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International Summit Sets Ambitious Agenda to Aid Street Children

By Shannon Prown and Lourdes M. Rosado – September 18, 2015

Tens of millions of children live or work on the world’s streets. Many factors propel children into the streets, most notably extreme poverty and violence. Once there, youth face even more dangers and challenges, including the risk of being abused, trafficked, arrested, or detained; a lack of access to nutritious food, basic health services, and an education; and the absence of connections to a caring adult. As Ester Mrutu of the Dogodogo Centre Street Children Trust in Tanzania described:

Most governments have legislation to protect children. But in fact street children are not among those children when it comes to implementation of such legislation. They are left out! Census is taken but they are not counted as if they don’t matter to anybody. Strategies and plans are prepared by government authorities but street children in most cases are not captured by those plans. Budgets are made that do not incorporate street youth and children.

The International Summit on the Legal Needs of Street Youth convened on June 16–17, 2015, in London, England, to formulate an ambitious global advocacy and reform agenda to promote better outcomes for street-involved youth. The Summit—which was organized by the American Bar Association’s (ABA’s) Commission on Homelessness and Poverty, the Children’s Rights Litigation Committee of the ABA’s Section of Litigation, and the global law firm of Baker & McKenzie, along with many co-sponsors from around the world—drew more than 150 experts, including youth, from nearly 40 countries who serve children in more than 100 nations. Included were representatives from networks of professionals working with street children such as the Consortium for Street Children and Dynamo International. Several United Nations (U.N.) representatives also participated in the Summit, including: Maud de Boer-Buquicchio, the U.N. Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography; Leilani Farha, the U.N. Special Rapporteur on Adequate Housing; and Bernard Gastaud of the U.N. Committee on the Rights of the Child. Baker & McKenzie hosted the Summit at its London offices, and many who could not travel to London participated virtually from Baker & McKenzie offices around the globe, including Johannesburg, Bangkok, Cairo, and Manila. The Summit immediately followed the ABA’s Magna Carta events in London, and ABA President William Hubbard and President-Elect Paulette Brown opened the Summit with welcoming remarks.

Street children (those under 18 years of age) and youth (those ages 18–24), also sometimes referred to as “street-connected” children or youth, work or sleep (or both) on the streets. Some may maintain contact with their families and return to a home in a slum or squatter settlement at night. Others are homeless and sleep on the streets with other homeless children or adults. Summit participants did not debate who qualifies as a “street youth,” nor the language that
should be used to describe this population. Instead they focused on remedying the dire circumstances facing children and youth struggling to survive on the streets. Jacob Akumbe, a former street youth from Kisumu, Kenya, described the conditions that too many children experience:

During my days in the streets . . . there was no treatment when one is sick . . . There was frequent police harassment and brutality, insecurity. Most of us resorted to drug abuse, due to life conditions. Some of us were prone to diseases like malaria, typhoid, HIV/AIDS. The youths were and are still stigmatized by people who branded them with names. We lacked shelter. Youths, especially those who have reached 18 years, could not access to ID cards. We faced harsh weather conditions. During electioneering periods we faced political violence and some of us died. There was rampant sodomy. We experienced physical torture between us and also police on patrol. We faced exploitation by those who employed us.

Judge Eduardo Rezende Melo of Brazil, former Secretary General of the International Association of Youth and Family Judges and Magistrates, described the key themes that emerged during the Summit. These included a recognition of children in street situations as a global phenomenon, and the need for legal professionals to engage to improve life conditions for such youth, including clarifying ambiguity in the law with clearer international standards. The Summit also was “a great moment to bring the voice of the voiceless, vulnerable youth,” stated Ester Mrutu of Tanzania. There was universal endorsement of the concept that “a bottom-up approach to reform is key, with a reliance on the experiences of street children allowing effective change,” explained Richard Hooks Wayman of LUK Inc. in the United States.

Developing Global Legal Standards
The Summit was organized around five key issue areas. Leading up to the Summit, a panel of experts assembled on each issue and drafted an issue brief, case studies, and proposed legal standards for debate and consideration at the Summit.

**Issue 1: Human Needs.** Street youth must be protected by the full range of rights within the [U.N. Convention on the Rights of the Child (UNCRC)](https://www.un.org/ru/documents/annexes/01-220e2.pdf), including the right to protection from discrimination and the right to have best interest be a primary consideration in all decisions affecting the child.

**Issue 2: Child Welfare.** There must be a child welfare approach to street youth, and governments must intervene with a protective, not punitive or penal, response to children who live or work on the streets.

