

# The Future of Our Children

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## **Abstract**

Education law is a dynamic, invigorating and intellectually stimulating discipline because it is constantly evolving to meet the needs of today's schools. The merits of its decisions aside, one has only to read recent Supreme Court decisions in such areas as the role of the teacher, searches in schools, or school funding.

In light of these cases amongst others, educators are now charged with the task of developing and implementing policies that will enhance the school environment for students, teachers and staff.

Perhaps the only constant in education law is that as it evolves to meet the demands of a constantly changing world, it is likely to remain of utmost importance for all of those who are interested in children. In fact, the seemingly endless supply of new statutes, regulations, cases and government directives speak of the need to be ever vigilant of how legal developments impact the law. The challenge for all educators, then is to harness their knowledge of this ever-growing field so that we can make the schools better places for all of our children.

Two men were fishing by a stream when an infant floated past. The first fisherman jumped in, rescued the child and handed him up to safety in the second fisherman's arms. No sooner had they settled the child down on the grass, when a second infant floated along. Again, the fisherman jumped in and rescued the baby. A third baby floated along, a fourth, and so on. The fisherman saved each in turn. Finally a whole group of babies came floating downstream. The first fisherman grabbed as many as he could and looked up to see his friend walking away. 'Hey', he shouted, 'what's wrong with you? Aren't you going to help me save these babies?' To which the second fisherman replied, 'You save these babies, I'm going upstream to see who's throwing all those babies into the river!'

Our courts have the power to step into the shoes of the parent and make orders in the best interests of the child where a parental choice may result in harm to a child, NOT however, as Madame Justice McLachlin of the Supreme Court of Canada, writing for the majority in the case of *Winnipeg Child and Family Services and D.F.G.*, stated in reasons released October 31, 1997 where the child is not yet born.

There is a direct connection between social justice and criminal justice. Making streets safer has as much to do with literacy as it does with law, with the strength of families as with the length of sentences, and with early intervention as with mandatory supervision. Crime prevention means recognising connections between the crime rate and the unemployment rate, between how a child behaves at school and whether that kid has had a hot meal that day.

Changes to our public schools shouldn't be driven by myths or, for that matter, by attempts at fiscal restraint masquerading as educational reform. Improvements should be based on

principles that have to do with the kind of education we want for our children. If we begin to treat education as a commodity or a product, as opposed to a process, we run the risk of losing control over our own future. The responsibility for educating our young people is a collective responsibility – we all have an interest, and a say, in seeing that our schools reflect our society’s values.

Nothing can be more basic than the way a nation cares for its children. The title, *It Takes a Village: And Other Lessons Children Teach Us*, by Hillary Rodham Clinton is taken from the African proverb ‘It takes a village to raise a child’. The village of the present, however, is not the suburb or small town of memory or nostalgia, but the global village – the ‘network of values and relationships that support and affect our lives’. ‘Bear this research in mind’, Mrs. Clinton says, ‘when you listen to those who argue that our nation cannot afford to implement comprehensive early education programs for disadvantaged children and their families. If we as a village decide not to help families develop their children’s brains, then at least let us admit that we are acting, not on the evidence but according to a different agenda’.

‘Children who go unheeded’, Robert Coles reminds us, ‘are children who are going to turn on the world that neglected them’. Nothing is more important to our shared future than the well-being of our children.

On the surface, the majority of Canadian children enjoy lives of luxury and safety. The widespread pestilent killers of the past like polio have vanished. Millions of middle-class children play with computers and whose instant access to knowledge would make scholars of earlier eras weep with envy. Companies vie to entertain and cosset them – from Nickelodeon to Disney to Gap. It is a world of car seats and bike helmets, baby monitors and parenting class. Yet a pervasive unease grips many people when they look at the children today. Crime may be dropping and the economy is doing well, but we sense something is going very wrong in the way we raise our young.

According to Statistics Canada (Rodgers, 1994), 29% of all Canadian women report at least one instance of physical and sexual abuse within an intimate relationship over their lifetime. For 10% of the women, the violence is so severe that the women worry for their personal safety and staying alive.

Witnessing violence is a form of psychological or emotional abuse that can leave behind the same adjustment problems as the direct experience of physical or sexual abuse (e.g., Jaffe, Wolfe & Wilson, 1990).

Children who witness violence are at risk for a number of significant emotional and behavioural problems such as aggression, bullying, anxiety, destruction of property, insecurity, depression, and secretiveness. Almost 60% of children who are exposed to violence show symptoms consistent with a DSM-IV diagnosis of post traumatic stress disorder (Lehmann, 1995). Children who witness violence are also at risk in developing inappropriate attitudes about the use of violence to resolve interpersonal conflicts – especially in ‘loving’ relationships. In the long-term, boys who are exposed to violence are more likely to end up being an abuser in an intimate relationship.

Since the law plays an important role in communicating society’s values, in order to create social change with a view to reducing and eliminating domestic violence, domestic violence must

be treated by society not only as a serious and significant crime, but the proof of its presence should have an impact on the parties' private dealings (i.e., custody/access issues) as well.

