

*An acclaimed family law and civil rights activist exposes the truth
about America's child welfare system.*

Nobody's Children

Abuse and Neglect, Foster Drift, and the Adoption Alternative

By Elizabeth Bartholet



Despite mounting public outrage and new legislation, abused and neglected children continue to be returned to their biological homes, or left languishing in foster care, instead of being adopted. Why?

It is estimated that more than three million children a year are subjected to serious forms of abuse and neglect. Agencies have been created to help these children. They are "child welfare" agencies, designed to protect America's young people. But for the millions of children who are maltreated, and the half-million who end up in the system—those bounced back and forth between foster and biological homes, those returned to drug-addicted and often abusive parents, those placed with relatives who are only marginally able to care for them—there is a serious question as to the validity of the term "child welfare." Who's welfare is being protected?

In *Nobody's Children: Abuse and Neglect, Foster Drift, and the Adoption Alternative*, Harvard Law Professor Elizabeth Bartholet, a renowned civil rights and child welfare specialist, examines the plight of children victimized by abuse and neglect and finds that often it is the welfare of the family or the child's community of origin that is most protected by the laws and policies governing child welfare agencies. She makes an urgent case for adoption to be made a viable option for these children, noting that it is seriously discouraged by today's policies, especially in cases where the prospective parents and the child are of a different race.

"Huge numbers of children are growing up in this country without what all children need—true parenting," she writes. "Almost all of them have parents in the legal sense—people who by virtue of procreation have the legal rights and responsibilities of parents. Many of them also have foster parents, or group home parents, or other institutional caretakers. But, however many official parents they may have, they are without the parents they really need."

Bartholet examines recent federal laws and policy changes, such as the Multiethnic Placement Act, the Adoption and Safe Families Act, and President Clinton's Adoption 2002 Initiative, that mandate the prompt placement of foster children into permanent homes. While the spirit of this legislation is hopeful, Bartholet notes that traditional attitudes threaten real progress. "Adoption, severing the birth parents' rights and providing new parents for the child, has never been treated as a serious policy option," Bartholet writes. "From the beginnings of modern child welfare systems in the latter nineteenth century through today, adoption has been seen as an arrangement suitable only for the truly exceptional situation. Family preservation has been

Nobody's Children: The Facts

Over three million children a year are reported to state CPS authorities as a result of suspected abuse or neglect.

Of all the children returned to their parents after having been removed for abuse and neglect, fully one-third are removed yet again based on new charges of maltreatment.

Roughly two thousand children are estimated to die annually as a result of abuse and neglect. Homicide is *the* leading cause of infant death due to injury.

Outcome studies have confirmed that children deprived of active nurturing don't do well, giving the lie to any notion that neglect should be thought of as minor. Neglect causes permanent emotional damage and cognitive deficits. Its immediate and long-term damage is comparable to that caused by physical and sexual abuse. *Neglect cases account for almost half of maltreatment-related deaths.*



Substance abuse is wreaking havoc in homes and in the child welfare system—70 to 80 percent of the children victimized by maltreatment are being raised by parents who abuse alcohol, cocaine, and other drugs. Policy makers have yet to confront this phenomenon.

One-half to three-quarters of a million infants are thought to be born each year who have been exposed to one or more illicit drugs in utero. When the legal drugs alcohol and tobacco are added, the figure rises to more than one and a half million.

One study found that 95 % of all cases of prenatal exposure involved women who had given birth to drug-related babies in the past. Another study shows that cocaine-abusing mothers have an average of three to five children apiece.

A recent study indicates that children with prenatal cocaine exposure suffer from slowed language development, learning disabilities, and slightly reduced IQ. Drinking during pregnancy is the primary cause of preventable mental retardation in this country.

Recent research indicates that children exposed to drugs during pregnancy may now constitute a majority of all children in foster care.

The vast majority of all abusing parents were themselves abused as children.

Outcome studies show that many children damaged by their early experiences can be rescued; they can be nurtured in ways that will repair early damage caused by prenatal substance abuse or maltreatment in infancy, and enable them to go on to lead normal lives. *It is the compounding of early damage with continuing abuse and neglect that proves devastating to children.*

Abuse is lower in adoptive families than the norm in the general population.

Children spend an average of three and a half to five and a half years in out-of-home care. Over one-third stay in care for more than two and a half years. 25,000 children 'graduate' from the system at the age of 18, with no real family, no network of support, and little or no memory of nurturing.

The percentage of African American children in foster care at any one time is roughly five times their percentage in the general population.

regularly promoted and defended on the basis of the claim that the only alternative for children is foster and institutional care.” In analyzing the “new” child welfare reform programs, she reveals that many constitute little more than family preservation in modern dress.

Bartholet contends that the empirical evidence demonstrates that adoption works. Of all children taken from the home, those who are adopted do the best—better than those kept in foster care, better than those reunited with birth parents. Bartholet claims that resistance to adoption has to do with deeply ingrained feelings that consider children as “belonging” to their parents and their racial or ethnic groups. She argues that the emphasis is on parent rights and group interests, and that the child’s welfare is regularly ignored.

“Children have no voice and no vote,” Bartholet writes. “The challenge is to figure out how nonetheless to ensure that their interests count.” She argues that child welfare policy makers should take an example from the recent movement to protect women from abusive husbands. “We no longer assume that battered women belong in the home,” she notes. “There is no reason to think that family preservation works better for maltreated children than it does for abused women.”

Bartholet proposes a radically reformed system that provides intensive intervention, especially for at-risk mothers during pregnancy and their children’s early infancy, ensuring that such parents get the support they need, and are also monitored during this fragile time for both mother and child. In the cases where family intervention does not work, Bartholet argues for an aggressive campaign to move children at risk for ongoing abuse and neglect promptly into permanent, adoptive homes.

“There are of course risks that the state, as representative of the larger community, will not do its intervention job right,” she writes. “But there are greater risks involved in continuing to abdicate any community responsibility for our nation’s children.” For the millions of children growing up without the nurturing and care that they need, Elizabeth Bartholet makes a passionate and urgent argument: these are the children of *all* of us, and they need our help.

ABOUT THE AUTHOR

Elizabeth Bartholet is a professor at Harvard Law School, and author of the acclaimed *Family Bonds: Adoption, Infertility, and the New World of Child Production*, (newly available in paperback by Beacon Press). She is widely regarded as an expert on child welfare, adoption and reproductive technology, and writes, lectures, and consults extensively on the subject. She has won two “Friends of Adoption” awards and a “Media Achievement Award” for *Family Bonds* and her related advocacy work. She is the mother of three sons, one by birth and two by adoption, and lives in Cambridge, Massachusetts.

Nobody’s Children • October 15, 1999 • ISBN: 0-8070-2318-3 • \$ 27.00 HC

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