**Issue 3: Cross Border Issues.** Children and youth who independently cross borders to attempt to work or access education or other opportunities should be recognized as a special category and protected from exploitation by employers, particularly from work that is harmful or hazardous to their health.
Issue 4: Education and Employment. Experts on this panel provided model legislation to protect children from economic and labor exploitation and to provide supportive housing.

Issue 5: Criminalization. Standards are designed to prevent children and youth from being ensnared in the justice system simply for sleeping in public areas, being without their parents, engaging in life-sustaining activities, or for status offenses (e.g., running away or truancy).

Cross-Cutting Themes
A number of issues emerged during the Summit that cut across the five issue areas.

Safety and welfare. Many street children are on the streets because the alternative is worse. Their family did not provide for their safety and welfare so they took to the streets. Kesz Valdez, founder of Championing Community Children, joined the Summit remotely and provided a vivid description of his life on the streets. Valdez lived on the streets to escape a violent home situation. He drank sewage water and ate spoiled food to survive but it made him progressively ill. He was severely burned when he was pushed into a street fire by those trying to flee it. His mother refused to help him. He was rescued by the man who would ultimately become his father. He was lucky.

Ester Mrutu commented on the barriers to providing for the safety and welfare of street youth: “When a vulnerable child falls sick they have no one to go to. Health facilities have no room for children who are alone on the streets to get treatment.”

There is a misguided focus on reunification with families. Reunification assumes children have become separated from their families by accident, when this is not always the case. Many times the children have separated deliberately to escape a dangerous or abusive situation.

Children are on the streets for many reasons. Each child must be treated as an individual, but in every case their basic safety and welfare needs must be met. That means that those needs must be met on the streets as well as in care or through reunification with the appropriate balance of autonomy and protection.

Identity. Identity is an important factor in how we feel about ourselves in society. One tweet articulated the notion well: “I can’t say who I am unless you agree I am real . . .”

Identification also plays a more practical role in the safety, welfare, and development of street youth. Lack of identification documents impacts many elements of street life: access to services and education, ability to obtain employment, and protection of rights in a criminal proceeding.
Ari Widodo, speaking on the youth panel, shared his experience and spoke about the quandary he faced in obtaining identification. Widodo moved from a small town in Indonesia to Jakarta at the age of 15 years without any identification papers. Indonesian citizens should have an identity card, but without connection to a family, you cannot get the card and therefore cannot prove citizenship. Widodo was forced to contact his family and to follow their will that he claim he is Muslim on his identity card.

Without those documents, Widodo faced many challenges other undocumented street youth face. Government officials would come with a rubbish truck at night to catch anyone without identity cards. They would have to run or be caught and jailed. In addition, they had no access to services that were their right as Indonesian citizens. Widodo explained that “you are not even second-class citizen, [you are] not citizen at all.”

Jacob Akumbe described a similar situation in his country of Kenya:

Chapter 3 of the Kenya Constitution provides that every citizen has a right to be issued with identification documents, which includes birth certificates, identification cards, and passports. These identification documents are used to access government services, vote in elections, getting employment, opening bank accounts, and registering businesses. The street youths have a big problem in acquiring identification documents as quite a number cannot identify their biological parents, which is a condition for issuance of either a birth certificate or a national identity card. Without these documents the street youths are harassed by the police and council officials and most of the times they are arrested for lacking identification documents and thrown in jail or Borstal institutions.

Criminalization. Eric Tars of the National Law Center on Homelessness & Poverty reported that in the United States, homeless people are swept into the criminal justice system by ordinances prohibiting a variety of activities, including loitering, vagrancy, urinating in public, and sleeping on the streets. Some jurisdictions even criminalize people who try to help homeless people; some U.S. states have laws prohibiting sharing food with homeless people. Youth are targeted through laws prohibiting “status offenses,” such as being truant from school, running away from home, and breaking curfew. Once they have a record, young people encounter often insurmountable barriers to obtaining employment and housing. Stephen Gaetz of York University and the Canadian Observatory on Homelessness/Homeless Hub described a similar situation in Canada.

Street-involved youth worldwide are subject to increased surveillance and harassment by law enforcement. As one participant stated, “All over the world the police are the biggest enemy of street kids.” Kenya’s Akumbe explained that police grossly violate the rights of youth by “arbitrary arrests and dumping them in either juvenile remand homes or adult
remand homes.” Even more troubling is the physical abuse that street children and youth suffer at the hands of police. Tanzania’s Ester Mrutu described the situation:

Most [street children] will tell you it is the police and the city militia that they fear the most. None of them will mention food, clothes, or shelter as their greatest challenge! Security is crucial to children on the streets. They are criminalized by being on the streets, always under the pretext of loitering. Street children have no identity cards which is true of the vast majority of Tanzanians! . . . Unfortunately the police do not just enforce the laws, they also break the laws through child abuse.

