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ADMINISTRATION AND CHILDREN'S
HUMAN RIGHTS**

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INTRODUCTION: THE TRUMP ADMINISTRATION AND CHILDREN'S HUMAN RIGHTS

Barbara Stark

The election of Donald Trump was a shock for many advocates of children's human rights. All children are vulnerable, of course, but those advocates focused on children who were also members of already-vulnerable groups, including immigrants, the poor, and people of color, were especially worried. The new administration had promised to "build a wall," repeal Obamacare, slash corporate taxes, and "make America great again." At what cost? And at whose expense? More specifically, how, exactly, would a Trump administration affect children's human rights to health, education, an adequate standard of living and quality childcare?

In this Special Symposium of *Family Court Review*, an outstanding group of scholars addresses these issues with deep insight, considerable experience, and some anxiety. The first five very short essays are an unusual format for a symposium. These authors knew that they would not be able to prepare full-length articles, but they wanted to participate in this symposium. This reflects these authors' engagement with the topic and a real sense of urgency about the risks facing children for the duration of the Trump administration.

In "Immigration Enforcement and Children's Human Right to Education," Martha F. Davis explains why aggressive tactics by U.S. Immigration and Customs Enforcement (ICE) violate well-established equal protection law as well as international human rights law. In *Plyler v. Doe*, the U.S. Supreme Court struck down a Texas statute denying state funds for children who were not legally admitted to the United States and allowing school districts to prohibit them from enrolling. Because of ICE, as Professor Davis shows, children (including citizen children) are afraid to go to school because their parents may be taken away, and parents are afraid to send their children to school "lest they be caught up in more ICE enforcement actions." This is as effective a denial of access to education as the Texas statute in *Plyler* and an egregious denial of equal protection.

Noting the "energy generated in opposition to [Trump]," Nancy L. Dowd argues that this is "A Time for Bold Visions for Children." In Professor Dowd's view, U.S. children have been neglected "at least since . . . the Johnson administration," and what is needed is nothing less than a "New Deal for Children, a comprehensive, structural, and cultural set of policies to assure that every child gets equal developmental support."

As Martin Guggenheim points out in "Dark Days for Children's Rights," the Trump administration's "promise of 'small government' is a promise to do even less to help poor children and families." The real problem, he suggests, is the United States' refusal to recognize positive rights, including the rights to education, healthcare, and an adequate standard of living as set out in the Economic Covenant and the Convention on the Rights of the Child (CRC). Rather, in this country these rights are "available only to the extent that elected officials choose to enact laws that promise them to people."

In "The Complex First Family," Clare Huntington offers both a silver lining and a tantalizing sliver of history. Her silver lining is the idea that the First Family is a sociologically "complex family;" that is, the five children in the family have three different biological mothers. Perhaps, she

muses, this might move the “nation away from the grip of the 1950s image of family.” In the sliver of history, Professor Huntington demonstrates that “other First Families—including the first First Family—were far from nuclear, and that notions of family have always been socially and historically contingent.”

The last short essay is Solangel Maldonado’s sobering “Punishing DREAMers for the Sins of the Fathers (and Mothers).” After cogently explaining who the DREAMers are (young people whose parents brought them to the United States illegally as children and who are enrolled in college or have joined the military), Professor Maldonado makes several important points. First, after Congress’s repeated failure to pass the Development, Relief, and Education for Alien Minors (DREAM) Act, which would have granted them a path to legal status, President Obama signed an executive order granting more than 800,000 young people a two-year renewable reprieve from deportation. These reprieves were revoked by President Trump in September, and unless Congress acts before March, deportations will begin. Second, the U.S. Supreme Court has held for more than forty years that a state cannot punish a child for the acts of a parent and it is undisputed that these young people did nothing wrong. Third, Professor Maldonado notes that most of these young people are from Mexico and she asks whether the Trump administration would have “rescinded DACA’s protections if its beneficiaries were predominantly Caucasian?”

In “Children’s Rights and the Politics of Food: Big Food Versus Little People,” Barbara Bennett Woodhouse and Charles F. Woodhouse hone in on children’s right to food. As Professor Guggenheim reminded us, this is a positive right that the United States refuses to recognize. As the authors explain, access to safe and adequate food is recognized as a fundamental human right throughout the world. Nutrition is particularly important for growing children. The consequences of inadequate food are dire. As they note, “systematic food deprivation during critical moments of child development can sabotage a population’s capacity for resilience throughout the life course, compromise the health of their eventual progeny, and damage the societies in which they live for generations to come.” As one of the wealthiest countries in the world, there is no question that the United States can assure its children “safe and adequate” food. It is equally clear, as the authors demonstrate with ironclad facts and meticulous argument, that the Trump administration has no interest in doing so.

The authors begin with food scientist Michael Pollan’s definition of “Big Food”: “‘Simply put, [Big Food] is the \$1.5 trillion industry that grows, rears, slaughters, processes, imports, packages and retails most of the food Americans eat.’” The Trump administration has consistently deployed its anti-science and anti-regulatory rhetoric in the service of “huge corporations that profit from agribusiness.” In fact, the authors point out, “[t]he Trump administration promises to become Big Food’s staunchest ally.”

