

## SOLNIT/FANSHEL DISCUSSION

DR. SOLNIT: I would like to respond to David Fanshel. One should realize that in cases like *Smith v. OFFER*, in which we filed an amicus brief, the children had been away from their biological mother for a long time. Two of the four children were teenagers and their biological mother was having a difficult time accepting them back. In our society, under these conditions, the children's needs should be paramount. Under other conditions a society may decide that the children's best interests are not primary. For example, children in the Netherlands after World War II were returned to their surviving Jewish parents. As infants they had been placed with Christian families to save their lives during the Holocaust. A law was passed that indicated that in the Netherlands under those circumstances it would not be up to the courts to decide whether children should remain with their psychological parents. Children would be restored to their returning Jewish parents, even if they did not know them, and had only been with them a few months or a small fraction of their lives. The implication of the law was that children would have to lose their psychological parents because the Holocaust could not be the basis for biological parents losing their children in that society. The answer to Dr. Fanshel's concern about the meanness of our society is to define those situations where our institutions will be guided by society's decision, as communicated through the legislative process, to make the best interests of adults primary. The Holocaust might be such a situation; the best interests of the child are put aside in order to have a more decent, more just society for all. If a mother is hospitalized for two or three years at the time she has an infant, and the hospital and community are so restrictive that the mother is unable to maintain daily contact with and care of her baby, perhaps there should be ways for the mother to sue the state for deprivation. If the state does not provide resources to enable the mother to keep her child, the court could decide that the state should pay damages to the mother, but that the child, who has been in the care of long-term foster care parents who wish to adopt should not have to pay for the state's deficiencies or errors.

I think Dr. Fanshel may be exaggerating the dilemma of the adopted child. Adopted children often want to know something about their origins. In most instances, even if the adoption has proceeded well, there is still that yearning. Psychoanalysts understand adopted children's yearnings as an effort to define their lives, their origins, and more importantly, to feel better about their future through knowing their past, i.e., their beginnings.

Dr. Fanshel's brush is too wide when he says our theory does not respect other family forms. Certainly psychoanalysis has put forth the ideas that the parent should be an adult who wants the child, that there is no mystique to the blood tie, and that there are biological parents who do not want their children or who may want to know about them but not take care of them or who feel they are unable to take care of them.

When Dr. Fanshel refers to so-called voluntary placements it is not clear whether he knows that many of them are implicitly coercive. They are backed by the threat that if the parents do not place the child voluntarily, the state agency will use the law to take the child away and place her under state supervision. We feel that there are many instances in which those voluntary placements should be made with a guaranteed protection of continuity of contact between the biological parents and their children. We have suggested that voluntary placement should be treated very much like a situation where economically secure parents hire another set of parents to care for their children. They select such "foster-parents" and decide how they will maintain contact with their children. Under these circumstances, when the biological parents want their children back, they do not have to have the permission of the state; long-term foster parents, of course, often have standing in court if there is a conflict about returning young children to their biological parents. Dr. Fanshel makes a poignant appeal on behalf of the biological parents, especially parents in low-income families. Deprived, confused parents would not have to lose their children, as they do all too often now, if we were more effective in providing supportive services for children and their parents in the home, and if we knew how to provide voluntary services that were attractive and accessible. The question is who should pay the price for our failures in such situations? The child? The parents? The State?

In regard to Dr. Waters' comments, children are resilient up to a point. However, losing their biological parents and being placed in several different foster homes over a two- or three-year period usually exhausts their resiliency and damages their actual development as well as their potential for future development. Also, many of the children whose continuity is disrupted are more vulnerable because they have been living in high-risk environments. Children who are more vulnerable will be more damaged by multiple placements, having already lost most of their resiliency. We believe that the quality of life per unit of time is as important for children as it is for adults; we would never do to adults some of the things we do to children under the banner of "children are resilient."

I agree with Dr. Waters that we are unable to be accurate in making long-term predictions. We can make useful short-term predictions about what to expect in six months, three weeks, or even a year from now, given certain problems of disruption, deprivation, or trauma. However, he is quite right that we cannot make reliable, useful predictions about ten years or even five years from now. We ought to be making decisions based on what is best for the child or least harmful for the child now and in the immediate future, realizing that we cannot make predictions based on long-term estimates of what will happen to the child.

QUESTION: What happened to the children in the Netherlands?

DR. SOLNIT: They survived certainly. They paid a price. We do not have a detailed follow-up study, but as far as we know they did reasonably well.

QUESTION: Should child care workers follow your advice and only think about the child or should we follow Dr. Fanshel's advice and also think about the parents?

DR. SOLNIT: If you examine the majority of cases of multiple placements in foster care, you will find it is the child's plight that does not get enough representation. For example, in one case, a court will not terminate parental rights because the father has been in prison since the child was born and the court feels he has not yet had a chance to form a relationship with the child. Unless the decision is reversed, the child must wait in limbo until the father comes out of prison. It is both important and difficult for us, as adults, to identify with the child in such cases.

