



**Martha Fineman, Karen Worthington, eds.** *What Is Right for Children?* Farnham, Surrey: Ashgate, 2009. x + 450 pp. \$99.95 (cloth), ISBN 978-0-7546-7419-1.



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## At the Intersection of Family, Child, and State Rights

Since children gained legal recognition in the mid nineteenth century, the United Nations has made great strides in establishing international child welfare treaties and principles, but the United States has often been reluctant to look to the UN for guidance in this area. Relying on feminist legal and human rights frameworks, *What Is Right for Children?* addresses the complexities of U.S. children's legal and moral/ethical rights with consideration for issues of education, juvenile criminal law, religious plurality, parental rights, and the reach of state influence. *What is Right for Children* undertakes the daunting task of culturally and legally contextualizing family law by addressing such issues as whether children's rights should be considered an expansion on the United Nations Universal Declaration of Human Rights and the International Covenants on Human Rights; the ethical and legal basis of American policies concerning the confluence of children's, states', and parents' rights; and how American treatment of children's rights compares to that of other Western democracies. Fineman and Worthington present an extensive compilation of domes-

tic and international juristic-ethic scholarship that challenges U.S. policymakers to address pertinent questions surrounding children's rights by synthesizing, comparing, and contrasting legal and ethical precedence across Western societies.

The volume is divided into three parts. In the first, contributors engage the conversation around children's rights by juxtaposing U.S. treatment of children's rights against international human rights standards, such as those found in the Convention on the Rights of the Child. Part 1 calls for the renegotiation of American standards of state responsibilities balanced against parental and child rights. This section questions the agenda of conservative religious resistance to government intervention, with particular attention paid to fundamentalist assumptions of familial sovereignty and their impact on child welfare and policies. Additionally, part 1 scrutinizes the tactics and the effectiveness of conservative religious organizations such as the Family Research Council and the Heritage Foundation in shaping the legal and political debate on children's rights.

Part 2 explores U.S. juvenile law by addressing complexities such as juvenile capital punishment, the principle of lesser culpability, and matrifocality of the parental right doctrine. This section deconstructs the very definition of "childhood" and "parent," while emphasizing contextual factors in decisions concerning children and the law. For example, chapter 8 calls for a "returned focus on children as members of an existing family within a larger community as the means for grounding the child welfare system" (p. 147). This chapter is particularly critical of America's (particularly the Bush administration's) tendency to marginalize children by "ignoring" internationally recognized children's rights, with the justification that "American children do not need human rights because the U.S. Constitution endows their parents with inalienable rights to family autonomy as a facet of the "liberty" assured to all persons under the Fourteenth Amendment" (p. 196). This section, as does much of the rest of text, offers a number of examples that contradict this common American assertion and effectually demonstrate the need to expand children's rights in the United States.

Part 3 more closely juxtaposes American child welfare policies against Canadian and European jurisprudence in an examination of the rights of children and ambiguities in both domestic and international laws. This section also considers the rights of parents, children, and

government with respect to religious freedoms. For example, in chapter 15 Catherine Ross, professor of law at George Washington University Law School, considers a child's rights to religious expression and body politics in the school context using the example of a child's right to wear religious symbols (e.g., Muslim *hijab*) in the classroom. Further, this section explores the consequences and appropriate legal (and moral) course when parental, child, and institutional rights and wishes are not in accord.

While *What Is Right for Children?* generates more questions than answers, ultimately contributors call for equilibration of the distribution of power between religious freedom, parental rights, and the role of the state through the ratification of UN treaties concerning children's rights. Grounded in extensive sociopolitical, historical, and legal evidence, this collection contributes to the growing body of scholarship critical of American policies on children's rights and adds a great deal of clarity to ponderous statutory and theoretical debates on the role of state and family in delineating and preserving children's rights. I recommend this book for courses in law, family studies, ethics, public health, and any other discipline seeking to expand advanced undergraduate or graduate students' grasp of legal, ethical, cultural, and political factors that shape the complex intersection of family, child, and state law.

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