy or regulating teen pregnancy. Each also provides a refreshing mix of technical mastery and cogent articulation of basic questions of value. More fundamentally, however, the authors—from a range of perspectives—address how policies adopted by adults affect children, and in light of their consequences for children, again consider alternative policy approaches. All the authors address, in one way or another, the complex relationships among public and private societal policies, parental behavior, and children's well-being. Taken together, the articles illustrate the enormous potential of turning the attention of scholars to topics affecting children. Tax, social welfare, family law, federalism, public health, education, and legislation are among the most challenging fields in law. Expert scholars in these areas have knowledge crucial to the current and future well-being of children affected by these subject matters. The decision of The Ohio State University College of Law and its law journal to commission work from scholars in these fields has advanced specific policy debates and drawn attention to children in the process. This experience, I suggest, supports academic initiatives that bring together scholars from diverse disciplines and asks them to think about children's needs.

Each article depends upon assumptions regarding people's motivations and behaviors, the effects of policies, and the value of children to parents and society that could be challenged or enriched by recourse to insights available from scholars in areas of social science, humanities, biology, and other fields. Thus, social scientists might have something to say to Samansky, Alstott, and Foley that would sharpen and press their analyses, just as Samansky, Alstott, and Foley might pose questions to social scientists worth further study. Two particular questions of interest to lawyers and social scientists come to my mind: (1) How exactly do tax incentives and personal allowances influence reproductive behavior by married—and unmarried—adults? And (2) What are the long-term effects on the children's development and prospects if parents do not respond rationally to the incentives designed in fiscal policies, and therefore face economic burdens which place their children at risk of poverty?

Additionally, Barbara Woodhouse would no doubt like to explore with students of anthropology, history, and political economy how children have fared in societies that accept a social as well as parental responsibility for children. A truly interdisciplinary team would be needed to develop the further questions: What cultural practices and assumptions would be necessary to shift toward that direction in the United States? What normative resources internal to

this nation's traditions are available to support that shift? And what unintended and undesirable consequences might emerge from reducing parental responsibility and autonomy in regards to the well-being of their children?

Finally, Deborah Merritt makes fine use of social science research concerning both the effectiveness of programs addressing teen pregnancy and the sources of poverty among families and children. Cultural and political historians, however, might help her address why teen pregnancy receives inappropriate blame for poverty in this country compared with other countries, and child developmentalists could aid in the examination of why some children living in poverty thrive while others do not.

In short, the rich debate launched by this symposium demonstrates the value of challenging legal scholars in a variety of fields to think about children. It also invites an even broader exploration that would require a truly interdisciplinary exchange. In the service of both challenging more academics to think about children and deepening the resulting work, I propose here the creation of children's studies programs at universities.

## II. PROPOSAL FOR CHILDREN'S STUDIES

In setting forth my proposal for children's studies, I will first describe some precursors to this idea. Following this brief history, I will develop new possibilities for children's studies.

In the early part of the twentieth century, several universities created centers for studying child development that drew upon medical, psychiatric, and psychological expertise. Born of the then new fields of child development and mental hygiene, university-based researchers explored the links between parenting practices and social order.<sup>1</sup> Emerging schools of social work and

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<sup>1</sup> See generally JOHN EHRENREICH, *THE ALTRUISTIC IMAGINATION: A HISTORY OF SOCIAL WORK AND SOCIAL POLICY IN THE UNITED STATES* 67-69 (1985) (discussing the central arguments of the mental hygiene movement researchers in the 1920s, namely: (1) Personality traits in the individual are shaped by the environment. (2) Key environmental factors in shaping personality are emotional relationships in the home. (3) The critical emotional factors in the home have to do with childrearing. (4) Various modes of childrearing will produce accordingly different results. And (5) The key to maintaining social order and appropriate economic behavior lies in "normal" or "adequate" parenting.). Reflecting ties with the Progressive reformers from Hull House as well as the University of Chicago, the work of Sophonisba Breckinridge and Edith Abbott, in contrast, emphasized the impact of larger environmental factors on children's behavior and conditions. See generally ELLEN FITZPATRICK, *ENDLESS CRUSADE: WOMEN SOCIAL SCIENTISTS AND PROGRESSIVE REFORM 183-91* (1990) (describing Sophonisba Breckinridge and Edith Abbott's studies in the early twentieth century of children and contemporary social policy issues including the social origins of juvenile delinquents).

