

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

**Professor Elizabeth Bartholet
Child Advocacy Program Faculty Director**

**Crisanne Hazen
Lecturer on Law
Child Advocacy Program Assistant Director**

**Spring 2019
Thursdays, 5-7 p.m.
WCC 2012**

Syllabus

COURSE INFORMATION

I. 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 Reading Packets that will be available before each class through the Canvas course page, the publicly accessible CAP website (<http://cap.law.harvard.edu/>), and the Copy Center located in the basement of the Wasserstein Building (WCC).

II. Administrative Details

Professor Elizabeth Bartholet

Office: Hauser Hall 422

Telephone: (617) 495-3128

Email: ebarthol@law.harvard.edu

Office Hours: Fridays: 2-4 pm (Email Prof. Bartholet directly to schedule an appointment)

Faculty Assistant: Eleanor Topping, Hauser Hall 418, (617) 496-0551

Email: etopping@law.harvard.edu

Child Advocacy Program Assistant Director Crisanne Hazen

Office: 23 Everett Street, Suite G-24

Telephone: (617) 496-1684

Email: chazen@law.harvard.edu

Office Hours: Thursdays: 10-12 am (Email Crisanne directly to schedule an appointment)

CAP Program Associate: Margo Strucker, 23 Everett St., G-24, (617) 496-8852

Email: mstrucker@law.harvard.edu

III. CAP Website

Details about CAP can be found on our publicly accessible website: <http://cap.law.harvard.edu/>. A page devoted to the spring 2019 Art of Social Change course provides the speaker schedule, speaker biographies, and links to the course readings (also always available on the Art of Social Change Canvas course page and in the WCC Copy Center): <https://cap.law.harvard.edu/art-spring-2019/>.

IV. Canvas Course Page

We will use the Canvas course page for many critical course components.

To access the Canvas course page, log into Canvas (<https://canvas.harvard.edu/>). Choose "courses" from the top toolbar, and select "Art of Social Change."

Through Canvas, we will post class announcements and provide you with the weekly Reading Packets. You will also upload your Reaction Papers on Canvas:

1. **Announcements:** We will alert you to important course information (such as when Reading Packets are available, necessary details about upcoming classes, etc.) through the Canvas “Announcements” function. You will receive an email notification when we post each Announcement. All students who gain access to the Canvas page after the first class should review past course Announcements by clicking on the “Announcements” tab in the left toolbar. **Please confirm that your Canvas notifications setting for “Announcements” is set to “ASAP” to ensure that you receive these messages promptly.**
2. **Course Materials:** Course materials, including the Syllabus and each week’s Reading Packet, will be available through the “Files” tab in Canvas, located in the left toolbar. Packets will be posted on a rolling basis by the Friday before the Thursday session.
3. **Assignments:** You will upload your assigned Reaction Papers through the “Assignments” tab in Canvas, located in the left toolbar. **See pp. 13-14 of this Syllabus for an important section on Assignment Specifics, explaining the nature of these writing requirements, how and when to submit, and providing information on grading.**

If you have questions about Canvas or need training, explore the “Help” options at the top right corner of the website to access support. If you cannot access the course website, **contact the ITS Helpdesk** (617-495-0722), [HLS Administrative Services Hub](#), located in the basement of WCC (walk in: WCC B020 or WCC B037).

V. Course Requirements

Class attendance is very important. You cannot learn what the course has to offer or, relatedly, write good Reaction Papers, without **both** reading the assignment packages **and** attending the class sessions. **Class participation is also important.** Come to class with questions and raise them in the Q&A sessions scheduled for the end of classes. Let Crisanne Hazen (chazen@law.harvard.edu) know in advance if there’s an important reason you need to miss class.

Course assignments consist of four reaction papers related to the readings and class presentations, turned in after classes 3, 6, 9, and 12. **See pp. 13-14 for an important section on Assignment Specifics.**

No laptops, tablets, or other electronic devices are to be used in class, except for students who have registered with Accessibility Services for disability-related accommodations. To request an accommodation for a disability during the course, students should reach out to Accessibility Services in the Dean of Students Office at accessibility@law.harvard.edu or at 5-1880, or visit the office in WCC 3039.

