TAKING ADOPTION SERIOUSLY: RADICAL REVOLUTION OR MODEST REVISIONISM?

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TAKING ADOPTION SERIOUSLY: RADICAL REVOLUTION OR MODEST REVISIONISM?

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This book\(^1\) is about the children who are growing up without true families — without, that is, families that are functioning to provide the kind of care and nurture that is essential to well being. It is about victims who are the children of victims. It is about children born to parents who are themselves the products of inadequate parenting, of poverty and unemployment, of drugs and alcohol, of violence at the hands of their mates or of strangers. It is about black children and white children, Latino, Native-American and Asian children. It is about children growing up in homes in which they are physically brutalized or sexually exploited. It is about children born damaged by drugs and alcohol used during their mothers’ pregnancies, children in need of very special parenting to overcome the damage, but who are sent home to parents whose first love is their drug. It is about children who grow up parenting themselves and their siblings as best they can because the adults in their home are not mentally or emotionally capable of parenting. This book is about the children left to grow up in inadequate homes, but also about the children removed only to be placed in inadequate foster or institutional care. It is about those who will spend the rest of their childhood in state custody, and about those who will spend it bouncing back and forth between foster care and their homes of origin. These are Nobody’s Children.

This book is also about the culture that makes it possible to see children as Nobody’s, or Somebody Else’s, and certainly Not Ours. It tells the story of how our child welfare policies came to place such a high value on keeping children in their families and communities of origin without regard to whether this works for children. It envisions a new culture in which the larger community assumes responsibility for the well-being of its children, a culture in which we understand children born to others as belonging not only to them, and not only to their kinship or racial groups, but to all of us.

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\(\text{Nobody’s Children} \) by Elizabeth Bartholet
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\(^1\) This article is adapted from portions of the Introduction to the author’s book, \(\text{Nobody’s Children: Abuse and Neglect, Foster Drift, and the Adoption Alternative} \) (Beacon Press, 1999). The book’s central themes formed the basis for the author’s Sullivan Lecture, presented at the inaugural symposium of The Dave Thomas Center for Adoption, “Adopting More Kids: Barriers and Solutions,” February 9, 1999.
I. KINSHIP AND COMMUNITY

"It takes a village to raise a child," is a popular cry among child welfare professionals. The reference is to an African tradition in which the child is seen as the responsibility not simply of the family but of the entire village. Also popular is Carol Stack's work, *All Our Kin*, in which she describes the African-American family as an extended kin network, with various members standing in as substitute parents as needed.

These images have tremendous appeal. It feels good to think of the child nestled in the arms of its parents, with supportive family members ready to help in good times and bad, and with the village community there for the child and the family from day one. It fits with our intuition that in the best of circumstances nuclear family units cannot be expected to provide everything that a child needs all the time. And it fits with the reality that in modern America huge numbers of children are growing up in family situations that are far from ideal — in families torn apart by poverty and drugs, in neighborhoods characterized by violence, unemployment, and despair.

For our children to thrive, they *do* need a community which takes significant responsibility for their care and nurture, rather than leaving them dependent on their nuclear family unit's ability to make it in the competitive struggle. But our country has traditionally been more reluctant than many to assert responsibility for its children, because of the value placed in our culture on individual and family autonomy, and on the free market. We do far less than most countries in Europe, for example, to support parental leave from work, to subsidize community child care, or to make health care generally available.

Many in the child welfare world have argued for decades that our government should do more to provide children with support, but they too have been resistant to incursions on family autonomy. When the individual family unit breaks down, and the child is subject to abuse or neglect, they tend to resist the notion that the state should intervene in the family to assume responsibility for the child. They resist, for example, efforts to sanction parents for child maltreatment, or to remove the child and find another family that can provide adequate parenting. They contend that extraordinary efforts should be made to keep the child first within the family of origin, and next within the kinship group, and next within the racial or community group of origin. They argue that the child's best interests should be understood in terms of its connection to and continuity with its past — its

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3 "Maltreatment" is used throughout the book to include the concepts of abuse and neglect, and without regard to whether any active malfeasance on the parent's part is involved.
birth heritage and its racial group heritage. They see the child as belonging to its blood kin and its local “village.”

