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

Professor Elizabeth Bartholet
Child Advocacy Program Faculty Director

Cheryl Bratt
Child Advocacy Program Administrative Director

Spring 2015

Syllabus
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 course materials in weekly assignment packets that will be available before each class through the course iSite, the CAP website, and the Copy Center located in the basement of the Wasserstein Building (WCC).

Administrative Details

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**CAP Art of Social Change Website**
http://www.law.harvard.edu/programs/about/cap/art-of-change/index.html

**Course iSite**

To access the course iSite, log into MyHLS (http://myhls.law.harvard.edu). Choose “login” in the upper left-hand corner and enter your HUID and PIN. Go to the “My Courses” box and click on Art of Social Change: Child Welfare, Education, & Juvenile Justice. If you have questions, need training, or cannot access the course iSite, please contact the ITS Student Helpdesk (617-495-9576), located in the basement of WCC.

**Cross-registrants:** If a prospective cross-registrant is admitted into the course, the HLS Registrar’s Office will send that student an email notification. Then, in roughly 3-5 days, the
HLS ITS Office will give that student access to the course iSite. For further information about cross-registration procedures, visit: [http://www.law.harvard.edu/programs/about/cap/cap-courses/crossregistrants.1415.html](http://www.law.harvard.edu/programs/about/cap/cap-courses/crossregistrants.1415.html).

**Auditors:** Prospective auditors must first email Cheryl Bratt (cbratt@law.harvard.edu) to express their interest in auditing. They should then complete their Request to Audit Form, arrange with Margo Strucker to sign the form, and drop off the form at the HLS Registrar’s Office (WCC Suite 4007). Auditors should come to the first class, but will be officially admitted to the course only if there is space after the Registrar’s Office processes all enrolled students (typically during the second week of the course). Admitted auditors will then gain access to the course iSite. To download and print the Request to Audit Form, visit: [http://www.law.harvard.edu/academics/registrar/policies-forms/request-to-audit-form_14-15_10-7-14.pdf](http://www.law.harvard.edu/academics/registrar/policies-forms/request-to-audit-form_14-15_10-7-14.pdf).

**Course Requirements**

Course requirements consist of brief questions and reaction papers related to the readings and class presentations, turned in weekly. **See pp. 12-14 for an important section on Assignment Specifics, which explains the nature of these writing requirements, how and when to submit, and information on grading.**

The course meets weekly for 2-hour sessions during the spring term. Practitioners, activists, and community members who work on issues related to the session topics are invited to join the class and may participate in the class discussion. Following each class, all are invited to a brief reception where students have the opportunity to talk informally with the speakers and invited guests. **No laptops allowed in class.**

**Communication**

Throughout the semester, CAP will email you important information about the course, including when the upcoming week’s Assignment Packet is available. In addition to receiving these emails in your inbox, you can find them on the course iSite in the “For Students” folder in the “View Course Emails” section. **All students who ADD the course after the first class should review the messages in the “Emailbag.”**
COURSE SCHEDULE

Class 1 (Jan. 29): Course Overview
Reading:
- Syllabus
- Nobody’s Children, pp. 1-29, 33-55, 98-110, 233-43

Speakers:
- Elizabeth Bartholet, Prof. of Law and Faculty Director, Child Advocacy Program
- Cheryl Bratt, Administrative Director, Child Advocacy Program

Attendance is essential for all enrolled students and those interested in adding the course.

Class 2 (Feb. 5): Alcohol Use and Abuse During Pregnancy, Its Impact, and Related Policy Issues
Reading:
- Nobody’s Children, pp. 67-81, 207-32
- Assignment Packet #2

Guest Speakers:
- Dr. Ira Chasnoff, MD, President, NTI Upstream, and Professor of Clinical Pediatrics, University of Illinois College of Medicine
- Morgan Fawcett, Founder and Spokesperson, One Heart Creations

Ira Chasnoff is the leading expert on Fetal Alcohol Spectrum Disorders (FASDs), and has been centrally involved in efforts to develop laws and policies addressing the needs of children with FASDs. He will describe the impact of alcohol on the developing fetal brain during pregnancy, the needs of children and youth with FASDs, challenges they and their parents face, and related policy issues. He will also discuss the film he helped create, Moment to Moment: Teens Growing Up With FASDs, and the role it will play in his advocacy work. Morgan Fawcett will share his personal story of living with FASD and discuss his efforts to organize and advocate for youth affected by FASDs.