Parents say, despite their efforts and their own repeated attempts at intervention, that they mostly are left to watch, worry and wonder about the effect of a culture gone toxic.

Patricia Hersch in her new Book, *A Tribe Apart: A Journey Into the Heart of American Adolescence* maintains that 'All parents feel an ominous sense – like distant rumbles of thunder moving closer and closer – that even their child could be caught in the deluge of adolescent dysfunction sweeping the nation'.

The best time to help a child learn peaceful social skills is in the early years when the brain is still forming. Neural connections formed in the first two years of life establish the foundation for rational thinking and problem solving skills that are vital to success in later life.

Charles Manson went to Boys Town. He didn't make Father Flannigan's distinguished alumni list. Four days after he arrived, he escaped, stole a car and committed two armed robberies. He was 13 and growing. Most people know the rest.

Karla Fay Tucker did not go to Boys Town or any other celebrated facility for wayward youth. Karla went from shooting heroin at 11 to killing two people with a pick axe by the time she was 23. She was born again on Death Row, but that couldn't save her from being the first woman executed in Texas since the Civil War. Said Tucker of her youth: 'I believe if somebody would have taken the time to take notice ... they could have steered me on a course completely different than the road of destruction that I took'.

The environment can provide deterrents, but it is the individual and the way that person thinks that is critical. Taking the baby from the river does not necessarily save them but many, many can be and are saved. We don't really know why criminals are the way they are, but in many cases, they are the way they are from a very early age. Everybody says they're for prevention, but when it comes to early identification and intervention, people respond, 'Oh, well, we can't do that, because we don't want to tag little kids as criminals'. But there's a stand parents, teachers and all of us can take which indeed can deter some of these kids early. We must focus on thinking, because behaviour may be a product of thinking. Then you can enlist a process of habilitation, not rehabilitation. Rehabilitation means to restore to an earlier constructive state or condition. The kind of people I often deal with were never there to begin with. Of course a great deal of behaviour, especially violence, may be the result of emotional response that is almost instinctive – the development of a kind of emotional intelligence.

More than 60 percent of children will probably spend some fraction of their childhood living with only one natural parent, typically their mother.

Given the decline of the two-parent family, a rising percentage of children born into poverty and a growing national focus on the problems of an aging population – one question stands out: Will children in the future be sufficiently nurtured and equipped to keep our country evolving in healthy fashion?

Our children have neither the strong families of Japan, where only 1 percent of births occur out of wedlock, nor the abundant state support that is provided in Europe. Many of our children are simply falling between the public and private cracks. Reported and confirmed cases of

child abuse and neglect are increasing rapidly. For 5- to 24-year-olds, suicide and homicide rates have tripled since 1950.

It may be that most children are highly resilient. Perhaps the bumps, bruises and fractures of childhood are repaired readily. But we don't know. We are conducting an unprecedented social experiment with childhood, one with potentially profound effects on our future.

Freud viewed childhood as the most important stage of life and traced the neuroses of adults to their experiences as children. Psychological researchers are still elaborating on his insights.

A generation ago, kids who swore ran the risk of having their mouths washed out with soap. How times have changed. Today the halls of our schools echo with language that would stand a sailor's hair on end. Teachers and principals observe that kids are cursing more often than they used to, usually without even thinking. The real problem is a lack of respect for themselves and others, and if those problems were addressed, the cursing issue would diminish.

President Reagan made school safety an issue in one of his radio addresses in 1984. Pointing out that violence in schools negatively affects learning and teaching, he called on the country to begin solving discipline problems. He directed the Justice Department to establish the national School Safety Center (NSSC). Funded by a grant from the office of Juvenile Justice and Delinquency Prevention, the NSSC focused on providing a central headquarters to help school board members, educators, law enforcement officials, lawyers, community leaders, and the general public promote safety and academic excellence.

In the early 1990s, there was even more public concern for school safety. The results of polls taken conducted by a variety of organisations ranging from the Metropolitan Life Insurance Company to the National Rifle Association reflected these concerns. At the same time, the media reported numerous instances of shootings and other violent incidents in schools. Oftentimes, these occurrences involved the police. As Jessica Portner noted:

Twenty years ago, most school officials would never have dreamed of allocating their precious resources to hire armed police to protect campuses. If increased security was required for a football game or a school dance, a district typically hired security officers for the night... Today, more than 50 school districts have spent millions of dollars to set up professionally trained school police forces that operate around the clock. In the late 1970's, there were fewer than 100 school police officers in the United States. Today, there are more than 2,000.

U.S. studies have emphasised the relationship between schools that report low levels of violence and disruption and the extent to which students and parents are afforded considerable influence in shaping school policies and perceive themselves as being treated fairly by a staff that cares about them. School governance structures – including policies and how they are implemented – are actually more powerful predictors of levels of school violence and vandalism than are measures of student antisocial attitudes (Gottfredson, 1985 and Wu, et al., 1982). Recent studies have increasingly focused on the potential for remediating and preventing inappropriate behaviours among youth through school-based early intervention and prevention programs, rather than relying on after-the-fact, crisis-management oriented responses of a punitive and exclusionary nature (Dahlberg, 1997; Tollan & Guerra, 1994; Vergon & Williams, 1992).