DR. FANSHEL: I think there is a problem of data, of generalizing from selected cases. There seems to be a sampling bias reflected in the kinds of cases Dr. Solnit sees. His selection represents a relatively modest percentage of the foster care phenomenon, those referred from psychiatric attention. It is clear to me that biological parents get a bad rap in discussions of parental failure and often this is based upon the most difficult cases in the caseload. The parents as a group are not given credit for the strengths they show in the majority of foster care cases. The most likely source of permanency for children in foster care is the biological parents. In the roughly 28,000 cases I have studied, it is clear that the parent is the best resource for the child.<sup>1</sup> We want to protect that resource because a parent who breaks down is very difficult to replace.

In our five-year longitudinal study at Columbia University, we had parents bring their very young children into foster care who looked like they were going to stay in foster care. For families with four to six children, the state can invest a half million dollars per family to keep children in care until they reach eighteen.<sup>2</sup> When parents are willing to take care of their own children, they are doing society a favor. The Soviet Union thought it could take children out of parents' homes, place them in pioneer camps and elsewhere, and raise them ideologically the way it wanted. It soon found out that parents were a bargain and quickly got rid of the programs because one cannot replace the labors of parents that easily. The cases A1 Solnit is talking about are based upon the troubled children he sees who are on the shoulder of the curve. In the great middle ranges of cases most parents are taking their kids back.

DR. SOLNIT: David, you are distorting the situation. We work harder than anybody else to keep children with their parents. The number of foster children in the state of Connecticut has dropped as a result of our efforts.

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1. Fanshel, *Children Discharged from Foster Care in New York City: Where To-When-At What Age?*, 57 *Child Welfare* 467-83 (1978).

2. D. Fanshel & B. Shinn, *Dollars and Sense in the Foster Care of Children: A Look at Cost Factors* 36-44 (1972).

We believe that all the professionals in the world cannot one good parent make. It is you who forget the data! Once children are taken out of their homes, often because parents do not get the supportive services to help them keep their children at home, once the children enter the foster care system, they have great difficulty remaining in touch with their biological parents. The foster care system tends to place unnecessary obstacles to their being returned to their biological parents in a reasonably short time and in being able to stay with one foster family until they can be returned. All too often, if they are returned to their biological parents it is only after multiple placements and after the primary psychological tie to their biological parents has been broken or significantly impaired. These statistics are beginning to improve nationally and on a statewide basis, but one-half of the children who enter the foster care system never get back home—that is the real data your comments seem to ignore. Our concepts and practices are pro-child; contrary to your implications, they are not anti-parent. Once it is clear that parents cannot or will not keep the child, we carefully examine and advise about what is best of what is left for the child. Your legalistic argument that we are against the parent is a smoke screen to hide what is happening to the children. It is our mission to help the state mobilize services to keep children at home. Your remarks seem to underestimate or overlook our theoretical and practical commitment to that, and you also seem to confuse situations where our guidelines are used appropriately, with situations where they are abused.

**QUESTION:** If the child has to go into foster care and the foster parents adopt the child, are you opposed to a continuing relationship with the biological parent?

**DR. SOLNIT:** There are several major patterns. One is where there is a plan before a child goes into foster care for her to maintain the continuity of her relationship with the biological parent. We hope that there will be more foster parents who understand the advantage of continuity and will be highly motivated to support such a plan. There is a second pattern where the parents cannot be available to the child, either because of illness or because they do not wish to see the child, or because they cannot organize themselves to visit. The state often does not know how to use its resources to help parents and children maintain their relationships when the children are in foster care. Finally, there are a small number of parents who really do not know their children and do not want their children returned to them. Under the banner of reunification, the state insists on trying to return children when parents do not want them. We ought not to moralize about this, we ought not to scapegoat such parents. Rather, we should find a permanent placement for such children. In one instance a mother said, "How many times do I have to beat up my child before you realize I don't want my child!"

**QUESTION:** Dr. Fanshel, are you not talking just about the easy cases, the rare cases, the parent who is hospitalized for TB, the parent who is

marginally psychotic, the parent who requires hospitalization but could have retained direct and effective contact with her children during the period of hospitalization? What about the hard cases, the majority of cases?

DR. FANSHEEL: I have to take your description of the distribution of "hard" and "easy" cases the system encompasses with a grain of salt because I have seen no data from the state of New Jersey that even suggest such a generalization. Overgeneralizing about parental failures creates a climate of opinion which leads to massive assaults on the rights of these parents. It is unfair to do this.

Let us face the fact that in the state of New York, for about a decade, the families we are talking about were being forced to live on less and less, because public assistance grants were kept frozen. Under conditions of severe economic distress there is a deterioration in parental behavior in some cases but this also raises ethical questions because societal representatives engage in a game called blaming the victim. I am doing research now on the streets of the drug capital of the world, the Lower East Side [New York City]. Mothers are wheeling infants amid the drug pushers. In that context, we are not just seeing psychiatric cases, we are seeing basket cases—disabled parents—whom society creates out of its own meanness. "Mean" is the only word you can apply to a society that for almost a decade does not raise the public assistance grant, and then brings the parent who is the product of that social policy into court and looks to individual factors to account for her performance. Socially sensitive lawyers ought to think twice about playing the game of blaming the victim when they come into court.