Reading:
- Assignment Packet #3

Guest Speakers:
- Dr. Ronald Hughes, Director, North American Resource Center for Child Welfare
- Daniel Heimpel, Founder and Executive Director, Fostering Media Connections
Differential Response (DR) is the latest of various extreme versions of family preservation oriented child welfare programs proposed over the years by powerful private interests. It has rapidly expanded over recent years, with a majority of the states now implementing it to some degree. The basic design involves the removal of some 70 percent of all child welfare cases from the jurisdiction of child protective services, putting the families on an entirely voluntary track. Parents accused of child abuse and neglect are offered services, which consist largely of financial stipends, but are free simply to walk away from any child welfare system surveillance.

Many are concerned that DR poses a major threat to children. However, DR supporters point to the research that they claim shows DR is consistent with child safety.

Ronald Hughes is an author of the article from within the social science community that blew the whistle on this research. He will discuss the dangers of DR, the problems posed by “advocacy research” and how it differs from true social science, and what he is doing to promote a better policy direction.

Daniel Heimpel founded Fostering Media Connections to help educate the press and public about child welfare issues so as to promote better policies for children. He has focused much of his work in recent years on exposing the problems with DR. He will talk about his efforts to use journalism as a force for positive social change.


Reading:
- Assignment Packet #4

Guest Speakers:
- Jacqueline Bhabha, Author, Child Migration and Human Rights in a Global Age, and Director of Research, FXB Center for Health & Human Rights, Harvard University
- Kathleen Hamill, Fellow, FXB Center for Health & Human Rights, Harvard University

The recent child migration crisis in the United States has brought new awareness of the problems faced by unaccompanied minors crossing our borders each year in search of family, safety, and opportunity. Why does child migration occur, what national and international laws and policies are at play, and what rights do and should the affected children have?

Jacqueline Bhabha, Director of Research at Harvard’s FXB Center for Health & Human Rights, is a leading expert on international child human rights generally and child migration in particular. She is also the author of an important recent book on the topic.
Child Migration and Human Rights in a Global Age. She will discuss her work on child migration and her ideas for reform.

Kathleen Hamill, a human rights lawyer and fellow at the FXB Center for Health & Human Rights, recently conducted an assessment of Syrian refugee children flooding into Lebanon as a result of the growing humanitarian crisis in their home country. She will discuss her work with these youth and her advocacy goals.

Class 5 (Feb. 26): Bullying and Cyberbullying: Legal Responses and School-Based Solutions
Reading:
• Assignment Packet #5

Guest Speakers:
• Emily Bazelon, Author, Sticks & Stones: Defeating the Culture of Bullying and Rediscovering the Power of Character and Empathy, and Staff Writer, New York Times Magazine
• John Palfrey, Head of School, Phillips Academy, Andover

Bullying is receiving increasing attention and has triggered a range of newly punitive responses. But many worry whether we are overdoing the punitive and are struggling to come up with a range of alternatives. How should states, schools, parents, kids, and the technology industry respond to bullying? How can we do better at keeping kids safe while simultaneously encouraging them to develop into independent, empathetic, and resilient adults?

Emily Bazelon, a lawyer turned journalist, will discuss the myriad forms bullying takes, the strengths and limitations of current legal responses, and promising legal and school-based initiatives to address it.

John Palfrey is a former director of Harvard Law School’s Berkman Center for Internet and Society, former chair of the Internet Safety Technical Task Force, and an expert on cyberbullying. He is also now the fifteenth Head of School of Phillips Academy. He will discuss his thoughts from all of these perspectives on the nature of cyberbullying and how we can best design appropriate responses to it.

Class 6 (Mar. 5): The History and Current Landscape of Children’s Rights
Reading:
• Nobody’s Children, pp. [TBD]
• Assignment Packet #6

Guest Speakers:
• **Jeffrey Shulman**, Author, *The Constitutional Parent: Rights, Responsibilities, and the Enfranchisement of the Child*, and Professor of Legal Research and Writing, Georgetown University Law Center

• **David Meyer**, Dean, and Mitchell Franklin Professor of Law, Tulane Law School

Professor Jeffrey Shulman’s fascinating recent book, *The Constitutional Parent: Rights, Responsibilities, and the Enfranchisement of the Child*, traces the evolution of child and parent rights under U.S. law, finding in our early history a new understanding of how we might better conceive of such rights. Dean David Meyer is a leading expert on constitutional and family law, and will discuss the nature of child rights under the law and the federal constitution in today’s world.