research psychologists worked with teachers, nurses, and doctors,<sup>2</sup> and developed child guidance clinics attached to juvenile courts.<sup>3</sup>

The Yale Child Study Center continues to this day to serve as a remarkable meeting place for professionals and scholars from different disciplines to come together to assist in evaluating individual children and to develop interventions to help children who face particular risks. In many respects, this Center does provide a model for the kind of intellectual work I advocate. Yet the Center is, at its core, oriented toward clinical work, the case-by-case study of individual children's psychological conditions. While this is one important approach, it does not exhaust the meaningful ways to understand children and their needs.

Several law schools have founded outstanding clinics to provide legal representation for children. The University of Michigan, New York University, Northwestern University, and Vanderbilt are particular leaders in this field.<sup>4</sup> Loyola University Chicago recently established the CIVITAS Child Law Center to provide comprehensive training for students seeking careers as child advocates.<sup>5</sup> The University of Nebraska has for many years sponsored innovative work on law and psychology, often involving children, and the University of California at Berkeley has for some time sponsored valuable work on children and government. University of Colorado's Medical School provides a home for the C. Henry Kempe National Center for the Prevention and Treatment of Child Abuse and Neglect, which brings physicians, social workers, lawyers, and other professionals together to discuss its particular issues. None of these programs, however, have engaged the entire university, challenging, for example, economists, political scientists, neurophysiologists, and art historians to pool their insights about what influences the well-being and societal treatment of children.

In some ways, my proposal resembles women's studies and African-American studies more than these specialized projects studying or serving children. Like women's studies, African-American studies, and other curricular programs focused on groups of people or particular cultures, children's studies should be truly interdisciplinary. Each of these interdisciplinary efforts puts a group of people at the center of academic attention and challenges the scholars

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<sup>2</sup> EHRENREICH, *supra* note 1, at 69.

<sup>3</sup> See generally 2 CHILDREN & YOUTH IN AMERICA: A DOCUMENTARY HISTORY 1040-57 (Robert H. Bremner ed. 1971) (discussing the origin and growth of the mental hygiene movement in regards to children and child guidance centers).

<sup>4</sup> See Diane C. Geraghty, *The Role of Legal Education in the Emerging Legal Specialty of Pediatric Law*, 26 LOY. U. CHI. L.J. 131, 132 (1995). New York University has also included family law as one of three areas of focus for the newly-launched Brennan Center on Law and Justice.

<sup>5</sup> *Id.* at 133.

trained in particular disciplines to make sense of the group's experiences, even if this means recasting prevailing modes of understanding. Shining lights from the varied angles afforded by history, literature, psychology, economics, anthropology, art history, and biology, for example, can illuminate aspects of experience that any one of these approaches could neglect. Integrative, interdisciplinary work in the area of children's studies could follow this encompassing method addressing, for example, how social expectations of children affect their capabilities, just as women's studies have explored how societal roles assigned to women have affected their self-understandings.

Children's studies departs from these other efforts, however, in at least three ways. Gender, race, and some cultural studies were long neglected in universities while children have been an enduring focus for at least some academic fields, such as psychology and anthropology. At the same time, women and members of minority racial and cultural groups attend and teach at universities and, in crucial respects, have pressed for programs to address their experiences in the curricula and in scholarship. Children, on the other hand, neither attend nor teach at universities. More basic is the fact that children lack a specific constituency to call for research and courses about them. At universities—as elsewhere in adult society—children are obvious subjects for other people's concern but not actors with authority or agendas.