We must ensure that intervention and prevention programs developed are racially and culturally sensitive to the student populations most likely to engage in any targeted form of misconduct.

The challenge in devising an answer to the disparate exclusion of students of colour from public elementary and secondary school, as is frequently the case with many other seemingly intractable and politically unattractive problems, is to find the right fit between the problem and a policy-making institution at a given governmental level that has not only the legitimacy and capacity, but also the will to find a solution. This is one problem for which such a fit has yet to be found.

Some might describe our society as the 'decline of the taboo', and perhaps, 'the decline of shame'. Incest, pedophilia, but otherwise it seems like there are no taboos.

In the book, *Ghosts From the Nursery: Tracing the Roots of Violence* (Atlantic Monthly Press, 1997), the author, Robin Karr-Morse, a family therapist in Portland, Ore., and Meredith Wiley, chief of staff to the Oregon Speaker of the House, discuss a mother's poor health habits, emotional state or exposure to harmful substances, and how they can affect the fetus by impairing the neurological mechanisms that control temperament and self-control. The book notes, for example, a 1994 study in which pregnant women watched violent clips. The researchers found that the unborn children became as agitated as their mothers in terms of heart rate and movement. Many psychologists theorise that those types of prenatal reactions affect the fetus' brain circuitry, possibly making them susceptible to being high-strung or aggressive as they grow up.

In 1992 Robert Myers (*The twelve who survive*. London: Routledge) wrote a powerful justification for worldwide early childhood education by summarising a massive body of research evidence demonstrating the beneficial impact on children, families, and communities of programmes implemented in centers, in homes, in work sites and under the shade of trees. The World Bank and UNICEF responded with new investment, and governments around the world have set aside funds for expansion of education and care before school (Sylva & Siraj Blatchford, I. (1996) *The early learning experience of children 3-6*: Paris: United Nations Educational, Scientific and Cultural organisation). European countries are no exception, with Spain, for example, mounting a large-scale national program for children aged –6 years, under the auspices of the Ministry of Education.

There are two strands to the rationale for expansion in Europe; preschool education as a means of improving school performance, particularly for children from disadvantaged backgrounds [European Commission, 1995], and preschool services as a means of support families, especially those in which mothers seek employment or education (European Commission Network, 1996).

How can a preschool curriculum prevent antisocial behaviour and crime? A simple hypothesis is that a preschool curriculum helps to prevent antisocial behaviour immediately and that reduced antisocial behaviour becomes an enduring habit ultimately culminating in a lower crime rate. However, antisocial behaviour is not an isolated trait, so a preschool curriculum that reduces antisocial behaviour should also affect other habits that are intimately related to reduced antisocial behaviour.

DeVries and his associates found that children experiencing constructivist education in preschool evidence better sociomoral action and reasoning than do children experiencing Direct Instruction in preschool (deVries, Haney, & Zana, 1991 *Early Childhood Research Quarter*, 6 449-471, 6, 473-517 and DeVries, Reese-Learned, & Morgan, 1991).

How can a person's sense of control, or self-determination, be so readily altered in early childhood and yet be impervious to later environmental influences? The explanation may be that early childhood is a sensitive period in children's development.

Emphasis on child initiative, as realised in a defined curriculum model, is an essential part of the definition of good early childhood education. Great learning and superior abilities will be of little value and small estimation unless virtue, honour, truth, and integrity are added to them.

The desire for delinquency interventions with lasting positive effects has had a rocky history. This quest becomes even more ambitious when interventions take place as early as the preschool period, in an attempt to preempt delinquency several years before children commit their first delinquent acts as juveniles, and several years before they become part of a sub-group of juveniles who continue to offend. Yet, this latter type of intervention would appear most meaningful, because for a proportion of persisting adult offenders, problem behaviour dates back to the preschool years (Loeber, R. & Dishion, T.J. *Psychology Bulletin*, 94, 68-69, and Moffitt, T.E. (1993), *Psychology Review*, 100, 674-701).

The best time to help a child learn peaceful social skills is in the early years, when the brain is still forming. But despite the growing knowledge about the biological underpinnings of aggression, psychologists aren't dismissing the influence of socialisation throughout childhood on a child's tendency to resort to violence. Are boys socialised to use aggression? Where are our conflict resolution programs? Where is not mediation statutorily entrenched in our legislation?

In *The Divorce Culture: Rethinking Our Commitments to Marriage and Family*, Barbara Dafoe Whitehead states that the 'span of childhood' now has stopped at age 5 or 6 by 'a precocious knowledge of sex and violence, by working parents' need for children to take care of themselves after school, and by family dysfunction. 'I'm a big critic of individualism', she says. The nation must reflect on 'the definition and purpose of an adult life'.