**Class 7 (Mar. 12): Dismantling the School-to-Prison Pipeline**

Reading:

• Assignment Packet #7

Guest Speakers:

• **Daniel Losen**, Director, Center for Civil Rights Remedies, Civil Rights Project

• **Dulcinea Goncalves**, Attorney in Charge, Youth Advocacy Division - Quincy Office, Committee for Public Counsel Services

• **Marlies Spanjaard**, Director of Education Advocacy, EdLaw Project

Year after year in schools around the country, children are being siphoned out of school and put on a fast track to the criminal justice system. Daniel Losen, Director of the Center for Civil Rights Remedies, an initiative at UCLA’s Civil Rights Project, is a leading expert on this phenomenon termed the “school-to-prison pipeline.” He will provide an overview of the dynamics involved and the damaging impact on our youth, our schools, and our communities at large. He will also outline the different legal and other strategies he and the Civil Rights Project use to disrupt this troubling trend, and the promising initiatives some schools have adopted.

Dulcinea Goncalves, Attorney in Charge at the Youth Advocacy Division Quincy Office, provides legal representation to students charged with juvenile offenses. She will describe what the school-to-prison pipeline looks like on the ground, the role of key players (teachers, principals, parents, students, and judges), and her ideas about reform.

Marlies Spanjaard is Director of Education Advocacy for the EdLaw Project, an initiative of the Children’s Law Center of Massachusetts and the Child & Family Law and Youth Advocacy Divisions of the Committee for Public Counsel Services. She will discuss the EdLaw Project’s reform model, which aims to mobilize, train, and support lawyers around the state who represent youth in delinquency and child welfare cases to provide
their clients with educational advocacy in special education, suspension and expulsion, and other school-related matters.

Class 8 (Mar. 26): LGBT Youth Rights: Reflecting on Progress and Outlining the Work Ahead
Reading:
- Assignment Packet #8

Guest Speakers:
- Dr. Eliza Byard, Executive Director, GLSEN
- Vickie Henry, Youth Initiative Director and Senior Staff Attorney, GLAD

Twenty-five years ago, before Ellen DeGeneres announced on the cover of Time Magazine that she was gay, before the television show Glee positively depicted LGBT teens and storylines, and before the Supreme Court found unconstitutional laws that criminalized same-sex intimacy, LGBT youth had few resources, little protection, and scant societal recognition. It is in that era that the Gay, Lesbian & Straight Education Network (GLSEN), was founded by a small group of Massachusetts teachers who came together to advocate on behalf of their LGBT students, who were regularly bullied and discriminated against.

Today, thanks in large part to the tireless work of advocacy organizations like GLSEN, gay-straight alliance student groups can be found in all 50 states; 49 states have anti-bullying laws, with 17 and D.C. specifically prohibiting bullying based on sexual orientation; and the U.S. Department of Education has announced that Title IX prohibits discrimination on the basis of gender identity and expression. Still, harassment and discrimination characterize many LGBT students’ daily school experiences, and LGBT youth represent 40 percent of homeless or at-risk youth and 13-15 percent of those in the juvenile justice system.

As Executive Director of GLSEN, Eliza Byard will discuss how her organization advocates for LGBT youth, working with schools, communities, government agencies, and even international bodies, to help ensure that every student in every school feels safe and respected. She will reflect on GLSEN’s accomplishments over the last 25 years and articulate its vision for the future.

Vickie Henry, Senior Staff Attorney and Youth Initiative Director for Gay & Lesbian Advocates & Defenders (GLAD), will discuss her advocacy efforts in the child welfare, education, and juvenile justice systems to secure the equal treatment of LGBT youth and the children of LGBT parents.

Class 9 (Apr. 2): Juvenile Solitary Confinement
Reading:
- Assignment Packet #9
Guest Speakers:

- Ian Kysel, Dash/Muse Fellow & Adjunct Professor of Law, Georgetown Law Human Rights Institute, Georgetown University Law Center
- Alexander Reinert, Professor of Law, Benjamin N. Cardozo School of Law

The United States leads the world in incarcerating children in prisons and secure juvenile institutions. And it leads the world in locking those incarcerated into solitary confinement, which typically consists of 22 or more hours a day alone in a small cell, with no physical contact and often no access to education, counseling, or other services.

Professor Ian Kysel is an expert on the harms associated with juvenile solitary confinement, as documented in his influential Human Rights Watch and ACLU report, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*. He will provide an overview of the nature of juvenile solitary confinement practices, their destructive impact, the legal issues raised under national and international law, and his recommendations for reform.