Yet, and here is the special paradox about studying children, everyone who works, teaches, and learns at a university was once a child. This fact provides a basis for reflection, but also presents the risk that people may assume that, having experienced their own childhoods, they can speak for children. The shifting ways that adults, themselves, have perceived children across times and places offer a rich subject for children's studies. Juxtaposing views of children as laborers for factories, dangerous savages, innocent creatures, miniature scientists, or souls returning from prior lives can illuminate the role of culture in constructing childhood. No less valuable would be efforts to explore what sense children make of their own lives, and how children's self-understandings may change over time and vary across cultures.

In sum, a university center on children's studies should build on the comparative advantages of universities as places that support original research across the range of methods and disciplines. At the same time, such a center should challenge individual scholars who already work on children's issues to reach across scholastic lines and challenge those scholars not yet working on children's issues to think about how their field does or could influence children's well-being. Some universities intrigued by this idea might choose to sponsor work of the sort undertaken by policy "think tanks." Indeed, there is room for such an effort, especially if it could provide critical evaluations and alternatives to the work by groups that are, or are perceived to be, too partisan

to obtain credibility. Others may create community partnerships to improve programs for children and families.

Research more fundamental than short term policy analysis is both what the nation needs and what universities could uniquely support. Especially needed are efforts to articulate and frame normative issues deserving public debate and scholarship and to identify and render comprehensive competing intellectual, moral, and political traditions affecting the treatment of children. I would also hope for initiatives to test the empirical assumptions made in normative theories and the normative assumptions made by empirical studies of children and their development. Thus, studies of tax compliance would strengthen discussions of alternative tax code treatment of family status.<sup>6</sup> Examinations of the historical frameworks affecting theories of child development would provide important context for evaluating contemporary theories. Pressing questions about how social arrangements affect children could help bridge the gaps between disciplines, like psychology, that focus on individuals, and disciplines that focus on society, such as sociology and economics. Work along these lines would hold excitement for the development of disciplines and scholarly knowledge while considerably strengthening the nation's knowledge base for making decisions about children.

Two additional dimensions make children's studies especially promising as a focus for university attention. The first is the simple fact that universities have students, as well as scholars. If children's studies included undergraduate courses, undergraduates never planning to work professionally with children would nonetheless benefit as potential future parents and civic leaders. Courses connecting insights about child development with cross-cultural and historical explorations of the treatment of children could better equip students who will be teachers, lawyers, journalists, physicians, and social workers, as well as voters, with an understanding of children's issues. Such courses could, of course, also draw some students into further study and work with children while giving faculty members the occasion to work across disciplines on joint courses.

Graduate students, as well, would gain from interdisciplinary courses, particularly as each discipline dealing with children acknowledges their own limitations. For example, psychology professors increasingly discuss the need to attend to cultural context—and to learn from anthropology and sociology.<sup>7</sup>

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<sup>6</sup> See generally Anne L. Alstott, *Comments on Samansky, "Tax Policy and the Obligation to Support Children"*, 57 OHIO ST. L.J. 381 (1996); Allan J. Samansky, *Tax Policy and the Obligation to Support Children*, 57 OHIO ST. L.J. 329 (1996).

<sup>7</sup> I have encountered this sentiment not only in discussions with members of Harvard's psychology department, but also as a member of the program committee of a foundation funding research about children.

Law students, medical students, and graduate students in clinical psychology and social work could work on communicating their questions and insights in joint seminars rather than waiting until they encounter one another in professional collaborations after graduation.