VI. Video Recording

CAP video records each class session for which it receives guest lecturer consent, and posts these videos on CAP’s publicly accessible website after the term ends. Recordings will not be available to students during the term. Only guest lecturers—and not any students—will be identifiable on the recordings. Further, only the lecture portions of classes—and not the subsequent student discussion—will be posted. If you speak during the lecture portion of class, your voice may be audible on the

recording, but if you have any concern in this regard, you may request that CAP not post that portion of the video.

VII. Cross-Registrants and Auditors

Cross-registrants: Cross-registrants must submit their petitions during HLS's designated cross-registration window (January 22-February 1, 2019), and attend the first class on January 31, 2019. CAP will approve petitions on a rolling basis. The HLS Registrar's Office will then enroll cross-registrants until the course is at capacity. When a prospective cross-registrant is admitted into the course, the HLS Registrar's Office will send that student an email notification; cross-registrants are not admitted to the course until they receive this confirmation. **Pending access to the Canvas course page, cross-registrants should pick up Reading Packets and other course materials at the Copy Center in the basement of WCC, or download them from CAP's publicly accessible website (<http://cap.law.harvard.edu/>).** For further information about cross-registration procedures, visit: <https://hls.harvard.edu/dept/academics/cross-registration-at-harvard-law-school/cross-registration-for-non-hls-students/>.

Auditors: Prospective auditors must first email Crisanne Hazen (chazen@law.harvard.edu) to express their interest in auditing. They should then complete their Request to Audit Form, arrange with Margo Strucker (mstrucker@law.harvard.edu) 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 after February 1. Registrar's Office processes all enrolled students (typically during the second week of the term). Admitted auditors will then gain access to the Canvas course page and the Reading Packets. To download and print the Request to Audit Form, visit: <https://hls.harvard.edu/content/uploads/2018/06/Audit-Request-Form-AY1819.pdf>.

COURSE SCHEDULE

Class 1 (Jan. 31): Course Overview

Reading:

- *Nobody's Children*, pp. 1-29, 33-55, 98-110; (optional) pp. 176-92
- Reading Packet #1

Speakers:

- **Elizabeth Bartholet**, Prof. of Law and Faculty Director, Child Advocacy Program
- **Crisanne Hazen**, Lecturer on Law and Assistant Director, Child Advocacy Program

Class 2 (Feb. 7): Early Childhood Adversity and Its Life-Long Impact on Brain and Behavioral Development

Reading:

- *Nobody's Children*, pp. 59-97
- Reading Packet #2

Guest Speaker:

- **Charles Nelson**, Professor of Pediatrics, Neuroscience and Psychiatry, Harvard Medical School; Professor of Education, Harvard University; Richard David Scott Chair in Pediatric Developmental Medicine Research, Boston Children's Hospital

Professor Charles Nelson, one of the world's leading experts on early brain development, will discuss the impact of early adversity on children, including but not limited to neglect in the domestic U.S. context and in orphanages and other institutional care abroad. Prof. Nelson has led the Bucharest Early Intervention Project, the only gold standard social science study ever conducted on the impact of institutionalization on children, and has advised policy makers both here in the U.S. and throughout the world on child welfare policy. His work is relevant to the child welfare and international adoption issues presented in the Bartholet materials and many of the issues that will be addressed in the remaining classes.

Class 3 (Feb. 14): Lawyering for Youth

Reading:

- Reading Packet #3

Guest Speakers:

- **Frank Vandervort**, Clinical Professor of Law, Univ. of Michigan Law School
- **Vineesha Sow**, Staff Attorney, Health Law Advocates, Inc.
- **David Deakin**, Assistant District Attorney and Chief, Family Protection and Sexual Assault Bureau, Suffolk County District Attorney's Office

This class illustrates three different career paths involving the legal representation of children and youth. Discussion will include the satisfactions and challenges of these different professional roles, and the relationship of individual representation to broader systemic reform.