I want to enlarge the understanding of “kin” and “village.” Children will be able to thrive in our society only if we begin to think of children born to other people, and to other racial groups, and to poor people, and to people who live elsewhere, as in some sense “ours.” When a child’s parents prove unfit, their blood kin will sometimes be the best candidates to take over parenting responsibilities. There will sometimes be advantages for the child in maintaining continuity with its past and its heritage. But this will depend on what those kin and that past and that heritage look like. It will depend on the reality of the child’s particular family and local community. Often, the blood kin are plagued by the same problems as the child’s parents. And rarely does the local community look like the cozy village envisioned by the African proverb. Parents who are responsible for serious forms of child maltreatment tend disproportionately to have suffered abuse and neglect from their own parents. And while abuse and neglect exist on all socio-economic levels, it is most highly concentrated among those most disadvantaged. Accordingly, the victims of child maltreatment and abuse tend disproportionately to live in neighborhoods characterized by poverty, unemployment, drugs, crime, and violence. These types of neighborhoods provide children and families with the least supportive environments.4

We need to stop romanticizing “heritage,” and recognize that while children’s lives may be enriched by maintaining some continuity with their past, children’s vital needs are for parents committed to and capable of caring for them today and in their future. It does take a village to raise a child, but we have to look to the entire community to be that village — to provide support in the first instance, and in the event things go terribly wrong, to provide protection and alternative parenting.

II. THE RACE/CLASS PROBLEM

But there’s a problem in looking to the entire community to take care of all its children. We live in a society in which that community is segregated along race and class lines. The local villages are often black or Latino or white villages. The families in trouble, in which children are threatened with abuse and neglect, and from which children are removed to foster care, are disproportionately poor, and they come disproportionately from racial minority groups. If the state, representing the larger community, steps in to protect children, it intrudes on the lives of those already oppressed. If the state takes their children away, it takes the only thing many of these families feel they have in this world. If the state moves children from impoverished minority race families to families in the larger community, families outside

the local village, families which may be in a better position to parent because they enjoy the luxury of decent jobs and housing and schools, is this the larger community stepping in to provide help? Or is this the ultimate form of exploitation? Is this class and race warfare?

There's another problem also. In a class and race segregated society, how do you get the well-off groups to care about the children who most need care — children it may be easy to think of as foreign "others." How do you get funds devoted to programs designed to prevent child maltreatment? How do you get people to step forward to offer their homes and their hearts, to become foster and adoptive parents to the children in need?

Race and class issues dominate policy in this area, although the issues are rarely addressed honestly in a way that illuminates for onlookers their power. Change is impossible unless we can face up to the issues. Debate has been silenced, and potential actors paralyzed, by fear of opening up wounds and triggering rage, fear of proposing or taking action which would victimize already victimized groups, and fear of being accused of racism and classism.

Addressing these issues is not easy. In the first place, the answers are not easy. Many smart people who have committed their lifetime career to civil rights, poverty rights, children's rights, and many smart people who have spent their careers dedicated to running and to improving the child welfare system, are convinced that the kind of family preservation policies challenged in this book are appropriate policies. They think we should do better by poor families and their children, but they are suspicious of using child removal or adoption except in the most extreme cases. These people obviously care deeply about improving children's lives, and they are convinced that family preservation policies serve that purpose, even if the current system leaves much to be desired.

It's also not easy if you see yourself as someone who is committed to racial and social justice, to take positions which trigger claims that you are promoting racial genocide, and that you have deserted the war on poverty for the new war on the poor. I write as someone who has devoted most of my career to civil rights work, and to work on behalf of some of society's ultimate outcasts, people striving to overcome histories of criminal conviction and incarceration, people struggling with substance abuse, and people stricken by AIDS. I understand the concerns that lead some to

