

CHILD WELFARE VALUES CONFLICTS

In contemporary American law, the relationship between parents and children is best described by the term, *presumptive parental rights*. We presume that parents want to, and do, act in their children's best interests. If there is any doubt, the doubt is resolved in favor of the parent. However, in situations where there is clear evidence that parents do not act in their children's best interests, the state, under the doctrine of *parens patriae*, can intervene to guarantee the child's rights. To do this, the state must be able to demonstrate an immediate and pressing danger to the child.

The implementation of the law in the practice of Child Welfare is not easy. Judgments must be made about what constitutes the child's best interests, the degree of harm to the child, and the intent of the parent. Personal, cultural, and societal values play a powerful role in these judgments and decisions. Most cultures have strong values that dictate what is appropriate behavior for parents, and these values often differ between individuals and among cultures. The Child Welfare worker must be aware of the potential values conflicts that are commonly encountered in the practice of Child Welfare, including his/her own values and beliefs about fundamental issues.

Some of the values conflicts encountered in Child Welfare include:

- ▶ The strongly held social work value of client self-determination, that is, the right of the client to make choices about one's own life, versus the responsibility of the state to assure that individuals acting in their own selfish interests do not impinge upon the rights of others.
- ▶ The right of individuals to act in ways that benefit themselves, versus the right of society to demand that its citizens act in ways that benefit society as a whole, (i.e., assuring that parents behave in ways that develop their children into productive, contributing citizens.)
- ▶ The extent to which personal diversity or variations in lifestyle and values reflect healthy cultural and social identity, versus when diversity represents dysfunctional, abnormal, or potentially destructive behavior.

- ▶ The rights of parents to raise their children in whatever manner they choose versus the rights of children to a predetermined standard of care.
- ▶ The determination of what constitutes an acceptable, minimum standard of care. Is there a "bottom line" beyond which we can agree that parental activities constitute maltreatment? Does it vary with community and cultural standards? How much "abuse" or "neglect" is enough to warrant the involvement of a social agency? How do we measure?

The issue of *children's rights versus parents' rights* is basic to the dilemmas of Child Welfare.

- ▶ The history of Child Welfare documents the change from a societal value in which the rights of parents were paramount to a societal perspective that considers and protects the rights of children.
- ▶ The legal rights of children are generally described as "negative rights", that is, the right not to be harmed, abused, neglected or exploited. No child is assured by law to a predetermined standard of care that is considered to be in all children's best interests.
- ▶ The Child Welfare field has adopted values that presume many positive rights of children, and are implicit within the standards that guide the profession. They include:
 - The right to grow up in an environment which maintains *minimum standards of health, safety, and decency*.
 - The right to *permanence*, that is, to grow up in a permanent family that will provide nurturance, proper care, love, and a sense of identity and belonging for life.
 - The right to grow up in *one's own biological family*, if at all possible.
 - The right to *legal representation* in all court activities to assure that the child's best interests are maintained.

Advocating for the positive rights of children often places the Child Welfare field in conflict with advocates of parents' rights, who believe that any intervention by the State into the family is intrusive, disruptive and destructive.

In the practice of Child Welfare, our decisions are often made more difficult by our responsibility to effectively balance and preserve the rights and needs of both parents and children.

There is considerable danger in perceiving that the solution to this dilemma rests in adopting a simplistic and exclusionary policy that considers only the parents' or the children's rights or needs. For example:

- ▶ An exclusionary parents' rights approach could prevent any interference by the State into the parent-child relationship. Parents would be permitted to harm or kill their children without external interference. Children could not be protected.
- ▶ An exclusionary child's rights approach could require that parents adopt a parenting approach that is determined by persons or institutions outside the family to be in the child's best interests. This could conceivably permit State interference into many aspects of child rearing and parenting to assure that "established standards of care" were met within all families, thereby eliminating the rights of parents to raise their children according to their own values or cultures.

The values of the Child Welfare field attempt, whenever possible, to protect children with the least restriction of the rights of families and parents.

Child Welfare values are based upon social work values. These values include protecting the client's right to *self-determination*; recognizing and respecting the *uniqueness of each individual*; and respecting the client's right to live within values, standards, and beliefs that are consistent with his/her *cultural background* and heritage.

These values promote the following practices:

- ▶ Child Welfare believes that children should be protected whenever possible *within their own homes and cultures*. The agency provides services that strengthen parents' ability to properly care for their children, which ultimately serves to maintain the parents' rights. This practice, sometimes referred to as *family preservation*, reflects our value that the child's needs and interests are best met within her/his own home and family.
- ▶ When a child cannot be protected within her/his own home and must be placed into substitute care, we attempt to preserve her/his relationship and identification with her/his family. A child should be placed into the *most homelike, least restrictive* environment and as close to her/his own home as possible, in an environment that maintains continuity with her/his own culture.
- ▶ Families are engaged to work *jointly and responsibly* with the agency to find solutions to the problems that led to maltreatment. Child Welfare values stress that a parents' rights should never be restricted unless it is the only way to insure protection of the child.
- ▶ When the state must assume primary responsibility for the care of a child, Child Welfare services are directed toward *empowering parents and re-establishing their rights* as quickly as possible. Practices such as involving parents in all aspects of case planning, scheduling regular visits while the child is in care and providing intensive services to permit prompt reunification of the family are designed to re-establish the parent as the sole caretaker of the child.

These practices, when properly implemented, can protect children from harm with the least restriction of the rights of the parents. The interests of the child ultimately guide Child Welfare philosophy and law, and this may mean that parental rights must be compromised when that is clearly in the best interests of the child. When a child cannot be protected without restricting parental rights, we are always legally and ethically mandated to protect children.