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## The Role of Legal Education in the Emerging Legal Specialty of Pediatric Law

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# The Role of Legal Education in the Emerging Legal Specialty of Pediatric Law

*Diane C. Geraghty\**

Although Hippocrates and his contemporaries wrote extensively on the subject of childhood diseases, it was not until the mid-nineteenth century that pediatrics began to develop as a distinct medical specialty devoted to the health and treatment of children. The specialty of pediatric law<sup>1</sup> has developed even more slowly. Only recently has the legal profession begun to recognize that the law and its institutions have a vital role to play in ensuring the safety and well-being of children.<sup>2</sup>

Law schools in particular have an obligation to expose future attorneys to the legal issues faced by children and to provide comprehensive training for students who wish to specialize in pediatric law in their professional careers.<sup>3</sup> Until 1967, however, with rare exception, law students' only exposure to the study of children and the law came in courses such as family law or estates, where children's issues were only secondarily related to the core subject matter of the course. The Supreme Court's decision in *In re Gault*<sup>4</sup> served as the impetus for law schools to add a course on juvenile law to their curricula. Initially these courses focused almost exclusively on legal issues in delinquency proceedings.<sup>5</sup> Their content was influenced by the fact that the

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1. I use the term "pediatric law" for two reasons. First, "pediatric" has its origin in the Greek words for child (*pais*) and healing (*iatic*). Although traditionally used in the medical context, the term also captures an essential goal of children's advocacy. The term already connotes a professional specialty dealing with children. The phrase was first suggested to me by Howard Davidson, Director of the American Bar Association Center on Children and the Law. Second, it is also used in materials published by the National Association of Counsel for Children.

2. See PRESIDENTIAL WORKING GROUP ON THE UNMET LEGAL NEEDS OF CHILDREN AND THEIR FAMILIES, AMERICAN BAR ASSOCIATION, AMERICA'S CHILDREN AT RISK, A NATIONAL AGENDA FOR LEGAL ACTION 1-8 (1993).

3. *Id.* at 8.

4. 387 U.S. 1 (1967).

5. A 1985 survey conducted by the American Association of Law Schools found that 75 of the 105 law schools in the sample had at least one "child-centered" course. Sixty of the courses focused on juvenile justice issues. See Noel Zaal, *Family Law Teaching in the No-Fault Era: A Pedagogical Proposal*, 35 J. LEGAL EDUC. 552, 553 (1985).

overwhelming majority of reported opinions at the time involved juvenile delinquency matters, and teaching materials concentrated heavily on this aspect of the law.<sup>6</sup> Not until 1978, when Mnookin published his casebook examining broader issues of children and the law,<sup>7</sup> was there a published set of materials available to faculty who wanted to cover topics such as child abuse and neglect.

Although substantive law school courses offered a small percentage of law students the opportunity to study child-related issues in depth, beginning in the early 1970s a larger number of students was exposed to issues surrounding the legal representation of children through clinical education programs. Law schools began to add clinical opportunities for students at almost the same time that a significant body of law surrounding the rights of children started to develop.<sup>8</sup> A few clinical programs began to specialize in the representation of child clients or their parents in juvenile court proceedings. For example, in 1975 Northwestern University Law School's Legal Assistance Clinic received a \$115,000, eighteen-month grant from the National Institute for Mental Health to train law students in the area of juvenile law. The grant's goal was "to produce a steady supply of new lawyers who have experience representing children and who feel comfortable with and committed to such work."<sup>9</sup> In 1975, New York University<sup>10</sup> and Vanderbilt<sup>11</sup> began juvenile law clinics, and in 1976 the University of Michigan Law School followed suit with its Child Advocacy Clinic.<sup>12</sup> In a 1979 survey of clinical education programs conducted by the Council on Legal Education for Professional Responsibility, Inc., a total of ninety-one schools responded that they provided some type of clinical opportunity for students in the area of juvenile law.<sup>13</sup>

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6. See, e.g., SANFORD J. FOX, MODERN JUVENILE JUSTICE, CASES AND MATERIALS (1st ed., 1972).

7. ROBERT H. MNOOKIN, CHILD, FAMILY AND STATE: PROBLEMS AND MATERIALS ON CHILDREN AND THE LAW (1978).

8. See George S. Grossman, *Clinic Legal Education: History and Diagnosis*, 26 J. LEGAL EDUC. 162, 172-73 (1974). A 1973 survey found that during the 1972-1973 school year, 117 ABA-approved law schools had adopted some form of clinical program. COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC., SURVEY AND DIRECTORY OF CLINICAL LEGAL EDUCATION 1978-1979 at xxi (1979) [hereinafter SURVEY AND DIRECTORY].

9. *Clinic Receives Juvenile Law Training Grant*, NEWS AND NOTES (Northwestern University School of Law, Legal Assistance Clinic, Chicago, Ill.), May 1975, at 1-2.

10. TASK FORCE ON CHILDREN, AMERICAN BAR ASSOCIATION, DIRECTORY OF PRO BONO CHILDREN'S LAW PROGRAMS 133 (1994).

11. *Id.* at 98.

12. *Id.* at 66.

13. SURVEY AND DIRECTORY, *supra* note 8, at 1-20.

Although over time these substantive and clinical programs served to acquaint significant numbers of law students with issues involving the legal rights of children, none undertook the comprehensive training of students seeking to prepare for careers in children's advocacy. In 1993, through the generosity of alumnus Jeffrey Jacobs, Loyola University Chicago established the CIVITAS ChildLaw Center to meet the educational objectives of that group of students. The Center's goal is to identify, financially assist, and train students who are committed to working on behalf of the rights of children, either through direct representation or other forms of advocacy.