Do we have the will to make the necessary program and policy adjustments to prepare our young people from all ethnic and class backgrounds to succeed? What about those who are not going to college? The obvious despair of falling wages and weakened economy? Many may be in great despair. Their future is bleak. What about providing our potential workforce with year-long apprenticeships in the construction trades, health-and childcare referrals, substance abuse counseling, opportunities to earn high school equivalency diplomas and job placement assistance? Graduates of these programs would then be in a better position to nurture the next generation and to make even greater strides. Job entry and skill training programs are a must.

At the age of 7, a child is considered by the Catholic Church to have reached the 'age of reason' and is entitled to receive communion. Some evangelical churches hold that a child of 7 can make an independent spiritual choice. In Judaism and Islam, a boy of 7 is expected to begin his religious studies and participate, to some degree, in adult rituals like fasting and praying. Freud believed the super ego, or the conscience, develops by age 4 or 5. But what do you do with

children who may have arrived at the age of reason but whose psychological life is such that neither rationality nor moral reason operate in their behaviour?

When you send a child off to school at 6, the child becomes a social being, responsible to society. When we say that children are not fully legally responsible, one thing we mean by this is that they mirror the social life around them. This is what's so shattering about crimes committed by children. They are naïve or, in some ways, transparent reflections of something in society – a certain violence, a certain cruelty. Without filtering, they represent what the society is about.

Schools face ongoing battles involving harassment and bullying, and that makes school a painful experience for a number of children. Schools are obliged to investigate allegations of sexual harassment, but there's no law against verbal or emotional harassment. This year alone, violence led to 42 deaths among the K-12 schools in the United States. More than a dozen of the deaths occurred in widely publicised schoolyard shootings. Bullying has become an oppressing safety issue. The National School Safety Center's statistics show that one in 12 kids who stay away from school do so out of fear.

Nearly half of the 7<sup>th</sup>–12<sup>th</sup> graders, in a 1995 National Crime Prevention Council study, reported changing their school routines because of fear, 10% dropping out of activities or sports, 11% staying home or cutting classes, and 12% carrying weapons to protect themselves. Early intervention in bullying is essential in preventing behaviours that can lead to injury or criminal actions.

Most bullies have more family problems than other children, often suffer physical or emotional abuse, and get inconsistent discipline at home. Victims tend to blame themselves, have overly controlling parents and feel incapable of solving their own problems. We tend to treat these things as child's play, but if you don't learn how to give and take power as a kid, you're going to have trouble in adulthood. Schools can make inroads the only way they can through sensitivity and education. Laws haven't stopped sexual harassment among allegedly more mature individuals, so how can laws keep harassment out of the schools.

Too many kids today practice behaviours that put them at risk of morbidity and mortality from homicide, suicide, motor vehicle crashes, unintended pregnancy, sexually transmitted diseases and, of course, HIV/AIDS. Adolescents in the United States account for half of the 40,000 people diagnosed each year with HIV. Three million get sexually transmitted diseases. One million become pregnant.

Today, girls make their way to adulthood in a world where early sexuality is the norm and the perfect body is the ideal.

Although young women today enjoy greater freedom and more options than their counterparts of a century ago, they are also under more pressure and at greater risk.

Brumberg's is one of a growing chorus of voices raising concern about the pressures on young women. Other notables in the chorus: psychologist Mary Pipher, who in 1994's *Reviving Ophelia* (Ballantine) warned that girls 'face incredible pressures to be beautiful and sophisticated, which in junior high means using chemicals and being sexual', and Naomi Wolf, who in the more recent *Promiscuities* (Random House) describes girls going from Barbie dolls at age 10 to oral sex at 13.

Most of the attackers in the recent U.S. cases of high school killings had shown signs of clinical depression or other psychological problems. But their schools, like many of ours, strapped for mental health counselors, were not likely to pick up on such behaviour or to have the available help where the shootings happened.

There is a profound cultural influence, like gravity, pulling kids into a world where violence is a perfectly normal way to handle emotions. There is a syndrome at work in which a child who sees one shoot-out on the news may be inspired to try something similar. The media or violent videos do not by themselves make the event happen. But it shows them a way.

Boys accused of shooting classmates are inevitably portrayed as average children. But a look inside their bedrooms or their journals, or a discussion with their friends shows they left ample clues of trouble to come.

In his ninth-grade English class, Barry Loukatis, who killed three people and injured one in an algebra class at Frontier Middle School in Moses Lake, Washington on February 2, 1996, wrote a poem about murder that ended this way:

I look at his body on the floor,  
Killing a bastard that deserves to die,  
Ain't nothing like it in the world,  
But he sure did bleed a lot

Kip Kinkel read a journal entry aloud in his English class about killing fellow students. His shooting rampage started at home and moved to Thurston High School in Springfield, Oregon on May 21, 1998. Four people were killed, including his parents, and 22 were injured in his shooting rampage.

Most of the attackers were also suicidal, writing notes before the killings that assumed they would die.