Once arrested, children in most countries have no legal representation. As a result, “[m]ost of them stay in prisons for longer periods, and when some are released their ages had advanced. Back in the society they are rejected and viewed as social outcasts. The youths are viewed as criminals, outcasts, useless, and bothersome,” stated Kenya’s Akumbe.

Summit participants agreed that training police and other programming designed to change their interactions and attitudes toward street children and youth must be a priority. Vicky Ferguson, chief executive officer of Glad’s House in Kenya, pointed out that stigma among police toward homeless youth drives much of the abuse. Consequently, “programs are being run with the police and with the children to try and show police the human nature of the children and their situations. This challenges that stigma.”

**Education and employment.** Experts from around the world agreed that the stigma surrounding street youth prevents them from obtaining an education. Anna-mai Estrella from Chance for Childhood in Uganda pointed out that even if street youth are able to attend school, their stigmatization is still a huge barrier to obtaining an education and may lead them to drop out of school. Thus, such youth engage in a street economy to earn scant income to survive without ever finding a way out of the cycle of poverty.

Participants thus pointed to promising practices to promote better educational outcomes for street-involved youth. Sanjay Gupta of Childhood Enhancement through Training and Action (CHETNA) in India uses a “contact point approach” to reach street children as it allows “the education, training, and support to come to them. This builds the foundation of education with street children to allow some to transition into real schools.”

Children and youth often engage in the street economy to earn money for their survival. Magda Barsoum, a child protection consultant in Egypt, sets up special “banks” to allow children to save part of any money they earn. Their savings are supplemented with monies from special funds and nongovernmental organizations (NGOs) “in order to promote a level of security not found on the street. It’s also a base for the organisation of street children groups that provides an education in economics and teambuilding skills,”
explained Barsoum. A successful model for youth ages 16–24 is to provide supportive housing, described Hooks Wayman of the United States. “This can be done either through using an entire block of property, or through renting several apartments within an area based around a central hub.” Youth receive supportive services to help them access education and employment while allowing them continued independence.

**Exploitation.** Street youth lack protection, which often leads to some form of exploitation. Traffickers, employers, or others hoping to profit from this vulnerable population can exploit them.

In the context of trafficking, migrant children are more at risk, particularly if they have no identification or their identification has been taken by their trafficker. However, there is no need to cross borders for trafficking to take place (in fact, domestic trafficking is more prevalent). Victims will often not act like victims as a mode of survival, particularly if they fear retribution. If they do not act like victims, they are at risk of criminalization and end up being charged with the crimes they are trafficked into committing.

Unscrupulous employers may also exploit street youth. Angel Benedicto from Tanzania described her journey as well as the efforts she has taken to help others in similar situations. Benedicto went to live with her father when her mother died. Her father tried to force her to get married but she did not want to, so she fled home and ended up on the streets. She found employment as a child domestic worker. The work she was forced to do was not what she was promised, she did not always get paid, and the workload kept her from being able to complete her education. After being unable to change her position, she left and went back on the streets.

Benedicto found another position as a domestic worker and was treated well there. When the wife began traveling for her job, the husband approached her to have a relationship with her. She did not want to have a relationship and fled. She found her way to an NGO that helps child laborers to assert their rights and they coached her. Benedicto has since become their representative to reach other child domestic workers to teach them how to assert their rights and protect themselves. Benedicto has been presented an award by Queen Elizabeth II.

**Next Steps and a Call to Action**
As Jacob Akumbe of Kenya advised, “The plight of the street children and youths need a concerted effort of all the stakeholders to pool their resources together and also to come up with structures that can address the root causes of the problems right from the household level.” Toward that end, Summit participants agreed to work on two key initiatives in the coming months: (1) to support the development of the U.N. Committee on the Rights of the Child’s General Comment on Children in Street Situations and create standards and methods by which international human rights law will become a reality for street youth globally; and (2) to finalize
and publish the legal standards drafted for the Summit. In addition, advocates vowed to reenergize efforts to push for U.S. adoption of the UNCRC.

**General Comment on Children in Street Situations.** Governments worldwide—with the exception of the United States (see below)—have promised all children the same rights by adopting the UNCRC. These rights describe what a child needs to survive, grow, and reach his or her potential in life. They apply to every child. The U.N. Committee on the Rights of the Child uses the UNCRC to hold governments accountable for protecting the rights of children. The U.N.’s commitment to develop a General Comment on Children in Street Situations stems from a recognition that children in street situations often do not have access to these rights.