Professor and attorney Frank Vandervort will discuss his work over the decades representing children victimized by parental maltreatment and children involved in the juvenile justice system, as well as related policy issues. Vineesha Sow, Staff Attorney with Health Law Advocates, Inc. will share her perspective as an attorney for families whose children have mental health disabilities, challenging the MA Department of Mental Health and local school districts to provide appropriate services. Assistant District Attorney David Deakin, Chief of the Suffolk County Family Protection and Sexual Assault Bureau, will address the role of a criminal prosecutor, working on behalf of child victims to prosecute those accused of sexual and other child maltreatment.

Class 4 (Feb. 21): Child Welfare Challenges: The Use and Misuse of Science in Connection with Abusive Head Trauma (Shaken Baby Syndrome)

Reading:

- Reading Packet #4

Guest Speakers:

- **Sameer Sabir**, Founder, Rehma Fund for Children; CEO of SevenOaks Biosystems
- **Dr. Sandeep Narang**, Division Head, Child Abuse Pediatrics, Ann & Robert H Lurie Children's Hospital of Chicago; and Associate Professor of Pediatrics, Northwestern Feinberg School of Medicine
- **Martha Coakley**, Partner at Foley Hoag LLP; and former Attorney General of Massachusetts

This class involves the use and misuse of science – a major issue in the child welfare area generally. Here the focus will be on this issue in the context of Abusive Head Trauma (AHT), once generally known as Shaken Baby Syndrome. Recent decades have seen increasing understanding of AHT in the medical community, and increasing recognition of the need to address it through various public policy initiatives. However, defense attorneys representing parents and others accused of injuring children have pushed back, with the assistance of expert witnesses, challenging the very existence of AHT and its impact.

Sameer Sabir is a local parent who took his own devastating loss of a child as inspiration to fight for justice both for his child and for others, using a variety of advocacy strategies. Dr. Sandeep Narang has a background in both law and medicine, and is a leading expert on AHT. He has focused much of his research, writing, and teaching on issues involving the use and misuse of science through expert testimony both in the AHT context and more generally. Former Massachusetts Attorney General Martha Coakley prosecuted some of the earliest AHT cases, and has recently been involved representing Mr. Sabir and his wife in a case involving their child.

Class 5 (Feb. 28): Education: Homeschooling: Pros, Cons & Future Directions

Reading:

- Reading Packet #5

Guest Speakers:

- **James E. Dwyer**, Arthur B. Hansen Professor of Law, William & Mary Law School
- **Meira Levinson**, Professor of Education, Harvard Graduate School of Education

Homeschooling has grown dramatically in recent decades and today involves as many children as charter schools. While education generally is heavily regulated, homeschooling is largely free of regulation. There is, for example, little in the way of requirements that parents be qualified to teach, or that any particular subject matter be covered. Many states don't even require that parents give notice or register their children for homeschooling. What regulation exists is generally characterized by lax enforcement. Nor is there any system to protect homeschooled children from parental abuse and neglect. Schools provide significant protection because teachers are mandated reporters in the child protection system, with a duty to report suspected maltreatment. Homeschoolers may never see a mandated reporter.

The legal trend has been in the direction of deregulation, largely as a result of the powerful advocacy by homeschooler organizations. These organizations take the position that there should be virtually no restrictions on parent power in this or related areas. They have joined with other parent rights organizations to oppose child protective services intervention in the family.

This class brings experts in law and education to discuss their perspectives on homeschooling, their sense for the pros and cons, and their recommendations for the future. Professor Dwyer is the author of a forthcoming book that discusses the history and current reality of homeschooling, and his ideas about child rights, their grounding in the federal Constitution, and what this should mean for regulation in this area. Professor Levinson is a former public school teacher who now teaches at the Harvard Graduate School of Education. Her research and writing address issues of civic education, multiculturalism, youth empowerment, and educational ethics. She will discuss her thoughts on the goals of public education and the implications for both private schools and homeschooling.