Luke Woodham's journal writings from Mississippi were particularly graphic. He left a last will and testament, leaving music cassettes to the older boy who is said by police to have influenced him, 'I do this to show society, 'Push us and we will push back', he wrote. 'I suffered all my life. No one every truly loved me. No one every truly cared about me'. On October 1 1997 after he had stabbed and killed his mother, he shot and killed three people and seven were wounded at Pearl H.S. in Pearl, Miss.

Animal abuse, arson and a sudden interest in death and darkness are all red flags, he said. But do we have the support staff to recognise these?

By all accounts, the number of youth gangs and their members continues to grow. For example, one recent nationwide study found 58 percent of the jurisdictions surveyed reported that they have active youth gangs.

There are an estimated 23,388 gangs with 664,906 members in all 50 American States. These numbers are probably conservative estimates because many jurisdictions deny, often for political and image reasons, that there is a problem, especially in the early stages of youth gang development in a community.

Responding to the growing magnitude of the problem, the National Institute of Justice (NIJ) sponsored a research project that focused on the nature and extent of youth gang behaviour.

Based on the survey sample taken at the four sites (in three States), youngsters generally begin hanging out with gangs at 12 or 13 years of age, join the gang at 13 or 14 (from 6 months to a year after they first hang out with the gang), and are first arrested at 14. Young adolescents are most vulnerable to the seduction of gang membership at a time when physiological, sociological, and psychological factors, including a strong need for peer acceptance, are acting on them.

The following were the terms of reference given to the Honourable Lloyd W. Holden, Investigator, by the Toronto Catholic School Board on January 28, 1998:

The Investigator is to conduct an inquiry into the events surrounding the death on December 11, 1997, of Kenneth Au-Yeung, a student at St. Michael's Choir School, including any of the attendant circumstances at the school immediately preceding or following his death.

Kenneth was born February 2, 1990. I was told by his parents that they had no difficulties with him as a baby. About three years of age he experienced some problems in getting along with other young children, and he was taken for a short time for counseling. Apart from this episode, he never received any psychiatric or psychological counseling.

We are more aware than ever, as recently reflected in the Gove Inquiry Report from B.C. in 1995 and the Ontario Child Mortality Task Force Report released on June 12, 1998, of the importance of early community-based intervention to support parents at risk of abusing or neglecting their children. There have certainly been a few innovative programs established in Canada beginning at a prenatal stage and making use of community paraprofessionals. The Better Beginnings Better Futures project in Ontario, funded by the Ministry of community and Social Services, is operating on a pilot basis in several Ontario communities and has a significant evaluation component. We must not, however, focus on high profile and inexpensive legislative reform and fail to adequately address issues of resources, training, and morale in our child welfare and justice systems.

Many studies have shown that physical punishment in childhood increases the likelihood of aggressive behaviour in adolescence. In spite of these findings, parents continue to believe that hitting and spanking the child is the proper way to discipline. Given the evidence, there should be consented effort to stop all aggressive behaviours in the home such as parents hitting their children and allowing children to be aggressive and destructive toward others. When we do have to put violent children behind bars, we had better be ready to do something to help them deal with the underlying problems that got them into prison in the first place.

Without a doubt, the links between delinquency and low socio-economic status has not been adequately treated, thereby denying the hopelessness fostered by growing up in a community where many adults do not work in the legitimate economy. But the depth of social deprivation we continue to tolerate goes a long way toward explaining why the levels of youth violence are so high. Yet direct challenges to the enormous poverty that continues to haunt our cities have, for all practical purposes, disappeared from our national political agenda in favour of a welfare 'reform' that is, at best, irrelevant to the prospects of these young people and, at worst, diminishes them (Herrenkohl, R.C., Egolf, B.P., & Herrenkohl, E.C. (1997). Preschool antecedents of adolescent assaultive behaviour: A longitudinal study. *American Journal of Psychiatry*, 67, 422-432).

Today a young American man aged 15 to 24 is 37 times as likely to die by homicide as his counterpart in England, and more than 60 times as likely as a young man in Japan. Three-quarters of all homicide deaths among children under 15 in the entire industrial world have taken place in the United States. Not only, of course, is there a cultural dimension to homicide, but also with respect to our tragically high suicide rate amongst native Canadians. If natives regard their status as marginal, what programs are we providing to give hope to our so-called minorities?

Juvenile crime is a problem our system must deal with as if curing a disease. The juvenile crime problem deeply affects many different facets of society. It would be detrimental to try to cure the juvenile crime problem by mandating parental responsibility alone.

The notion of parental liability encompasses more than criminal law, and in fact had its origins in civil law. Many, if not most, parental responsibility statutes are combinations of tort and criminal law. The concept of penalising poor parenting is not new. In the past, we have implemented laws imposing sanctions upon parents for abandonment, abuse, and neglect of their children. Criminal nonsupport laws have been on the books for a long time as well. Moreover, compulsory school attendance laws that provide for the criminal prosecution of parents whose children fail to regularly attend school also have a long history.

Parental responsibility statutes should include a parental appearance mandate.

Juvenile delinquency is both a social and an individual problem. Solutions that focus on decreasing delinquency need to focus on prevention and rehabilitation, rather than confinement.