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5 I worked with the NAACP Legal Defense and Educational Fund, Inc., from 1968-72, and then founded the Legal Action Center, an organization focused on helping those with drug and criminal histories fight discrimination, obtain employment and other opportunities, and receive appropriate treatment services. I directed the Center until 1977, when I joined the Harvard Law School Faculty, and I have continued to serve on the Center's Board of Directors through the present time. I also worked for the President's Commission on Law Enforcement and Administration of Justice, the Legal Aid Society of the District of Columbia, and the Vera Institute of Justice, during the periods 1966-68, and 1972-73, respectively.
equate state intervention to protect and remove children with class and race warfare. But I don’t see things that way. I think it’s important that those of us who understand ourselves as liberals concerned with social justice speak out, rather than being silenced by doubt and fear. In recent years, it has been conservatives who have pushed most zealously for changes in law and policy designed to protect children against abuse and neglect, for limits on family preservation and for expanded use of adoption as a method of providing children in need with nurturing homes. But unless liberals join with conservatives to promote children’s interests, there will be no real change.

The starting point for honest and meaningful debate has to be recognition that racial and social injustice is the problem at the core of child abuse and neglect. The parents who treat their children badly are themselves victims, and if we want to stop the vicious cycle, we need to create a society in which there is no miserable underclass, living in conditions which breed crime, violence, substance abuse and child maltreatment.

But at the same time we need to recognize that children who are abused and neglected, children who are growing up in foster and group homes, are also victims. Like their parents, they are often black and brown skinned victims, and they are generally poor. Keeping them in their families and their kinship and racial groups when they won’t get decent care in those situations may alleviate guilt, but it isn’t actually going to do anything to promote racial and social justice. It isn’t going to help groups who are at the bottom of the socio-economic ladder to climb that ladder. It is simply going to victimize a new generation. Moving those children into nurturing homes will give them, at least, a chance to break the cycle.

These homes might be with kin, they might be with same-race non-kin, they might be with other-race parents from the other side of town. What matters is that the child get into a home where it can thrive. But if we want to find truly nurturing homes for all the children in need, we have to reach out to the entire community. Most of the local villages at issue are not going to have enough good homes to spare. Encouraging people who are in a position to provide good parenting to step forward, without regard to race or class or membership in the local village, encouraging them to see children born to others as children they feel responsible for, can be painted as a form of vicious exploitation. But that’s not how I see it. It seems to me that if more members of the larger community thought of all the community’s children as their responsibility, we’d have a lot better chance of creating the just society that is our goal.

III. BLOOD BIAS AND FAMILY AUTONOMY POLITICS

At the core of current child welfare policies lies a powerful blood bias — the assumption that blood relationship is central to what family is all about. Parents have God-given or natural law rights to hold on to their progeny. Children’s best interests can be equated with those of their parents because parents have a natural inclination to care for their young. These beliefs are
deeply entrenched in our culture and our law. And they are common to the thinking of people from one end of the political spectrum to the other, although left and right may articulate different concerns. Some speak of children’s rights to their roots and heritage. Others speak of adult rights to procreate and of parents’ rights to guide and control the children they produce. But most share a deep sense that those children “belong” with and to their biological parents.6

Also at the core is the related idea that the state must be kept from interfering with parent-child relationships and family privacy. Again left and right tend to agree on the overriding goal, while emphasizing different reasons, and motivated by different issues. Those concerned with poor and minority group interests are afraid that state intervention will discriminate against these groups, resulting in even greater oppression. Those concerned with women’s interests are concerned that state intervention will discriminate against women, as they do most of the parenting. They welcome state intervention to protect women and children against violence by adult males, but oppose state intervention that might interfere with women’s authority over their children. They promote women’s privacy rights to protect against state intervention in the parenting arena as in the pregnancy arena, and for many of the same reasons. Those concerned with individual liberty rights see state intervention in parenting relationships as a threat to individual autonomy.

But just as left and right have joined in supporting the current system, individuals and groups from all parts of the political spectrum have come together in recent years to promote change, questioning the supremacy of family preservation policies, and promoting adoption as an important option for children. Prospects for real change in child welfare policies in the future depend on whether powerful new political coalitions can be built based on new understandings of the meaning of family and the role of the state. There should be potential for left and right agreeing that true parenting is defined more by social bonds than by blood. There should be potential for left and right agreeing that children have liberty interests as well as adults, and that like adults they may need the state to protect them against oppression.