Professor Alexander Reinert will discuss his involvement in the lawsuit *Peoples v. Fischer*, which challenged the system-wide policies and practices of solitary confinement in the New York prison system, producing an unprecedented settlement agreement that, among other things, prohibits the use of solitary as a disciplinary measure for those under 18. He will discuss goals of the lawsuit and the pros and cons of such litigation as a vehicle for reform.

**Class 10 (Apr. 9): Vergara v. California: Challenging California’s Teacher Tenure, Dismissal, and Layoff Statutes**

Reading:

- Assignment Packet #10

Guest Speakers:

- Marcellus McRae, Partner, Gibson, Dunn & Crutcher LLP
- Dr. Thomas Kane, Walter H. Gale Professor of Education and Economics, Harvard Graduate School of Education

Vergara triggered a national debate in the press and elsewhere, with commentators celebrating and castigating the decision. It may also be triggering a new movement: less than one month after the decision, a suit inspired by Vergara was filed in New York.

Marcellus McRae, co-lead trial counsel for the Vergara plaintiffs, will discuss the goals of the case, the particular issues at stake, and the strategies involved in putting the litigation together and in using it with other methods to push toward education reform.

Professor Thomas Kane served as an expert witness for the Vergara plaintiffs. He will discuss his research findings on measuring teacher effectiveness, the disproportionate number of ineffective teachers serving Latino and African American students, and the long-term causal effects of ineffective instruction. Professor Kane will also share his thoughts about ways to merge academic research and public policy initiatives to advance meaningful change.

Class 11 (Apr. 16): Reforming Juvenile Sex Offender Registry Laws
Reading:
- Assignment Packet #11

Guest Speakers:
- Nicole Pittman, Stoneleigh Fellow and Senior Program Specialist, National Council on Crime and Delinquency
- Marsha Levick, Co-Founder, Deputy Director, and Chief Counsel, Juvenile Law Center

Youth are the victims of sexual violence but also the perpetrators of such violence. Our society has responded to the sexual violence phenomenon by passing harsh public registration laws—laws originally meant for adult offenders, but which have generally been applied to youth. This session will raise questions about the general wisdom of this regulatory scheme, and also about whether children should be treated differently from adults.

Nicole Pittman has for the past 10 years led the challenge to the application of sex offender registration laws to youth. She authored the groundbreaking Human Rights Watch Report, Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S., and will discuss the nature of registry laws, their harmful impact on youth, and her recommendations for reform.

Marsha Levick, Deputy Director, Co-Founder, and Chief Counsel of the Juvenile Law Center, will discuss how she is working together with Ms. Pittman on reform initiatives, including in connection with current litigation she has spearheaded that challenges juvenile sex offender registry laws.
Class 12 (Apr. 23): Positive Youth Justice in Theory and Practice

Reading:
- Assignment Packet #12

Guest Speakers:
- **Dr. Jeffrey Butts**, Director, Research and Evaluation Center, John Jay College of Criminal Justice
- **Joshua Dohan**, Director, Youth Advocacy Division, Committee for Public Counsel Services
- **Molly Baldwin**, Founder and CEO, Roca, Inc.

Science and social science demonstrate persuasively that adolescents are different than adults: their brains differ, their judgment abilities differ, their life experiences differ, and their trajectories differ. However, juvenile justice programs often fail to adapt their services to the juvenile mind.

Dr. Jeffrey Butts is determined to change this. As one of the leading scholars on Positive Youth Justice (PYJ), he strives to help juvenile justice programs rethink their ways and inform their practices with adolescent brain development science. He will discuss the PYJ model, explain PYJ’s theoretical underpinnings, and outline how this framework helps justice-involved youth successfully transition to early adulthood.

Joshua Dohan and Molly Baldwin will explain how they have merged PYJ theory into practice in their respective organizations, and why they believe this has achieved positive results. Under Mr. Dohan’s leadership, the Massachusetts Youth Advocacy Division (YAD), which defends children in delinquency and youthful offender proceedings, has developed a holistic approach to juvenile defense, combining social services with legal services to help prevent recidivism.

“Less jail, more future” is Roca, Inc.’s motto. Founded in 1988 by Molly Baldwin, Roca is dedicated to transforming the lives of troubled youth—those on the streets, involved in gangs, and swept up in the criminal justice system. Ms. Baldwin will discuss how Roca uses the PYJ framework to inform its programming and the successes it has achieved as a result.
ASSIGNMENT SPECIFICS

For each week’s class, you are responsible for submitting either session questions, due one day before the class, or session reaction papers, due five days after the class. Your grade will be based on your performance on these assignments.