The CIVITAS educational program has four components: a formal curriculum, internship obligations, symposia, and clinical experience. The required curriculum consists of a five-course sequence over three years and encompasses both substantive knowledge and skills training. Students are able to represent child clients under the supervision of a clinical attorney in their third year of law school. In addition to the formal curriculum, CIVITAS Scholars are required to complete two internships designed to deepen their understanding of children's advocacy issues and provide them with first-hand experience in the practical aspects of working with and on behalf of children. At their option, students may develop courtroom litigation skills, draft child welfare legislation, or work with policy makers, public officials, or private agencies which serve children and their families. The CIVITAS ChildLaw Center also sponsors bi-weekly symposia covering a wide range of topics relating to children. The goal of the CIVITAS curriculum is to build students' expertise cumulatively, moving from a mastery of fundamental concepts and skills to a more sophisticated understanding of the complexities involved in the legal representation of children.

As other educators working in the field of children's advocacy have observed, the effective representation of a child client requires more than a sound understanding of the legal issues involved in one particular case.<sup>14</sup> A child advocate also must be familiar with a wide range of nonlegal specialties and perspectives. Depending on the nature of the issue to be addressed, a pediatric law specialist may have to be familiar with, and know how to access, information from such diverse disciplines as psychology, social work, medicine, nursing, education, sociology, urban studies, criminology, ethics, organizational development, and economics.

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14. See, e.g., Donald N. Duquette & Kathleen C. Faller, *Interdisciplinary Teams in Professional Schools: A Case Study*, in THE NEW CHILD PROTECTION TEAM HANDBOOK 535 (Donald C. Bross et al. eds., 1988); Zaal, *supra* note 5, at 560-62.

One of the challenges faced by legal educators engaged in child advocacy training programs is how best to introduce interdisciplinary study into the traditional law school curriculum and how to take full advantage of the knowledge and skills of colleagues in other departments of the university. In the CIVITAS program, we are experimenting with a variety of models, including offering an interdisciplinary seminar with law and non-law students and faculty, encouraging students to register for courses in other departments, and inviting students and faculty from throughout the university to attend our multidisciplinary symposia series.

Although an increasing number of law schools are accepting the challenge to improve the quality of legal representation for children through strong and creative educational programs,<sup>15</sup> the fact remains that no three-year educational program can produce graduates who are experienced lawyers. A law school child advocacy program will have fulfilled its obligation to its students, however, if it achieves a number of objectives. First, a program should provide students with the theoretical knowledge and practical skills they will need to represent fully the interests of their child clients. Second, it should develop in the students an ongoing awareness of their professional responsibilities as lawyers for children. As Marvin Ventrell's article in this Symposium Issue suggests, this is particularly important in the area of children's advocacy, where state laws vary on the appropriate role of an attorney in child-related proceedings, and where the Model Rules of Professional Conduct fail to provide clear guidance on the attorney's ethical duties.

Third, an effective law school program should also provide students with opportunities to explore the range of policy issues that affect children and their families, and acquaint them with strategies to promote the development of child-centered social policies. David Herring's article in this Symposium Issue is an example of the need for child advocates to continue to think creatively about ways to bring about meaningful social reforms on behalf of children. In his article, he acknowledges the persistent failure of the child welfare system to provide security for children and undertakes an effort to articulate new justifications for implementing workable permanency planning concepts.

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15. See William W. Patton, *Law Schools' Duty to Train Child Advocates: Blueprint for an Inexpensive Experientially Based Juvenile Justice Course*, 45 JUV. & FAM. CT. J. 3, 5 (1994) (discussing three law schools which have instituted child advocacy programs).

A fourth aspect of an effective training program for child advocates is that it should teach students to work collaboratively with others. Increasingly, multidisciplinary teams of professionals work together to protect and meet the needs of children. Pediatric law specialists must develop professional relationships with colleagues in other professions and with other lawyers who share a commitment to improving the quality of legal representation for children. Donald Bross' Symposium article on termination of parental rights in child sexual abuse cases is a good example of the way in which learning from another discipline can be used to serve the needs of children in the legal arena.

Suzanne Strater's article on the juvenile death penalty and Thomas Conklin's discussion of a defendant's right to confront a child sexual abuse victim under the Illinois Constitution are provocative reminders of the potential magnitude of the law's effect on the lives of children and the complexity of the legal issues which confront lawyers when they undertake to represent child clients. A good law school child advocacy program should instill in students the awesome nature of their responsibility to provide the highest standard of representation to their clients and their obligation to continue as students of the law even as they practice it.

Finally, as legal educators we must impress on our students their ongoing obligation to provide leadership on issues affecting the welfare of children. As Father Drinan vividly detailed in his speech at the dedication of the CIVITAS ChildLaw Center, despite a growing national and international movement to guarantee basic human rights to children, they continue to suffer abuse, neglect, community and domestic violence, poverty, and the physically and emotionally devastating effects of war, famine, and disease. Although President Clinton signed the United Nations Convention on the Rights of Children since the time of Father Drinan's speech, political observers are not optimistic that the Senate will ratify the Convention and join the 169 other nations committed to recognizing the rights of children.

Until the rights of children in the United States are guaranteed on paper and honored in fact, members of the legal profession will remain obligated to gear special training toward ensuring the safety and well-being of children. The goal of the CIVITAS ChildLaw Center and this first annual ChildLaw Symposium Issue is to aid in the special training and to bring the issues of children and the law into the legal forefront.