Class 6 (Mar. 7): Education: Integration and Related Strategies to Improve Disadvantaged Schools

Reading:

- Reading Packet #6

Guest Speakers:

- **Richard Kahlenberg**, Senior Fellow, The Century Foundation
- **Richard Carranza**, Chancellor, New York City Department of Education

Education in our democracy is supposed to give all children, regardless of their parents' life circumstances, the opportunity to succeed. While this is the aspiration, we know that our society fails miserably in achieving it. Instead, as a general matter, the children in greatest need of a quality education enabling them to rise above the circumstances of their birth, are provided the fewest educational resources and the worst schools. While racial desegregation was supposed to help minority race children access equal educational opportunity, we know that 65 years after *Brown v. Board of Education*, education remains largely segregated.

Richard Kahlenberg, an HLS graduate, has long been a leading thinker on educational issues. He is now responsible for important research and reform initiatives as a Senior Fellow for The Century Foundation. He advocates for the use of socio-economic factors to increase diversity, and will discuss this approach and its implementation around the country. Richard Carranza became Chancellor of the NYC public school system in 2018. New York City is the nation's largest school system and also one that remains extremely segregated. Among Chancellor Carranza's goals has been increased integration. He will talk about his vision for changing the entrenched system of school assignment which is central to the segregation problem, and the many political obstacles in his way.

Class 7 (Mar. 14): Education: Systemic Reform Litigation, Policy Advocacy, and Community Organizing

Reading:

- Reading Packet #7

Guest Speakers:

- **John Affeldt**, Managing Attorney, Public Advocates, Inc.
- **Katy Nuñez-Adler**, Community Organizer, Oakland Community Organizations

John Affeldt is Managing Attorney at Public Advocates Inc., one of the first public interest law firms in the nation, and one which initially focused on systemic reform litigation as its primary method to effect change. He will discuss how he and Public Advocates have evolved in their thinking about effective social change in the area of education, and describe their current approach involving deep partnerships with grassroots organizations. Katy Nuñez-Adler is an attorney for Oakland Community Organizations (OCO), which works to help organize parents and youth so they can become effective voices for reform. She will address her experiences working on the ground with the community to promote education reform on issues affecting

poor and minority race communities. Together they will describe the effective partnership their two organizations have built, and the impressive reform initiatives that have resulted.

Class 8 (Mar. 28): Child Welfare: The Indian Child Welfare Act

Reading:

- *Nobody's Children*: pp. 123-40
- Reading Packet #8

Guest Speakers:

- **Mark Fiddler**, Senior Partner, Fiddler Osband, LLC; and member, Turtle Mountain Band of Chippewa Indians
- **Matthew McGill**, Attorney and Partner, Gibson Dunn

The Indian Child Welfare Act (ICWA) is a controversial law governing many child welfare issues related to Indian children, including: protection against abuse and neglect, removal to foster care, termination of parental rights, and preferences for placement in foster care and in adoption. ICWA gives significant power to Indian tribes to control the destiny of their children, providing for example, Indian courts with jurisdiction over many child welfare cases, and powerful preferences for foster and adoptive placement within Indian tribes. ICWA states that it is designed to further the best interests of children, by enabling them to grow up within the Indian community. Some believe that ICWA provides important protection to Indian tribes and children, and think the Act should be strengthened. Others believe that ICWA deprives both Indian children and Indian birth parents of important rights enjoyed by non-Indians, and think the Act should be significantly revised or perhaps abandoned altogether.

One approach ICWA critics have taken involves litigation. This class will present what may prove to be the most significant challenge to ICWA's constitutionality yet initiated, a federal court case called *Brackeen v. Zinke* in which several states have joined with foster and adoptive parents to challenge ICWA. A federal district court recently issued a major decision finding ICWA unconstitutional on a variety of grounds. The case may well find its way to the Supreme Court.

Attorney Mark Fiddler is a Chippewa Indian tribe member and outspoken critic of ICWA, who has represented parents and children in many cases challenging ICWA's application. Attorney Matthew McGill is a partner at a major law firm representing *pro bono* parties in the *Brackeen* case.