**Legal standards for street children.** The ABA Commission on Homelessness and Poverty and its partnering ABA entities will work to finalize the standards with target completion of early 2016. The standards will inform the General Comment as well as be standalone resources for reform advocacy. The ABA Board of Governors approved the establishment of an ABA Coordinating Committee on the Legal Needs of Homeless Youth in August 2015 to coordinate future work. ABA members who wish to participate in this important effort are urged to contact Amy Horton-Newell.

**U.S. adoption of the UNCRC.** Former Secretary of State Madeleine Albright signed the UNCRC on behalf of President Clinton and the United States, but procedural and political barriers have kept the Convention from being sent to the Senate Foreign Relations Committee for consideration. It should also be noted that ratification in the United States requires an evaluation of constitutionality and impact, which can take several years.

The United States is one of only two nations in the U.N. to have not ratified the UNCRC, Somalia being the other; however Somalia is in the process of finalizing the process for ratification. This diminishes U.S. efforts to advocate for human rights globally. In addition, the United States is not gaining the benefits ratification would bring. While the United States generally has some good programs and laws to protect children, many of those children still face challenges associated with health care, education, and general safety and welfare.

With the ratification of the UNCRC, U.S. leaders would be compelled to reevaluate the status of child welfare in the United States and take steps to address the shortcomings. The UNCRC could become the foundation for improving U.S. policies and programs as it has in other countries. For example (as noted in the information packet from the Campaign for U.S. Ratification of the Convention of the Rights of the Child):

- The United Kingdom enacted new laws specifying that both parents are jointly responsible for the upbringing of their children.
• Australia implemented a national initiative designed to support parents and families in fulfilling their responsibilities.
• Canada launched a National Children’s Agenda in order to develop unified territorial and provincial goals that promote and enhance children’s welfare.
• Romania amended its Penal Code to establish community service sentences for juveniles.

Objections against ratification include concerns about U.N. control over U.S. law, impact on the primacy of the parent-child relationship, and scope of rights assigned to the child. To learn more about the campaign for ratification, please visit the Convention on the Rights of the Child website.

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| **On Education and Employment** | Hearing how stigma is the biggest barrier to employment and education for #streetchildren Comment: We need to limit the kinds of work and hours per week. If we ban work they will just work outside the system. Comment: Whether a child should be allowed to work should be case
On Exploitation

| Specific. Children should be treated individually. |

Joe Hewitt speaks on use of children to commit crime, often forgotten as a Worst Form of Child Labour

On Cross Border

| Child migration must be treated differently than adult migration. They are, after all, children. |

On the Movement Forward

| Changed mind & heart can change world. I changed from street kid to kid advocate & change world one heart at a time #KeszValdez |

“A world that abandons its children in the street has no future” - inspirational words. Let’s do something about it!

Keywords: litigation, children’s rights, homelessness, poverty, street-connected children and youth, human needs, child welfare, border crossing, education, employment, criminalization

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Representing Very Young Children
By Jeanine McKelvey – October 19, 2015

In June 2015, the American Bar Association hosted a free teleconference to discuss the representation of nonverbal and young children in the child welfare system. The specific age group discussed was children birth to age five. Children in this group present unique challenges that attorneys are often not trained to address. The lack of language skills makes the zealous representation of these small clients uniquely difficult. The panelists examined the variety of roles that lawyers for young children undertake across the country, including “substituted judgment,” “legal interests,” “best interest,” or a hybrid of roles. They also looked at the obstacles that attorneys representing young children face and the ethical concerns that are unique to this group of clients.

Moderating this discussion was Brent Pattison, director of the Middleton Center for Children’s Rights, Drake University Law School. Joining him were Emily Kaplan, assistant attorney in charge, Legal Aid Society, Juvenile Rights Practice, New York, New York; Tammy Mullins, attorney ad litem, Pea Ridge, Arkansas; Lisa A. Kelly, Bobbe and Jon Bridge Professor of Child Advocacy, director, Children and Youth Advocacy Clinic (CYAC), University of Washington School of Law, Seattle, Washington; and Sara Johnson, staff attorney, Kids Voice, Pittsburgh, Pennsylvania.

Models of Representation
Representation models are varied between states, and the panelists represented this variety. In fact, there is not unanimity on the issue of young children in dependency court being appointed an attorney at all. In New York, every child is appointed an attorney, and the majority of them are represented by the Juvenile Rights Practice of the Legal Aid Society. Their model is the “traditional” one in which the attorneys advocate for their clients wishes. With very young children, social workers are used to understand the development levels and to help determine what is in the child’s legal interest.

This is very different from the Arkansas model. There, an attorney is appointed for the children at the beginning of the case and uses the “best interest” model. The attorney gathers information from multiple sources and then makes a recommendation to the court that the attorney believes is in the child’s best interest. This may include obtaining medical records, requesting hair follicle testing, using play therapy, and counseling reports.