Without supplemental support programs, most of the criticism of parental responsibility statutes is well deserved.

If well-designed support programs were implemented, class, gender, or marital status would no longer be issues. Parents who believed that they did not have time to spend dealing with their children would find time as programs supported after-school activities free up their time to attend programs including parenting classes. In addition, the costs of implementing these programs would be lower than the costs society bears for incarcerating a fraction of the programs' attendees.

'Synergy' denotes taking pieces that individually add up to 'X', yet when combined add up to greater than 'X'. Some statutes can be labeled synergy statutes.

Colorado, Louisiana, and Oregon have synergy statutes. Under these statutes, the court may order the parents of a juvenile delinquent to attend a parental class or counseling.

Perhaps the best attack on juvenile crime is to focus a majority of society's energies on the social support programs that will make these parental responsibility statutes successful.

There is a great need for appropriate, abundant, and affordable resources to aid parents and families with a broad array of family problems long before the issue of a child's delinquent behaviour becomes a public concern. Indeed, a great deal of juvenile misconduct could be avoided by implementing social programs that educate parents on effective and responsive parenthood. Predelinquency services should include after-school programs for latchkey kids. Social programs teaching parents how to involve themselves in their children's lives will strengthen the family unit, thus helping create strong familial relations, which are crucial in eradicating problems when they do arise.

The truly difficult questions include: how do we identify families at risk, and how do we provide financial support that will have a direct, positive impact on the child's at-risk behaviour?

The Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Prevention listed several strategies as effective: 'Reductions of class size for kindergarten and first grade classes ... [t]utoring ... [a]bility grouping within classes in elementary attendance, academic progress, and school behaviour. Parent training. Marital and family therapy. Youth employment and vocational training'.

Children who make a concerted effort to break the law in order to threaten their parents are essentially calling attention to serious problems in their relationship with their parents. This problem is just one of the reasons why access to quality programs is essential.

Justice Oliver Wendell Holmes stated in 1881 (*The Common Law* 59) that the law can hold competent people to set standards, despite the differing capabilities of the population to meet those standards.

Society must provide access to day care and monitored after-school activities for those parents who need, but cannot afford these programs. Society must also support those parents who sense they are losing control of their children and who do not know how to have a sufficient impact on their children's behaviour.

In her new book, *Mayhem: Violence as Public Entertainment*, Harvard scholar Sissela Bok asks: 'Is it alarmist or merely sensible to ask about what happens to the souls of children nurtured, as in no past society, on images of rape, torture, bombings, and massacre that are channeled into their homes from infancy?' In many respects we have created a culture purposefully damaging to our children. We can't even decide whether to provide all parks and recreation programs free to its users.

We all must have concern for children growing up in a society where many lack hope. It comes through in the music, it comes through TV, it comes through movies. And if there is a hope in these media, it is a hope of, 'Be happy in sex, be happy in drugs, be happy in doing whatever you feel you want to, without worrying about the consequences'. For some, there is no remorse. For others there is the natural resiliency, the friends, relatives, and classmates. In our own culture we're already familiar with the idea of children and teenagers who kill. What else underlies books like *Lord of the Flies* and *Brighton Rock*, or films like *Heavenly Creatures* and *Badlands*? Innumerable books and movies like *Pulp Fiction* and *Natural Born Killers*, even when they don't glorify cruelty, lend cruelty a glow, an allure.

But our own world isn't glamorous. St. Charles Boulevard is nowhere you would set a movie. That's why, in the end, those deaths belong to us. To quote John Donne's 'Mediation 17': '... Any man's death diminishes me because I am involved with mankind. Never send for whom the bell tolls, it tolls for thee'.

Teenage drug use may be lessening, but many parents have a sense that children are under siege. Everywhere we look, children are under assault – the use of tobacco, greater violence involving young women, etc. There is a connection between the six-year-old boy who pulls up the skirt of a girl while his friends laugh, the twelve-year-old who touches a girl's breast's in the hallway at school; and the fraternity boys who bond in a gang rape.

Harassment, very simply, is a typical example of under-reported victimisation. And the threat of a victimisation may have as deleterious an effect as an actual victimisation. We must have a greater appreciation for the persuasiveness of fear experienced by so many of our population.

The young women in university today know a lot more about the gendering of the world, and their place in it, than we, or even they themselves, realise. They know because it is impossible not to know that women are regularly abused and beaten by their husbands and boyfriends, that children suffer physical and sexual abuse.

No person should ever be called upon to defend their dignity, or to resist or turn away from unwanted approaches or comments which are gender or sexually-oriented. It is an abuse of power when condoned. Where one person has the obligation to act for the benefit of another person, and in doing so has the opportunity to exercise discretion in his/her personal conduct, the first person has a fiduciary obligation to the second person. There is an obligation to act in a way that fosters the other's well-being and protects the other's interests. As Elizabeth Stanko has written:

That an act of rape is different from an act of street harassment is not argued, but in fact each act is a physical and/or sexual intrusion, only the form, the intensity, differs. Many women can and do feel sexually and/or physically intimidated or violated by comments they receive from strangers or acquaintances; these comments serve as ever-present reminders of women's vulnerability to male violence.