Class 9 (April 4): Education & Juvenile Justice: Educating Incarcerated Youth

Reading:

- Reading Packet #9

Guest Speakers:

- **Lynette Tannis**, Educational Consultant; Adjunct Lecturer on Education, Harvard Graduate School of Education
- **Christy Sampson-Kelly**, Director of Schools, Center for Educational Excellence in Alternative Settings

This class involves some of the many problematic educational issues for incarcerated youth. While these youth are theoretically entitled to education, the reality is usually very different, with many systems seriously deficient and focused almost entirely on behavior management. Dr. Tannis first explored these issues when conducting research for her doctoral dissertation, and was shocked to discover the absence of attention to issues involving the education of incarcerated youth. She went on to do work that has acted as a catalyst for reform in juvenile justice systems around the country. Dr. Sampson-Kelly is an educational expert working on the ground in New Orleans, Louisiana, using Dr. Tannis' approach to reform. She will discuss some of her successes as well as some of the obstacles to reform.

Class 10 (April 11): Immigration: Some Responses to Trump Era Policies

Reading:

- Reading Packet #10

Guest Speakers:

- **Jacqueline Bhabha**, Professor of the Practice of Health and Human Rights, FXB Center for Health and Human Rights, Harvard T.H. Chan School of Public Health; Lecturer of Law, Harvard Law School; and Adjunct Lecturer, Harvard Kennedy School
- **Brad Karp**, Chairman, Paul, Weiss, Rifkind, Wharton & Garrison, LLP

Professor Jacqueline Bhabha is an internationally known expert on immigration and child human rights. She will discuss history, law and policy related to immigrant children, and her work with the Harvard FXB Center for Health and Human Rights. Brad Karp is Chairman of the Paul, Weiss law firm, and a long-time leader of the firm's litigation department. He will describe an initiative he has led to mobilize the private bar throughout the nation to represent families adversely affected by the Trump Administration's immigration policies.

Class 11 (April 18): Juvenile Justice: UTEC and Youth Organizing

Reading:

- Reading Packet #11

Guest Speakers:

- **Geoff Foster**, Director of Organizing and Policy, UTEC, Inc.
- **Teens Leading the Way (TLTW)** Youth Organizers

UTEC, Inc. was founded in 1999 as the result of young people organizing in response to gang violence in their communities in Lowell and Lawrence, MA. UTEC works with “proven-risk youth to trade violence and poverty for social and economic success.” It uses an intensive street outreach model to meet young people where they are at. UTEC’s program includes a youth-driven movement to reform laws that negatively impact young people, called Teens Leading the Way (TLTW). Geoff Foster, Director of Organizing and Policy for UTEC, will discuss UTEC’s strategies and some of the data related to the program’s success. TLTW youth members will illustrate their advocacy strategies by describing their 2018 legislative campaign to successfully create more favorable law governing the sealing and expungement of juvenile records.

Class 12 (Apr. 25): Juvenile Justice: Approaches to Reforming Juvenile Justice Institutions

Reading:

- Reading Packet #12

Guest Speakers:

- **Robert Kinscherff**, Science Faculty and Managing Assistant Director, Center for Law, Brain and Behavior at Mass General Hospital
- **Karli Keator**, Director, National Center for Youth Opportunity and Justice

This final class will provide the opportunity to examine the *cumulative* harm done when the child welfare, education, and juvenile justice systems fail a child. We will focus on some positive reform ideas and initiatives in juvenile justice.

The developing neuroscience of the teen brain has helped spur reform in many jurisdictions designed to transform juvenile justice systems including juvenile detention institutions. These systems were originally intended to focus on rehabilitation, but to a significant degree have focused instead on punishment, locking up many youth in institutions that provide little in the way of rehabilitation, and leaving youth more, rather than less, likely to go on to lives of crime after they are released. Some think that we should eliminate detention institutions altogether. Others think we should divert many youth now institutionalized to community-based rehabilitative services. And most agree that to the degree we continue to use institutions we should transform them into places where youth receive humane rehabilitative treatment so that they emerge ready to engage as productive members of society.

Robert Kinscherff will share his perspective as both a lawyer and psychologist, who has worked across professional lines throughout his career on a range of important reform initiatives, including those that ended the death penalty and mandatory Life Without Parole sentences for juveniles. Karli Keator is an expert on mental health disorders in youth and Director of the National Center for Youth Opportunity and Justice. The Center engages in juvenile justice reform initiatives that include diversion programs, behavioral health treatment courts, and school-based alternatives to arrest. Both speakers will discuss their thinking about how to approach systems change, and their visions for a reformed juvenile justice system.