Kids Voice in Pennsylvania is yet another model. Attorneys are appointed at the inception of the cases as a guardian ad litem (GAL) and they represent both the child’s legal and best interests. The attorney works very closely with a child advocacy specialist to develop a recommendation that will serve the child’s best interest. To that end, they have developed a “road map” that is used to direct their investigation.
In Washington, children are not appointed counsel in every case. For young children, nonlawyer court appointed special advocates (CASAs) are used routinely.

One common thread was seen between each panel member and that was the importance of independent investigation. Each member stressed how important it is for the attorney who represents young children to not completely rely on the reports from the social service agency and to use his or her investigative tools to obtain additional information.

**Obstacles Faced in Representing Young Children**

One of the biggest obstacles faced by attorneys representing young children is obtaining important information. Unlike the older children who can be interviewed and give insight into the issues, the very young client may not be able to talk to the attorney to guide his or her representation. Additionally, HIPAA laws can prohibit access to important medical information. Obtaining an order that grants the attorney access to medical information is important.

In Arkansas, attorneys obtain an order from the court at the beginning of each case that grants them access to information protected under HIPAA, and they will consult with an expert from Children’s Hospital to interpret the medical records.

In New York, the parents need to sign HIPAA releases before the attorney can access the medical information. Attorneys receive additional training on childhood development, and they will observe the children’s interactions with the parents and others to help guide their position.

Kids Voice, in Pittsburg, uses their “road map” to guide representation from the time they are appointed at the opening of the case. An order from the court is obtained at the start of the case that grants access to the children’s records. Attorneys will visit their clients, obtain medical information, talk to daycare providers, and look at social media for information about the family if it is available. They also rely on the child advocacy specialist to help in obtaining important information, including the medical records. Together they will develop a strategy, with assistance if they disagree on a position.

In Washington, the attorneys appointed for the children often come into the case posttermination of parental rights. They are looking at the stated goal of permanency and the steps being taken to reach that goal. While they meet with their clients and investigate the services, the main goal is to finalize the permanent plan. In some cases they may seek to reinstate parental rights if the goal is no longer in their clients’ best interest.

Some additional obstacles faced by the attorney for young children are the high caseloads that many of us carry and the time needed to develop a relationship with the clients. It is important to meet the children at the right time and place. For this age group, it can be important to engage in play activities and listen to what the kids talk about while playing. Keeping caseloads manageable is important to allow this relationship to develop. High caseloads prove to be a barrier in adequate representation, especially to the children in this group.
Ethical Issues Faced in Representing Young Children

Many of the children who come into the child welfare system are part of sibling groups, and representing a young child who is part of a sibling group can be challenging. The older children may have different positions than what is recommended or in the younger child’s best interest. In New York, the statements of the child are protected by lawyer-client confidentiality, and even a young child, depending on the maturity level, can direct his or her representation. Assessing the case for possible conflicts between the siblings at the front end is important and can prevent conflicting off an entire case later in the process. Also, the positions that the child client and attorney take can change over time. Assessing the case for conflicts is appropriate at each stage of the case. Because cases can continue for long periods of time, constant vigilance is needed.

Should Kids Be Present in Court?

Just as the representation models were different, the opinions on having children present in court for the hearings were varied among the panel members. In Arkansas, all children are expected to be present in court regardless of their age. This makes the child more “real” and not just a name from the report. Once the initial hearing is done, younger children will come to court periodically and the older ones will generally appear at each hearing.

In Pennsylvania, children generally come to court, but their appearance can be waived on a showing of good cause. The court requires children to be present once every six months, and for younger children, the attorney may ask the court if the child is requested present for the next hearing. If difficult matters are before the court, the child can be excused prior to that part of the hearing.

In contrast, in New York there is no expectation that the child will be present in court. Kaplan shared that the judges prefer young children not be present at the hearings as it was perceived a distraction to the parents. In some cases, the court may bifurcate the hearing to meet the child and then continue with the legal part of the hearing after the child is no longer present. For the children that are placed home with their parents, attorneys will often encourage them to bring the child to court for the hearing. This allows the judge to see the child and parent interacting and can assist the court in seeing the bond.

Some Additional Issues

Assessing the safety of the nonverbal client and ensuring a safe environment for the child is important. In Pennsylvania, the attorney will talk with relatives and older children to gain insight into the issues and gain prospective from different vantage points.

Frequent visitation between parents and children is important to maintain the bond between them. Sometimes there will be a recommendation for visitation for an extended period of time one time each week, but research shows that shorter, more frequent visits are more beneficial to the bonding between parent and child. Additionally, many times a child is said to be “acting out” post-visit with the parents. Because the child is nonverbal, the attorney needs to look at what is
happening both before and after the visits. Pattison experienced this type of case, and his investigation revealed that the child was being woken up from a nap and taken to the visit. Once the visit was adjusted to allow for a full naptime, the child no longer had an adverse reaction post-visit.