In dealing with violence against women, women’s rights advocates have forced the larger society to recognize that family privacy concepts were being used to bolster men’s power over women in the home. They have forced us to recognize that violence and oppression are not private, but public issues, and that women deserve protection by the state. They have taught us that family preservation is not always the answer — that where women are being oppressed, liberation from their oppressors is what they may need, and a

chance for a new start elsewhere. Women and men need to apply these lessons as they look at the situation of children today.

Change is in the air, and change is possible. But it’s clear from looking at today’s child welfare landscape, that we’re not there yet.

There is much talk today about changing the child welfare story for children born in the 21st century. Some call for increased support to all families to protect against trouble developing. Some call for earlier and more active intervention in families once children are identified as victims of abuse or neglect.

But while few defend all aspects of the current story, there is tremendous commitment to certain of its features, and tremendous resistance to the development of a significantly changed alternative. Family support is a hard sell in an era of hostility to big government, and to welfare spending. Family autonomy remains overwhelmingly popular. Early intervention programs that send Home Visitors into families to help educate parents and protect their children are spreading, but virtually no one suggests that they should be made mandatory like early childhood education, even though it is generally recognized that the most troubled families are also the most unlikely to participate in voluntary programs. Intervention by child welfare authorities to remove children victimized by abuse and neglect, and placement of children outside of their kinship and racial groups, are often denounced as a form of class and race warfare by those who play a key role in making policy.

IV. NEW DIRECTIONS FOR THE 21ST CENTURY?

A. The Apparent Seachange

There has been an apparent seachange in attitudes toward family preservation, adoption and related issues of children’s rights, in these final years of the 20th century. Popular reaction to the “Baby Jessica” case is illustrative. Jessica was placed for adoption shortly after birth, and lived with the prospective adopters for two and one-half years while they fought over her future in court with the birth parents. In the end the courts ordered her removed and sent to the birth parents in deference to their biological rights, and without giving any legal recognition to the social relationship between Jessica and the people who had nurtured her since birth, or to their interests in preserving that relationship. The only court that considered Jessica’s interests found that she would be best off staying with the parents with whom she had been living. But the highest courts of two states found Jessica’s interests irrelevant, and allowed blood rights to trump social bonds, and the Supreme Court of the United States refused to intervene.7 While the court

7 See In re Clausen, 502 N.W.2d 649 (Mich. 1993); In re B.G.C., 496 N.W.2d 239 (Iowa 1992).
rulings were consistent with the value American law traditionally has accorded biological parent rights, they triggered an overwhelmingly hostile public response. It seemed that the law was out of synch with popular understanding of the meaning of family, and the value that should be placed on the child's interest in a nurturing parental relationship. On the streets and in the polls, on the talk shows and in their actions forming new activist groups, people demonstrated their belief that real parenting had more to do with social relationships than with biology, and their concern that Jessica's interests be weighed at least equally with those of the adults who gave birth to her.

The 1990s have also seen an enormous upsurge in interest in adoption among prospective parents, and related attention by the media, with some reporting that adoption has really turned a corner, shedding the stigma of the past.

Simultaneously, criticism has been leveled at the family preservation policies that keep some children in abusive homes, keep others in foster care, and keep still others bouncing between foster homes and their homes of origin, or from one foster home to another. Persuasive new research has called into question the claims made for the success of Intensive Family Preservation Services (IFPS) programs, claims that had helped popularize these programs in the 1970s and 1980s. Policy-makers in some states and localities have begun to introduce changes designed to free more children from abusive families and move more children stuck in foster limbo on to adoptive homes. Leading scholars in the child welfare research community have made a powerful case for limiting the excesses of family preservation and for placing a higher priority on children's developmental needs, and on permanency and adoption as the way to meet those needs.