ASSIGNMENT SPECIFICS

You are responsible for submitting a reaction paper, due six days after the class, after classes 3, 6, 9 & 12. Each paper should be based on the readings and lecture content of the three prior classes. Your grade will be based on your performance on these assignments.

I. Session Reaction Papers

You are responsible for submitting a total of four reaction papers, which should take into account your reactions to both the readings and the lectures. Reaction Paper 1 will cover classes 1-3; Paper 2 will cover classes 4-6; Paper 3 will cover classes 7-9; and the final Paper will cover classes 10-12 but should also include cumulative reactions to the entire course as is appropriate.

Reaction Papers are opportunities for you to genuinely reflect on what you are thinking and learning as you review the reading packets and attend the lectures, and how it might relate to your past work and future goals. But at the same time Reaction Papers should demonstrate that you have understood the readings and the class presentations. Keep both these ideas in mind as you write your Reaction Papers. You don't want simply to summarize the readings and presentations, but do want to show that you read the materials, attended class, and understood both the basic and also more complex issues (e.g., conflicts between the speakers, connections with other sessions). You also don't want only to talk about your past work or your future ambitions or what you think about the issues, but at the same time, you do want to connect your experience with this course to yourself.

You also want to use these Papers as a way to express your *cumulative* thinking and learning. Thus while each Reaction Paper should focus primarily on the three class sessions assigned for that paper, you should also connect to issues presented in previous class sessions. *In your final paper you should reflect in some way on your cumulative experience with the course at that stage.*

Reaction papers should be **no more than 4 double-spaced pages**. **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 the file for your first submission “adams_feb2_reaction.” Next, log into the Canvas course page, click on “Assignments” in the left toolbar, and upload your reaction paper to the appropriate “Reaction Papers” assignment listed.

You must upload your reaction paper to Canvas by 5:00 pm on the Wednesday after the Thursday session (6 days after class). You will see a green checkbox in the upper right corner of the screen when you successfully upload the document. Please see the schedule listed on the last page of this Syllabus for dates assignments are due.

II. Late Assignments

If you miss the 5:00 pm deadline, you should still upload your reaction paper to the appropriate assignment in Canvas. You will see a “late” notification in red in the upper right portion of your screen. Email Crisanne Hazen (chazen@law.harvard.edu), copying Margo Strucker (mstrucker@law.harvard.edu) and Eleanor Topping (etopping@law.harvard.edu), explaining why your assignment is late and notifying them that you have since uploaded your assignment.

Assignment Submission Problems:

If you have a problem uploading your assignment to the Canvas course page, simply email it to Crisanne Hazen (chazen@law.harvard.edu), copying Margo Strucker (mstrucker@law.harvard.edu) and Eleanor Topping (etopping@law.harvard.edu), with the relevant explanation.

III. Grading

Grades will be based generally on your performance on the four written assignments. You will receive limited feedback on the reaction papers throughout the term. You are welcome to speak with Prof. Bartholet or Crisanne Hazen if you have questions about this feedback or the Reaction Papers.

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 are absolutely unable to complete an assignment on the date specified because of some serious medical emergency or family crisis or similarly important issue, contact Crisanne Hazen in advance of the due date to see if you can arrange for later submission. You should turn in all assignments even if you fail to meet the deadline.

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** (Withdraw after Deadline) is applied when a student withdraws from a course after the drop deadline.

2019 Assignment Schedule

	Classes & Readings	Due Date
Reaction Paper 1	Jan. 31; Feb. 7; Feb. 14	Feb. 20, 5 pm
Reaction Paper 2	Feb. 21; Feb. 28; Mar. 7	Mar. 13, 5 pm
Reaction Paper 3	Mar. 14; Mar. 28; Apr. 4	Apr. 10, 5 pm
Reaction Paper 4	Apr. 11; Apr. 18; Apr. 25	May 1, 5 pm