

FOREWORD

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This issue of the *Review of Law & Social Change* offers scholarship about the field of “Family Defense”—the branch of civil rights work aimed at defending families against unnecessary state intervention.

In theory, the child welfare system is supposed to promote strong families and keep children safe. In practice, however, it often does incredible damage to these families. Rather than address the critical problems that entangle families in the web of child protection in the first place—issues such as poverty, mental health challenges, substance abuse, and racism—the child welfare system often unnecessarily separates children from their parents and places them in foster care for lengthy, sometimes indefinite, periods of time. Poor parents and parents of color are most often the targets of unwarranted government intervention, leading to a systemic deprivation of the right to raise a family for those living in already strained communities.

Since the 1997 passage of the Adoption and Safe Families Act, instead of striving to reunite children removed from poor families with their parents, American courts frequently terminate the parental rights of parents whose children have been in foster care for more than one year. This drastically increases the rate of adoptions and significantly reduces the rate of reunification (the returning of children to their families of origin).¹ Even worse, the push towards adoption created by the passage of the Act has resulted in the creation of a substantial number of “legal orphans”—children of parents whose parental rights have been terminated but who are never adopted and thus remain in foster care.²

To the extent “child welfare” is taught and written about, it is primarily from the perspective of protecting children from harm, not the perspective of the government overreaching into the lives of poor parents to control their conduct. It is the equivalent of only having courses and articles on prosecuting criminal cases and excluding entirely the study and perspective of defense work.

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1. John Thomas Halloran, *Families First: Reframing Parental Rights as Familial Rights in Termination of Parental Rights Proceedings*, 18 U.C. Davis J. Juv. L. & Pol’y 51, 57 (2014).

2. Lashanda Taylor, *Resurrecting Parents of Legal Orphans: Un-Terminating Parental Rights*, 17 Va. J. Soc. Pol’y & L. 318, 325–26 (2010).

This issue seeks to fill that void.

In April 2016, the New York University Family Defense Clinic hosted a symposium celebrating the 25th anniversary of the Clinic to discuss the groundbreaking model it established—bringing lawyers and social workers together to ensure that families obtain the services and support they need to keep their children safely at home and to avoid the trauma of needless and preventable separation—and to envision where the Family Defense movement must go next.

Here, the *Review of Law & Social Change* presents five papers from the conference's speakers—scholars and practitioners in the field of Family Defense. Their papers present thoughts on persistent challenges and potential solutions in the field, and how to bring these ideas from the page into practice. We hope this issue will play a part in this critical movement and ultimately help to protect the rights of poor and minority families against punitive state intervention, to keep these families and their communities intact, and to slow the foster care pipeline.