Most dramatically, the federal government has passed legislation radically changing the rules of the game. The Multiethnic Placement Act, known as MEPA, was passed in 1994 with the goal of eliminating the racial barriers that stood in the way of placing black children in need of foster and adoptive homes. The MEPA was strengthened in 1996 to prevent federally

8 The Baby Jessica case led directly to the formation a group now known as Hear My Voice, located in Ann Arbor, Michigan. The "Baby Richard" case, involving similar issues, led to the formation of Kids HELP! in Chicago, Illinois.


10 See, e.g., Richard Barth, Abusive and Neglecting Parents and the Care of Their Children, in ALL OUR FAMILIES: NEW POLICIES FOR A NEW CENTURY 217 (Mary Ann Mason et al. eds., 1998).


funded agencies from using race at all in foster and adoption
decisionmaking. Given that the near-universal policy and practice
throughout the nation had been for child welfare agencies to place children
with same-race families if at all possible, this law was truly revolutionary in
concept.

Even more significant is the Adoption and Safe Families Act (ASFA)
enacted in 1997. This Act was designed to undo some of the damage that
Congress perceived had been done by a 1980 federal law that required states
to make reasonable efforts to preserve families before removing children on
a temporary or permanent basis. Many felt that the earlier law had been
interpreted to require family preservation efforts even in cases where children
had been subjected to horrendous maltreatment, and where there seemed no
prospects that they could ever live safely at home. The ASFA seems
designed to create a new regime that places a much higher value on
protecting children against abuse, and on giving them a permanent nurturing
home at the earliest possible point in time. The ASFA tells child welfare
agencies that they must make reasonable efforts not only to preserve families,
but also to move children to permanency when preservation is not
appropriate. The Act says, for example, that in certain egregious cases of
torture or other extreme forms of abuse, and cases where parents have
murdered a sibling, no efforts to preserve the family need be made, and states
must file action to terminate parental rights. It also creates strict time
deadlines designed to limit the period children can be held in foster care for
family reunification efforts, before they are moved on to adoptive or other
permanent homes. The ASFA also creates a new emphasis on adoption as a
positive option for children. It offers states financial bonuses for increased
adoption rates, and it threatens them with financial penalties if they fail to
live up to its various new rules.

Adoption is enjoying new popularity, and family preservation is under
attack from a variety of different directions. But it remains unclear as we
enter the 21st century whether the seachange is more apparent than real, and
whether child welfare policies will actually undergo fundamental rather than
cosmetic change.

B. Traditional Undercurrents

Family preservation has always been the dominant modus operandi in the

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13 See the Removal of Barriers to Interethnic Adoption Provisions of the Small
1998).


child welfare system. The pendulum has swung back and forth, but always within a narrow scope. The state has placed greater value on family preservation at certain times in history than at others, but throughout has ranked it extremely high. The choices for children have, accordingly, been defined narrowly. When the pendulum swings in the family preservation direction we try to avoid child removal at all costs and to return children who are removed as quickly as possible. When the pendulum swings in the opposite direction, we intervene more readily to protect children, removing them to foster or institutional care, and leaving them there for long periods, formally tied to their parents, who retain parental rights and the opportunity to regain custody.

Adoption, which involves the severing of birth parent rights and the provision of new parents for the child, has never been treated as a serious policy option. Adoption had to be created by legislatures in the mid-19th century, rather than gaining legal recognition through the common law, because termination of the relationship between birth parent and child was seen as so alien to our inherited tradition. From the birth of state child welfare systems in the latter 19th century through today, adoption has been seen as an arrangement suitable only for the truly exceptional situation, rather than as a normal and appropriate way to arrange for the care of children whose birth parents cannot or will not provide care. Family preservation has been regularly promoted and defended on the basis of a claim that the only alternative for children is foster and institutional care. Out of the more than half million children in foster care in 1997, no more than 27,000 were placed in adoptive homes. President Clinton’s Adoption 2002 initiative, billed as a major effort to promote adoption, set as a goal the doubling of that figure in five years. This seems a modest goal in light of the scope of the problem. The foster care population has roughly doubled in size since the latter part of the 1980s, reaching historic heights.