**Conclusion**
Representing nonverbal and very young children can be very challenging. There are obstacles and ethical issues that are unique to this area of law. It is important to identify the model of representation in the state where you practice, obtain training in the areas of childhood development, and associate with others who can assist in developing your position. Children in the child welfare system across this country are vulnerable—nonverbal and very young children in this system are even more so. Ensuring they receive competent representation is important and the job of every attorney who chooses this type of practice. This Roundtable should serve as starting point to discuss the representation of these young children in your jurisdiction. Listen to the [Roundtable](http://www.abanet.org/childrens_rights.html) on the Children’s Rights Programs & Materials page.

**Keywords:** litigation, children’s rights, child welfare, young children, child development, child advocacy specialist, court appointed special advocate, legal interest, best interest, ethical issues

Jeanine McKelvey is a senior attorney at the Law Foundation of Silicon Valley, Legal Advocates for Children and Youth, in San Jose, California.
The Growth of the Family Defender Movement
By Richard Cozzola – October 19, 2015

The ABA Center on Children and the Law Parent Attorney Conference showed just how far the movement for family defenders has come since the first conference in 2009. Model programs have grown in places like New York City, the state of Washington, and Georgia. The depth and breadth of expertise has grown, with many new presenters, and an emphasis on skill development in a preconference trial skills workshop and individual sessions. Speakers from keynoters to individual sessions focused on how to respond to the issues of race and poverty that are recurring challenges for the parents and children who are involved in child welfare cases.

The conference was highlighted by its beginning and ending keynotes. The opening speakers presented a series of challenges. Professor Martin Guggenheim of NYU, William Bell of Casey Family Programs, and Lynda Coates from Communication Across Barriers began the conference. They outlined in stark terms the realities of the child welfare system. Across the country, African American families, and especially poor African American families, are overrepresented in foster care at a rate often two or three times their rate in the general population. With state budgets stretched thinner, parents and children in poverty face increasing obstacles in accessing services they need to help with reunification. These challenges continue despite the federal requirement that states make reasonable efforts to prevent unnecessary entry into the foster care system and make reasonable efforts to ensure reunification. The reality painted by the speakers was that reasonable efforts are often nonexistent.

The lunch plenary, by Molly McGrath Tierney, director of Baltimore City Department of Social Services, responded to the challenge by describing a model that has begun to better serve children and families. The work that her agency has begun to implement in Baltimore has focused on changing from existing institutionalized models that remove children from families to prevention, which provides meaningful help for families and keeps children in their homes. The new model focuses on the individualized needs of children, their families, and communities, and has produced a 69 percent reduction in the number of children in foster care, and 89 percent drop in group home placements, as well as better outcomes for the children themselves. Her challenge was that those in attendance use their creativity to create similar models in communities across the country. Learn more about the work in Baltimore here.

In between these challenges, breakout sessions focused on a variety of topics often echoing themes from the plenaries. A number focused specifically on responding to issues of race and culture, including making reasonable efforts a reality (Professor Stephanie Ledesma, Thurgood Marshall School of Law); identifying the historical and political sources of racial disproportionality in the child welfare system and developing systemic responses (Jessica Marcus and Zainab Akbar, Brooklyn Defender Services, and Michelle Burrell, Neighborhood Defender Services); and effective advocacy under the Indian Child Welfare Act (Honorable Anita Fineday and Sheldon Spotted Elk, Casey Family Programs). Additionally, several smaller guided discussion groups focused at a microlevel on overcoming cultural and racial barriers with
clients. Still other sessions highlighted the strong response of the Department of Justice (DOJ) to violations of the Americans with Disabilities Act in child welfare cases and the use of both DOJ and the U.S. Department of Health and Human Services civil rights complaint process to respond to issues involving race for clients.

The conference also focused on skill development for attendees. Over 60 attendees were involved in the preconference trial skills training, and other conference sessions focused on the role of parents’ counsel in child testimony, conducting expert witness examinations, dealing with complex medical issues, and using interdisciplinary advocacy to assist families.