Universities have the chance to model internally a kind of collaboration and coordination among people interested in children that is sadly often lacking elsewhere. School principals and teachers, special education experts and social workers, nurses, and counselors each have distinctive training, programs, funding, and priorities; a particular child may have to negotiate ways to relate to each of them. The gaps and conflicts among social welfare programs, health care, employment practices of parents, and school schedules for children similarly betray the failure of adults to collaborate around children.<sup>8</sup> In the short-run, imaginative administrators and programs to integrate services for children would help. To move beyond these short-run approaches, though, we need to re-imagine societal practices from the points of view of children, and no institution is better situated to undertake that enterprise than universities.

### III. CHALLENGES

The very aspiration of modeling a collaborative, interdisciplinary approach to children circles around the greatest obstacle to children's studies within universities: The boundaries between disciplines, patrolled by monitors of expertise and defended by academics' desires to control their own turf, create real barriers to an innovative curricular and research initiative. Without a vocal constituency for children's studies, these barriers may prove unyielding. Children's studies may fail or may be captured by one department or one group of people.

In addition, the late 1990s are far from a growth period within universities. Instead, this period marks a time of budget cuts, which translates into a further tightening of disciplinary boundaries. Paradoxically, the difficult economic times encountered by universities may work to the advantage of children's studies. Both public and private funders may ask for more immediate demonstration of universities' value to the society. Promoting work in children's studies may afford just such a demonstration, especially if the university fosters collaborations with local schools, health care organizations, and other settings dealing directly with children.<sup>9</sup>

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<sup>8</sup> See generally RICHARD WEISSBOURD, *THE VULNERABLE CHILD: WHAT REALLY HURTS AMERICA'S CHILDREN AND WHAT WE CAN DO ABOUT IT* (1996) (describing lack of coordination in services for children and growing interest in models of service integration).

<sup>9</sup> University of Alabama has asked each faculty member to include in a year-end report details of involvement with community efforts to help children. See Craig T. Ramey &

It is appropriate for me to end this comment by lauding the recent commitment by The Ohio State University College of Law to the "Justice for Children Project."<sup>10</sup> Based in the law school and addressing rights for children, the project aims to bridge theory and practice in pursuit of equality for children through research, conferences, publications, course materials, and clinical practice. It invites interdisciplinary collaborations. Professor Edward Foley has explained that the project is a valuable way to link "big thinkers of the university with the real world beyond the confines of academia."<sup>11</sup> It can also challenge scholars to address children's needs in fields, such as procedure and tax, that at first blush may seem remote, but in practice have profound effects on children.<sup>12</sup> A group at Harvard has also launched, in a more preliminary stage, a project on children's studies.<sup>13</sup>

I hope that before the end of the twentieth century, children's studies becomes a familiar and constructive force within universities. Rather than treating children as incidental parties affected by adults' concerns, or as invisible players in debates over law and policies, children's studies can bring the needs and interests of children to the center of attention. As scholarship and the growth of knowledge improve, so indeed might the lives of children.

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Sharon Landesman Ramey, *Children, Society, and the Role of Universities* (1995) (first working draft of a commissioned paper prepared for Harvard University, on file with the *Ohio State Law Journal*).

<sup>10</sup> See generally THE OHIO STATE UNIVERSITY COLLEGE OF LAW, JUSTICE FOR CHILDREN PROJECT (1995) (pamphlet discussing the facilitation of dialogue between theoreticians and practitioners in the field of children's rights through a Project on Justice for Children held at the Ohio State University College of Law); Beth Lindsmith, *And Justice for All*, 16 OHIO STATE QUEST 16 (Autumn 1994) (discussing Justice for Children Project including the components of the project and why there is a need for such a project).

<sup>11</sup> Lindsmith, *supra* note 12, at 16 (quoting Professor Edward Foley).

<sup>12</sup> *Id.*

<sup>13</sup> Part of the interfaculty Harvard Project on Schooling and Children, the project on children's studies at Harvard sponsors and distributes information about relevant courses, stimulates interfaculty seminars and university-community collaborations. See Katherine K. Merseth, *Martha Minow—A Profile*, 2 KALEIDOSCOPE 7 (Winter 1996).