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19 See President Clinton’s Executive Memorandum, supra note 18.
20 The number of children in foster care grew by an average 24,000 per year from 1987-98, rising from 280,000 to 520,000. See e-mail from Penelope L. Maza, Senior Policy Research Analyst, Children’s Bureau, U.S. Department of Health and Human Services,
million children are victimized by serious maltreatment each year.\textsuperscript{21}

Experience with the 1980 federal legislation targeted by ASFA also cautions against assuming too readily that ASFA or any other of the new legal initiatives will result in radical change. This 1980 legislation, called the Adoption Assistance and Child Welfare Act,\textsuperscript{22} grew out of concern with the increase in the foster care population during the 1970s, and the lengthy periods many children were spending in care. It was designed to further the goal of permanency for children \textit{either} in their home of origin \textit{or} in an adoptive home. Family preservation was the first priority, with states mandated to make reasonable efforts to keep children in their homes, and to reunify children who had to be removed. But the Act was also designed to ensure that children move promptly on to adoptive homes if their birth parents could not provide appropriate parenting. To this end, the Act created time deadlines for the establishment of a Permanency Plan for each child in foster care, and for court review of the progress in achieving permanency. The 1980 Adoption Assistance Act was thus remarkably similar to the new ASFA in its general design and goals, even though ASFA is obviously intended to change the situation that the 1980 Act helped create.

Something went wrong as the Adoption Assistance Act moved from the design to the implementation stage. The family preservation piece of the Act took over while the adoption piece largely disappeared. The Act came to be read by many as requiring efforts to preserve families at all costs, and regardless of whether the efforts were "reasonable" given the nature of the family and of the maltreatment involved. While initially the Act may have stimulated efforts to move children on to adoption, these initiatives died an early death. And the Act's time deadlines were routinely ignored. Its


requirements regarding permanency planning and court reviews proved inadequate to accomplish the goal of moving children into permanent adoptive homes promptly, and eliminating foster limbo.

So this law, which seemed designed to give new life to adoption as an alternative option for children, ended up functioning primarily as a family preservation law. How could this happen? Presumably in significant part because those in a position to apply the law were committed to family preservation and averse to adoption, and because the law was written in such a way as to enable them to subvert some of the law's apparent goals. And in significant part because those in the federal bureaucracy responsible for enforcing the law were similarly committed to traditional ways.

Radical as MEPA and ASFA look in their design, there is good reason to wonder what impact they will have in changing child welfare policies. MEPA has already triggered enormous resistance.

State social service agencies tend to be committed from top to bottom to their race-matching ways. Private foundations and nonprofit child welfare groups have joined forces with public agencies to promote 'kinship care,' in part to help ensure that children in need of homes remain within their racial group. 'Cultural competence' is one of the code phrases in the post-MEPA era for assessing whether agencies remain sufficiently committed to same-race matching, and whether they are doing enough to recruit families of color to make same-race placement possible. The U.S. Department of Health and Human Services, responsible for enforcing MEPA, is peopled with child welfare traditionalists imbued with the race-matching ideology, and has done little to date to ensure that federally funded state adoption agencies live up to MEPA's mandate. MEPA may someday have a significant impact but, for now, race-matching by the state is alive and well.²³

The ASFA was enacted with broad political support, which can be read as demonstrative of the nation's commitment to adjust the balance between family preservation and adoption, and to place a higher priority on children's interests in safety and in permanent nurturing homes. But the broad support also signals political compromise. The child welfare establishment had fought MEPA behind the scenes and tried to weaken its mandate. Its members were heavily involved in the lobbying over ASFA also, and their support for the version that emerged indicates that they felt they had achieved much of what they wanted. Analysis of ASFA's specifics shows why. The