Finally, the conference closed with a moving discussion and call for action. Mimi Laver, the director of the ABA’s Parent Representation Project, led a “fishbowl” interview and discussion with Shayne Rochester and Dusti Standridge. Rochester, a father, talked about how he overcame addiction and a wrongful prison sentence to prevent the termination of his relationship with his child a few days before the court’s final ruling. His stories of trying to “learn the law” by repeated reading of the prison’s statute books showed his determination to be a strong parent for his children. He ended with a description of his current work as a parent mentor in Washington. Standridge talked about how the personal incidents in her own life and relationships led her to become a parents’ attorney. She ended the conference with a quote from Thomas Jefferson:

> I am not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

As in past years, Mimi Laver’s energy, intelligence, good humor, and sense of justice led the conference steering committee and its presenters. The ABA’s work in this area has been a model of leadership—a willingness to examine challenging topics, and to use a collaborative approach to develop experts in this important work across the country.

**Keywords:** litigation, children’s rights, family defenders, parent representation, child welfare, foster care, poverty, race, trial skills

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Urban Educational Inequalities: Why the Growing Concern?
By Darryl Irizarry Jr. – July 2, 2015

Education is essential for personal growth and financial prosperity, but when analyzing the way education is administered in both the urban and suburban communities, a vast disparity becomes quite apparent. Visiting some inner-city schools, one can identify clear differences that inner-city students confront daily, like barred-up windows, metal detectors, and overcrowded classrooms. In this type of environment, one may ask: Are these students being prepared for college or the penitentiary? It wasn’t until I began my work with the Boy Scouts of America in a suburb in Delaware County, Pennsylvania, that my eyes were opened to the lack of resources of inner-city youth. The suburban schools that I visited were physically well-maintained, the student-teacher ratio was 10:1 in every classroom, and I witnessed students at the age of seven interacting with the up-to-date technology.

The lack of resources in the inner city has also contributed to a higher dropout rate. The New York Times reported that “the average high school graduation rate in the nation’s 50 largest cities was 53 percent, compared with 71 percent in the suburbs,” an absolute growing concern. Apparently, this issue has been going on for decades. According to an article from 1968 entitled “Inequalities Between Suburban and Urban Schools” by Arthur Adkins of the University of Maryland, “[w]hile the educational needs in the city schools are greater . . . suburban schools ordinarily benefit more from state aid than urban schools.”

Not only is there inequality when it comes to education, but economic empowerment is rarely spoken of in most inner-city schools. Financial literacy that would benefit youth into adulthood and improve the economy overall is not even thought of in the classroom. According to Time magazine, life skills are not being taught at these schools because “[o]nly one in five teachers feels qualified to lead a personal finance class, according to a University of Wisconsin study, and personal finance concepts are not part of standardized tests like the SAT or ACT” and therefore not a priority.

The Obama administration is aware of the growing concerns about higher education. One proposed solution is to make community colleges free, thereby attempting to give economically challenged students an equal playing field with those kids who can afford to pay for college. Inspired by the president’s plan, Community College of Philadelphia has decided to move forward with its plan ensuring that all first-time high school grads receive this incentive with the “50th Anniversary Scholarship.” Dr. Donald Generals, the college’s president, said, “There are far too many students who, even with financial aid, are unable to meet the gap that exists between the financial aid they get and what final tuition would be.” This year the college plans to give hundreds of students the opportunity to attain their higher education for free, providing the foundation needed before they head to their desired four-year institutions.

All students, no matter where they live or their household income, should be able to receive the same opportunities, resources, and attention needed to have a chance to prosper. The objective of
the school system should not be to herd our children along and feed them information that will not directly benefit them in the future. The objective should not be for our children to be confined in environments where it is difficult to learn.

The objective is for our next generation of leaders to be equipped with life skills such as financial literacy so they are able to avoid the pitfalls that bring financial ruin to many before they even turn 18. The objective is for our youth to get educated in an environment that promotes education and not incarceration. Finally, the objective is to ensure that our youth grow up in a system that encourages them to seek higher education without the outrageous student loans that leave many in debt for decades after they attain their degree. If we meet the above objectives, then we can contribute toward the upward mobility of this country.

**Keywords:** litigation, access to justice, community colleges, free tuition, student loans

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NEWS & DEVELOPMENTS

October 6, 2015

DOE Calls for Investing in Teachers, Not Prisons

On September 30, 2015, Education Secretary Arne Duncan gave a speech in which he called for a reduction in incarceration and an increase in funding to pay teachers. Mr. Duncan outlined the U.S. facts on incarceration; for example, the U.S. has less than 5 percent of the world’s population but more than 20 percent of its inmates. Young people who make mistakes in the U.S. are often locked up, leaving their potential unrealized. Mr. Duncan linked the lack of education and incarceration noting, “More than two-thirds of state prison inmates are high school dropouts. And an African-American male between the ages of 20 and 24 without a high school diploma or GED has a higher chance of being imprisoned than of being employed.” Many young people end up in the criminal justice system based on behaviors at school—the “school-to-prison pipeline.” However, Mr. Duncan stated, “If our states and localities took just half the people convicted of nonviolent crimes and found paths for them other than incarceration, they would save upwards of $15 billion a year.” Mr. Duncan argued that this money could instead be spent paying teachers to engage our country’s neediest children.