All types of victimisation are harmful, but it is clear that the chronic stressors involve subtle forms of behaviour that serve as constant reminders of vulnerability. Unfortunately, it is these behaviours that are often the most difficult to legislate against and eradicate.

The tension lies in trying to develop a sense of self-worth while struggling to deal with cultural messages that demand obedience, passivity, and care for others before the self. Though no rights may be absolute in any society, our society has certain basic rights that we violate at great peril.

We must spend more time and energy teaching self-esteem, confidence, manners and respect, qualities that often elude our students. Those values should be a major focus of the home-room hour each morning, a weekly assembly in the school auditorium and the periodic videos on subjects like discipline and self-respect that children would watch in class.

Many children need values constantly reinforced to overcome a lack of self-esteem caused by growing up with only one parent, living in poverty and suffering child abuse.

You have to provide programs. There is no village to raise many of them. We have to make sure every student knows he or she is capable of doing whatever they want to, but also that they understand they have responsibility for themselves, their bodies and their lives.

The welcome relationship today is the unwelcome relationship tomorrow.

Young children have a sense of being perfect and all powerful, but may grow out of it as early as age 4. But teachers, therapists, and others in a position of power who have never resolved that phase, can start taking to heart the admiration they get from students and subordinates, and abuse it. Perpetuating or allowing continued employment in many cases, quite frankly, may likely

perpetuate symptoms of intimidation. The welcome relationship today is the unwelcome relationship tomorrow.

Pain is lifelong. You are never able to overcome the sense of betrayal over what may have happened. You have trouble trusting, trouble believing, and trouble carrying on intimate relations as adults. Being a teacher is a sacred trust, and it must be handled like that.

We must all provide a collective efficacy, a shared vision, a fusion of our shared willingness to intervene and provide a social trust, provide a sense of engagement and provide ownership of public space.

No one is born bad. Nothing begins to take off without the drive of idealism. Poverty, for example, is not in the nature of things. Poverty is not inevitable in the world today. There are the resources – food, shelter, work, skills, training – and the means to make them available to all.

Cultural deprivation is also a form of poverty. Illiteracy is a crime against humanity. We are the only creatures who have the Word, and therefore, implicit in our human condition, is the right to read and write, and to create and enjoy the texts of our imagination. There are limits to acceptable behaviour, and that behaviour outside those limits will result in predictable and consistent negative consequences.

Too often as a Family Court Judge I have felt a sense of helplessness. I see too many 12- and 13-year olds come through the legal system who have committed terrible crimes, and I start looking at why they did it. I see a child born to a crack or drug-addicted mother, a child who has tried to help raise her many younger siblings, a child who never knew his father, a child who has bounced from one family member to another, or a child who is on the verge of dropping out of school if he hasn't dropped out already. It breaks your heart. And YOU know that if society had intervened at an earlier date and given that child a constructive chance at a safe ... and positive environment, the crime he committed, and the tragedies that he has felt, probably could have been prevented at far less cost than it is going to cost to rehabilitate or to imprison him.

The New Youth Criminal Justice Act was introduced in the House of Commons on March 11, 1999. The new law is to replace the Young Offenders Act and is the government's strategy to renew Canada's youth justice system.

Many young people are brought into the formal justice system for minor offences that, in many cases, could be more effectively dealt with in the community in less formal but meaningful ways that focus on repairing the harm done.

There are many community-based programs for youth and children at risk already operating successfully in Canadian communities. These include: the Ottawa-Carleton Police Youth Centre, which has been credited with contributing to a significant drop in drug-related charges in the Debra-Dynes public housing community it serves; the Sparwood youth Assistance Program, a B.C. police diversion program which, through a conferencing model that involves the youth, family and victim, has established a low re-offending rate of only nine percent; the Atoskata Victims' Compensation Project in Regina, which provides work opportunities to youth with earnings directed to the victim; the EarlsCourt Outreach Program in Toronto, which offers successful treatment and mentoring programs to children under 12; and the Child and Youth Protection Centre in Quebec City, which offers an intensive probation program for young people

convicted of an offence who would otherwise have been placed in custody that has reduced the re-offending rate among this group by more than 30 percent.

The logic that dictates ever-increasing expenditures on police and prisons goes unquestioned as we continue to put more and more young men in prison every year. The vast majority of these offenders are incarcerated for minor offenses.

Education, which is the single most effective method of reducing crime is starved while the criminal justice system, which is the least effective, gobbles up more and more tax dollars.

Laws are less likely to command the respect of those forced to live at the margins of our society. Stability and order have little meaning and small advantage to those who exist in poverty, hopelessness and despair.

Alternatives to prison must be developed and applied throughout the criminal justice system. Research on the use of alternatives such as community service and job training indicate that these alternatives are at least as effective and much cheaper than incarceration.