Second, the authors draw on international human rights to explain the right to food to an American audience. Third, they expose the lobbyists and the ideology that shape our current food policies. Fourth, they describe the federal food programs, including SNAP (food stamps) and WIC, which provide funding for pregnant and nursing mothers and their children; and federal policies adopted during the Obama years, such as support for breastfeeding mothers, which Trump has already begun to gut. Finally, the authors consider the likely trajectory of Trump’s food policy. Yet they remain cautiously optimistic. Noting a growing backlash from consumers, local governments, and parents, they conclude: “While Big Food lobbyists may find they can influence legislators, they are up against a tougher crowd when they tackle parents.”

In “Somebody’s Children: Parent and Youth Voices in the Age of Trump,” Jane M. Spinak examines “two steadily growing movements—one of parents and one of youth—to engage not simply as the objects of the child protective and foster care systems but as full participants.” Professor Spinak rigorously and thoughtfully guides readers through twenty years of the New York City child welfare system. It is a remarkable journey. She begins by setting out the complicated barriers to “voice” by parents and youth in the system. She then explains in painstaking, concrete detail a range of strategies for overcoming these barriers. Self-advocacy is the goal and Professor Spinak shows how to nurture and encourage it.

Professor Spinak not only has a deep and broad familiarity with the literature, she (and her students at Columbia) were often active participants in the process. The Child Welfare Organizing Project, for example, has been characterized as “the paradigmatic and most promising model of parent self-advocacy.” She describes the slow process of obtaining funding, hiring parents as organizers, and focusing the project’s work on parent testimony about child welfare proposals, parent participation in child welfare conferences, and parent presentations to the “next generation of child welfare professionals,” including Spinak’s students.

Several years later, parents have assumed very different roles in the larger child welfare system. Sandra Kelbett, for example, was a parent advocate who had been trained by CWOP and who assisted other parents as she had been assisted. She went on to appear before the U.S. Senate Committee on Finance in 2015 to propose “realigning federal funds to support community-based early intervention services.” As she explains, while youth participation built on “some of the same principles as parent participation . . . its overall development and practices are substantially different.” Tracking the multiple trajectories of youth participation, she concludes that youths have found greatest voice under two models: “those that draw on the creative energy of youth as storytellers, writers, and artists and those that empower youth to advocate directly for needed reform.” Professor Spinak’s conclusions are rich and nuanced. She welcomes the possibility that effective engagement and participation has the “potential to dismantle the very systems we populate.”

Jonathan Todres concludes the Special Symposium with “The Trump Effect, Children, and the Value of Human Rights Education.” Professor Todres reminds us that human rights education remains a powerful tool for resistance and reform and that it can take many forms. From the attempted “Muslim bans” to the tacit endorsement of White supremacy in Charlottesville, Professor Todres points out, Trump promotes a “worldview in which selected people are devalued based on their religion, race, sex, sexual orientation, or national origin.” While recognizing that these kinds of actions demand an immediate response, the author sensibly notes the “need for broader, long term strategies that can address hatred, bigotry, and discrimination at their roots.” Drawing on broad surveys of educators and children conducted since Trump’s election, Todres documents widespread “bullying and harassment of Muslims, Jews, African Americans, Hispanics and others.”

The response mandated by the Universal Declaration of Human Rights, the Economic Covenant, and the CRC, comprehensive human rights education, has not been adopted in the United States. But nothing precludes adoption on a state or local level and, as the author notes, frameworks and curricula are readily available. After showing the benefits of human rights education for children and their communities, Todres explains how human rights education can be promoted by individuals, including individual teachers, parents, or other caregivers. Teachers, he suggests, can mainstream human rights education, that is, incorporate human rights across the curriculum. Children’s literature, equally important, he argues, is “meeting children where they are,” that is, where they “already spend time” and with what “already captures their interest.” More specifically, he suggests children’s literature as a useful tool, noting a few of the many fine examples that “foster empathy” and inclusion. Parents and caregivers can promote human rights education simply by reading to children, taking them to libraries, and giving them books.

The contributors to this symposium all acknowledge that these are “dark days for children’s human rights,” as Professor Guggenheim sharply observes. As Professor Davis shows, immigrant children are being denied their constitutionally protected right to education. As Professor Maldonado adds, Trump’s withdrawal of DACA threatens more than 800,000 young people with deportation, despite the Supreme Court’s express repudiation more than forty years ago of punishing children for the wrongful acts of their parents. Unless there is a New Deal for children, as Professor Dowd notes, too many newborns will have no future at all.

But none of the contributors are hopeless. As Professor Huntington wryly remarks, despite Trump’s efforts to reinforce traditional family values, the First Family is a daily reminder of something quite different and might yet “open the door to a greater embrace of family complexity.” The

Woodhouses quote Michelle Obama's warning: "Every elected official on this planet should understand: Don't play with our children. Don't do it." Professor Spinak, in an early e-mail while this project was incubating, wrote of "turning to clients and communities to help us move forward." Professor Todres reminds us that even as we are dismayed by depressing headlines and endless shrill tweets, we can always turn to the humanizing world of children's literature, and give a child a book.

Barbara Stark is a professor of law and Hofstra research fellow at Hofstra Law School. She extends warm thanks to Barbara Babb, Editor-in-Chief; Matthew Kiernan, Faculty Administrative Editor; Lisa Fenech, Managing Editor, and Samantha Lollo, Managing Editor of Articles, for their hard work, support, and professionalism, to reference librarian Patricia Kasting for outstanding research assistance, and Joyce Cox for her skill and diligence in preparing the manuscript.