Currently there is a gap in funding for education between poor and wealthier communities. For example, the Ferguson-Florissant school district in Missouri spends $9,000 per student, but in a wealthier community 11 miles away, funding is approximately $18,000 per student. Mr. Duncan argued that this proposal is not just good for kids but for the country as well, noting that a 10 percent increase in high school graduation rates would reduce murder and assault arrest rates by approximately 20 percent. And a one percent increase in male graduation rates would save up to $1.4 billion in the social costs of incarceration.” Secretary Duncan also touched on implicit bias and discussed how education and economic opportunity allow social mobility as well as social justice.

—Cathy Krebs, Committee Director, Children’s Rights Litigation Committee

September 4, 2015

Department of Justice in Violation Through Use of Policies of Indefinite Detainment of Children

In a ruling issued on July 24, Judge Dolly M. Gee stated that the U.S. Department of Justice (DOJ) was in violation of the 1997 consent decree regarding immigrant children through the use of their policies of indefinite detention of children and their mothers. The court found that the government’s policy violated the 1997 agreement’s requirement to shorten the detention of
children, hold them in the least restrictive conditions possible, avoid holding children in centers that were unlicensed or under-resourced for youth. It also found that the policy exposes children to abhorrent conditions and treatment. The DOJ had argued for a change in the agreement, but Judge Gee found that they had failed to meet their burden and did not show that a change in factual circumstances warranted a modification of the agreement. The judge’s orders required the DOJ to respond to the court’s assertion that its family detention policies violate the consent decree by August 3, 2015, with the plaintiffs having an ability to file a response by August 10.

On August 6, 2015, the DOJ filed a response, arguing that the family detention centers run by the Department of Homeland Security (DHS) are necessary for immigration control and that the order by Judge Gee would severely impede DHS’ ability to secure the borders and operate effectively, while still supporting legal trade and travel. The DOJ warned that the court decision may create an increase in the number of parents trying to cross the U.S. border with their children. The DOJ also claimed that detaining immigrants is one way to ensure that they will appear for their court hearings, as 84 percent of undocumented immigrants with children who are not detained skip such hearings. The American Immigration Lawyers Association and other immigrant rights groups responded with outrage, claiming that the Obama administration and the DOJ have moved too quickly to release some of the imprisoned mothers and children, doing so in a manner that has left many still in detention.

As of this writing, nothing has been published on the plaintiffs’ response to DOJ’s claims, but once it has been filed, the matter will stand as submitted and the parties await further action from the court.

Keywords: children’s rights, litigation, Judge Gee, Department of Justice, immigrant children, 1997 consent degree, Department of Homeland Security, detention

—Jessalyn Schwartz, Boston, MA; Member of the ABA Children and the Law Advisory Task Force

September 4, 2015

Georgia Guilty of Segregation of Students with Behavioral and Educational Disabilities

In an investigation completed in July, the Department of Justice (DOJ) has found that Georgia has been illegally segregating thousands of students suffering from behavioral, emotional, and educational disabilities and placing them in substandard facilities with insufficient educational programs. The investigation found that students were being placed in buildings without gyms, cafeterias, libraries, labs, playgrounds, and more.
The DOJ detailed its findings in a letter to Georgia’s governor and attorney general in early July, noting that schools acted prematurely in moving children out of the regular education classroom, and recommending them for placement in alternative schools after one or multiple minor incidents. Parents are feeling pressured to sign off on these placements, and students are falling significantly behind, missing out on school involvement, such as sports and extracurriculars, ultimately leading to worsening behavior. The students are largely placed in the Georgia Network for Educational and Therapeutic Support (GNETS) which was found to be largely unnecessary by the investigation. Most of the students were shown to be able to remain in their mainstream classrooms if provided with more behavioral or mental health services.

In 2010, GNETS was criticized by a state audit for not being cost-effective and for failing to be accountable for student performance. In 2014, a thirteen year-old boy committed suicide after hours in an isolation room in one of GNETS programs. The DOJ has threatened a lawsuit if the problems are not addressed through redirection of services, training, and resources to shift students back into the regular education programs. Spokespersons for Georgia’s governor, attorney general, and Department of Education all declined to comment on this matter.

**Keywords:** children’s rights, litigation, segregation, behavioral disabilities, emotional disabilities, educational disabilities, GNETS, Georgia, education

—Jessalyn Schwartz, Boston, MA; Member of the ABA Children and the Law Advisory Task Force
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