The most, perhaps only, effective deterrent to crime is not the threat or imposition of punishment but providing meaningful alternatives to criminal activity. Drug clinics do more to rehabilitate drug addicts than prison; family counseling reduces family violence more effectively than police; and education, more than any other factor, reduces a propensity to crime.

Whether we explain crime as a result of association with 'bad influences', a lack of opportunity, frustration and aggression or simply social control, successful educational experiences are the best predictors of a lack of arrests for delinquency.

Yet the allocation of scarce resources at the federal, provincial and local level flies in the face of the fact that prison does not alter criminality and education does. In the past 20 years the allocation of resources for criminal justice has outstripped increases in the allocation of resources for education.

When we fail to support the development of the next generation and of the families that nurture them, we deprive ourselves and the nation of a part of our children's potential. Children who lose a sense of decent future are likely to become dispirited, angry, withdrawn, enraged. Above all, if they are excluded from the mainstream of society, they are rarely able to contribute to the well-being of society as adults. Indeed, it is from the ranks of such condemned children that a large share of tomorrow's public wards will be recruited: the criminals, the derelicts, the embittered, the vandals, the muggers. For those of us who enjoy the privilege of relative affluence, failure to support a comprehensive child and family policy is like deferring a heavy tax to their children.

Head Start, a federally funded program which provides comprehensive day care and services to impoverished preschoolers and their families, has been shown to make both immediate and lasting improvements in the lives of many disadvantaged children. The immediate benefits are clear; greater self-esteem and motivation, higher scores on academic tests, and improved child health. Long-term effects are most striking. Studies show early intervention reduces the likelihood that a child will need special education or be left back a grade. Further, preschool graduates are twice as likely to be employed or in college or vocational training at age 19 as their peers without preschool; their arrest rates were 40% lower, and they were less likely as teenagers to become pregnant.

One study of a preschool program comparable to Head Start showed that every \$1 spent on early education for the disadvantaged saved taxpayers as much as \$6 in lower expenditures for special education, public assistance and crime.

In 1992, Head Start in the U.S. reached only about 1% of eligible children under age 3, only 16% of eligible 3-year-olds, and 40% of eligible 4-year-olds. We should begin a Head Start program to reach the children whom it was designed to serve by fully and adequately funding the program.

Students who are not college-bound, particularly low-income young people, need work-related education even more than other students, for they frequently lack the financial and social inheritance which is often the key to securing employment.

Lower basic academic skills and attainment levels, in turn, correlate strikingly with early parenthood and out-of-wedlock birth, dropping out of school, dependence on public assistance, unemployment, criminal arrest, and dire poverty.

There must be a balance between punishment that means what it says – that is carried out, that is expected – and a real opportunity for our children to grow up in a world free of violence. We cannot build enough prisons or buy enough home security systems to protect our private worlds from the social decay that spreads when opportunity is denied to large numbers of people.

Today's criminals were yesterday's children. The greatness of a country is not marked by its public works, its highways, its great buildings, but rather by the way it treats its most valuable asset, children.

Denial of others' pain is not about the failings of the intellect, but the failings of the spirit.

The future is really the province of politicians, the men and women who speak so unrelentingly of 'our children's children'. Who are the children whose children are going to usher in the future? Are they the 30 percent of American children now living in poverty? What kind of future are they imagining? The beauty of making a political trope of our children's children is that it allows you to look beyond the impoverished generation on whom an insufferable present is being inflicted, to pretend that that generation – already undernourished and undereducated – will have no bearing on the shape of what's to come. There will be no getting out of the 20<sup>th</sup> century without carrying it with us. You will hear, as the new year in the new century in the new millennium approaches, an enormous sigh of relief and optimism, as though something shameful had been left behind and some deliverance or retribution were now at hand. The old canard – that he who forgets the past is condemned to repeat it – will be sent aloft again, almost flightless, as a caution against anyone who is a little too relieved at the onset of the 21<sup>st</sup> century.

But there is an opening, a life, allowed to each one of us, an interval of consciousness and action. What is possible only within that clearing, not in some distant future? That clearing is the present, which rolls forward through the calendar, year by year, century by century. Its texture – the specificity and density of human experience – entirely outstrips the capacity to predict it.

As long as people in trouble can sacrifice to help people who are in still worse trouble, Steinbeck insisted, there is fraternity, and therefore social hope.

We must speak out on behalf of those with little or no political power: children, especially those from lower socio-economic groups, female headed families, and aboriginal and visible

minority communities. Politicians often are slow to react, sensing that there are unlikely to be fast, easy or inexpensive solutions to these problems in the child welfare field.

There is, however, a growing recognition that failing to deal adequately with problems of child abuse and neglect has enormous long-term social consequences in terms of future costs for the welfare, correctional and social service systems.

Hopefully, the present focus of some politicians on the relatively inexpensive process of legislative reform is not a shortsighted or cynical effort to distract the public from vitally important issues that will involve greater resource expenditures.

### **Editor's Note**

This article is an address given by Judge Zuker at the Annual Conference of the Canadian Association for the Practical Study of Law in Education (CAPSLE) Toronto, April, 1999.