Act reauthorizes federal funding for family preservation, and increases the amounts to new levels. The Act’s emphasis on moving children promptly to adoption if they cannot stay safely at home is subtly undermined by a series of exceptions and loopholes. States are exempted from the requirements to free children for adoption if the state has failed in its duty to provide family preservation services, or if the children are in kinship care. The Act’s title and opening preamble seem to make adoption a primary goal, but the Act’s key operative provisions make permanency primary, equating adoption with other permanency options like guardianship, which from the child’s perspective may not be at all equal. While ASFA’s emphasis on child safety seems to give the child’s interests a new priority, the safety focus means that the bill excludes from specific coverage the overwhelmingly important, and contentious, “neglect” category. Neglect cases in today’s child welfare world are generally not, as many assume, dusty house cases or other cases in which middle-class social workers are inappropriately imposing their personal standards on persons from other classes or cultures who are doing a fine job of raising their children. Those cases that make it to the CPS caseload are typically cases of severe, chronic neglect in which children are effectively without functioning parents, or are for other reasons at serious risk. The overwhelming preponderance of the children in foster care have been removed from parents with serious substance abuse problems. Most of these cases get categorized as neglect cases, and most of them are cases in which the children are at serious risk — risk that may include the risk of physical abuse, as well as the risk that they go without adequate food, clothing, housing, supervision, and without the kind of affirmative attention children require. The ASFA’s failure to specifically address either neglect or drugs exempts these cases from some of the Act’s most important protective provisions. In the negotiations over ASFA’s language, some child advocates fought to make child well-being rather than child safety central. When they gave up child well-being they gave up a lot.

The child welfare establishment is hard at work today pushing for the development of new programs, and the expansion of old, that are consistent with the family preservation mode. Foundations that played a key role in developing and promoting Intensive Family Preservation Services programs are now putting their resources into promoting “community partnerships.” The community partnership concept is designed to divert from the state CPS system a huge percentage of the abuse and neglect cases that now trigger CPS intervention for purposes of investigation and decision-making as to whether to provide services or take more coercive action. The claim is that families will do better if local community groups provide services on a voluntary basis. “Family group decision making” is being promoted as a way of empowering the extended family unit to decide how to deal with abuse and neglect cases, and as a way of ensuring that more of the children involved are able to stay with their families rather than being removed. Many advocate for the expansion of kinship foster care, and for the creation of subsidized
permanent guardianship arrangements under which kin and other caretakers would be paid the equivalent of foster parent stipends without being subject to the state supervision that goes with foster parenting. These and other recent initiatives could be developed and applied in ways that bring real benefits for children and their families. But they also hold the potential for drastically undermining current efforts to create a more child-friendly care and protection system. They may function to provide convenient end runs around MEPA, ASFA, and related policies designed to place greater emphasis on children's needs to be protected against abuse and neglect, and to be provided with nurturing homes as early in life as possible.

So while change is in the air, it may not really happen.

V. THE CHALLENGE PRESENTED: AMERICA'S "ORPHANS"

Today's climate presents an extraordinary opportunity to move in new directions. There does seem to be a new level of popular support for taking children's interests seriously, and for rethinking the meaning of family.

We need to seize the opportunity. Abuse and neglect rates keep rising to new levels, and experts believe that the statistics reflect real increases, not simply changes in consciousness or reporting practices. The most serious maltreatment cases quadrupled between 1986 and 1993. Homicide is a leading cause of childhood death, and the leading cause of childhood death due to injury. Huge numbers of children are born damaged by drugs and alcohol used by their mothers during pregnancy. Huge numbers are growing up with parents whose abuse of drugs and alcohol make them incapable of providing the kind of care that is essential for children to thrive. The foster care population has doubled in little more than a decade, and the children coming into foster care are more damaged than in previous years. Infants are coming into care in disproportionate numbers, they are destined to stay in care for longer periods than older children, and they are more likely to be living in group homes or institutions. Each year 25,000 children graduate from state care because they turn eighteen and go forth into the world on their own, never having had a permanent family.

These are America's modern-day orphans, growing up effectively without parents. They have no chance to enjoy what are supposed to be the pleasures of childhood. And they emerge into adulthood with limited prospects for life. In grossly disproportionate numbers, they will go on to homelessness, unemployment, crime, substance abuse and maltreatment of the next generation of children.

Safety and permanency are the mantras of the day. But children need more than protection from physical or sexual violence, and they need more than permanency. They need permanent parents who can give them the kind of love, attention, and on-going commitment that enables human beings to thrive.