I. Session Questions

For your assigned dates, provided below, you will submit a brief question (or questions) for the upcoming speakers, along with a short comment on why the question is significant. The question(s) and accompanying comment(s) should be NO more than ½ a page (single-spaced). You must include your name and the session date at the top of your submission to receive credit.

To submit your assignment, first save your question/comment as a Word file on your computer with the title “lastname_date_questions.” For example, if your last name is “Quigley,” title the file for your first submission “quigley_feb5_questions.”

Next, log into the course iSite. Click on the “Assignment Dropbox” tab on the left-hand menu column. Click on the relevant dropbox folder in the middle of your screen (e.g., the box for this submission is labeled “Feb 5 – Questions”). Click the “Upload” file link to upload the appropriate document. In the “Title” field of the Dropbox menu, name your assignment “Last Name–Date–Questions.” For example, if your last name is Quigley, enter “Quigley–Feb 5–Questions.”

Upload your questions by 9 am the Wednesday before the Thursday class (1 day before class). Check to make sure you have successfully uploaded your document: click on the relevant folder and find your file with its date/time stamp. After 9 am the dropbox will disappear from your screen and your questions will be deemed late. You must still submit your questions, however, by uploading them to the dropbox labeled “Late Submissions – Questions.”

II. Session Reaction Papers

Three times during the semester, in lieu of the session questions, you will draft a reaction paper. This paper should provide both a brief analysis of the substance of the session based on the reading materials and presentations, and your own reactions, such as, e.g., your views on disputed issues, connections you draw to other sessions’ themes and topics, etc. Reaction papers should be 2-3 double-spaced pages but NO more than 3. You must include your name and the session date on the top of your submission to receive credit.

To submit your reaction paper, first save it as a Word file on your computer with the title “lastname_date_reaction.” For example, if your last name is “Adams,” title your file for your first submission “adams_feb5_reaction.”

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Then, log into the course iSite. Click on the “Assignment Dropbox” 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 “Feb 5 – Reaction”). Click the Upload file link to upload the appropriate document. 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–Feb 5–Reaction.”

You must upload your reaction paper by 9 am on the Tuesday after the Thursday session (5 days after class). Check to make sure you have successfully uploaded your document: click on the relevant folder and find your file with its date/time stamp. After 9 am, the dropbox will disappear from your screen and your reaction paper will be deemed late. You must still submit your reaction paper, however, by uploading it to the dropbox labeled “Late Submissions – Reactions.”

III. Assignment Dates

For the First Session: There is no written assignment for the first session (1/29). However we expect all students to read very carefully the materials assigned for the first session, as they are critical to themes that will be presented throughout the course. We expect you to weave into your later submissions your reactions to the ideas presented in the first assignment.

For All Subsequent Sessions: We have divided question and 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 beforehand. Each student will submit a total of 8 questions/comments and 3 reaction papers over the course of the semester. NOTE: There will be instances when you will have two assignments due the same week. For example, during the week of 2/8, if your last name is Adams, you will submit a reaction paper based on the 2/5 class due on 2/10 AND questions/comments for the 2/12 class due on 2/11.

Below is a table reflecting by last name the submission required (“Q” for questions; “R” for reaction papers) for each class session, followed in parenthesis by the submission due date.


Dropbox Problems:

If you have a problem accessing the dropbox (on rare occasions, the iSite malfunctions), simply email your assignment to Cheryl Bratt (cbratt@law.harvard.edu), copying Margo Strucker (mstrucker@law.harvard.edu) and Eleanor Topping (etopping@law.harvard.edu), with the relevant explanation.

IV. Grading

Grades will be based generally on your performance on the weekly written assignments, with greater weight given to the reaction papers. You will receive limited feedback on the reaction papers throughout the term. We will use your questions/comments to provide each week’s speakers with a sense of the issues raised by the class so that they can take your thoughts into account in their presentations.

Submission of all assignments on a timely basis is important and will be taken into account in your grade. It is your responsibility to check to make sure all of your assignments have been submitted on time. If you have an urgent need for permission to submit late, you must request permission in advance, emailing Cheryl Bratt.

Note for cross-registrants from the HLS Registrar’s Office: Report of grades is obtained from your home Registrar’s Office. The HLS grading system is H, P, LP, and F (Honors, Pass, Low Pass and Fail). A small number of students may be awarded the Dean’s Scholar Prize, given to students whose performance in the course is extraordinary. The notation WD (Withdrawn after Deadline) is applied when a student withdraws from a course after the drop deadline.

1 Deadline extended due to Spring Break.