REPRESENTING CHILDREN IN FAMILIES—FOREWORD

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I. INTRODUCTION

From January 12-14, 2006, nearly one hundred lawyers, youth advocates, professors, judges and mental health professionals came together to explore and address the complexities and contradictions of representing and seeking justice for children in policy and legal settings while accounting for children's deep connections to their families and communities. The conference, *Representing Children in Families: Children's Advocacy and Justice Ten Years After Fordham*, held at the University of Nevada, Las Vegas, William S. Boyd School of Law ("*UNLV Children's Conference*"), was convened in response to advocates' concerns about the worsening social, legal and material conditions for children and a desire to establish principles and guidelines to enhance children's participation and voice in proceedings and policies affecting them.

The *UNLV Children's Conference* was the second national gathering of its kind. The earlier one, convened at Fordham Law School in December 1995, resulted in broad agreement around a series of fundamental principles.[1] But even as participants in the 1995 conference, *Ethical Issues in the Legal Representation of Children* ("*Fordham Children's Conference*"), concluded their work, they acknowledged how much more there was to do. The *UNLV Children's Conference* picked up where the earlier one left off, developing a new set of recommendations and writings that, participants agreed, immeasurably advance the ongoing professional conversation about the role of the law in the lives of children.

II. BACKGROUND: THE 1995 FORDHAM CHILDREN'S CONFERENCE

The 1995 *Fordham Children's Conference* sought to answer such obvious and basic questions as whether children need lawyers and whether children's lawyers should follow their clients' direction or substitute their own judgment

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[1] *Conference on the Ethical Issues in Representation of Children*, 64 FORDHAM L. REV. 1281-2131 (1996).

for that of their clients.[2] The conference reached a strong consensus that children do need lawyers, not only in delinquency proceedings where the constitution guarantees counsel, but also in child welfare and other proceedings where children have significant rights and legal interests at stake. Further, the conference reached an equally strong consensus that children are best served when their lawyers comport with the traditional, ethically-dictated expectations for an attorney-client relationship, and not when lawyers serve as guardians *ad litem* or otherwise substitute their ideas of what is best for the child for the child's own ideas.[3] This means that children who have the capacity to direct the representation should be treated like ordinary clients: their lawyers should consult with them,[4] keep their confidences,[5] serve them with undivided loyalty,[6] and follow their lawful directions.[7] Moreover, this means that when children have diminished capacity but are capable of communicating with the lawyer and expressing preferences, their lawyers should maintain an ordinary lawyer-client relationship as far as reasonably possible.[8] Finally, drawing on the writings of Jean Koh Peters,[9] *Fordham* participants concluded that when lawyers represent pre-verbal children and other children who are incapable of directing the representation, lawyers should limit themselves to serving children's legal interests (*i.e.*, interests that the legal proceeding has authority to address), and in doing so, should employ an investigative process that leads to an understanding of "the child in her context"—that is, "a detailed understanding of the child client's unique personality, her family system, history and daily life."[10]

In the years following the *Fordham Children's Conference*, its *Recommendations* were widely circulated among lawyers and legal academics who work with children. Other organizations representing children's lawyers, some of which had already been working on a parallel track, reached similar conclusions about the lawyer's role and responsibilities.[11] A number of law school clinics and children's law offices drew on the *Recommendations* and other writings of the *Fordham Children's Conference* in their training and internal policies.[12] Legal academics and professionals produced additional writings

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[2] Bruce A. Green & Bernardine Dohrn, *Foreword: Children and the Ethical Practice of Law*, 64 FORDHAM L. REV. 1281, 1294 (1996); *Recommendations of the Conference on Ethical Issues in the Legal Representation of Children*, 64 FORDHAM L. REV. 1301, 1320 (1996) [hereinafter *Fordham Recommendations*].

[3] Green & Dohrn, *supra* note 2, at 1294-95; *Fordham Recommendations*, *supra* note 2, at 1301-02.

[4] *Fordham Recommendations*, *supra* note 2, at 1302-04.

[5] *Id.* at 1308-09.

[6] *Id.* at 1317-19.

[7] *Id.* at 1301, 1312.

[8] *Id.* at 1312-13; *see* MODEL RULES OF PROF'L CONDUCT R. 1.14(a) (2002).

[9] *See* Jean Koh Peters, *The Roles and Content of Best Interests in Client-Directed Lawyering for Children in Child Protective Proceedings*, 64 FORDHAM L. REV. 1505 (1996). The article was drawn from two chapters of JEAN KOH PETERS, REPRESENTING CHILDREN IN CHILD PROTECTIVE PROCEEDINGS: ETHICAL AND PRACTICAL DIMENSIONS (1997).

[10] *Fordham Recommendations*, supra note 2, at 1308-11.

[11] Jean Koh Peters, *How Children are Heard in Child Protective Proceedings, in the U.S. and Around the World in 2005: Survey Findings, Initial Observations, and Areas for Further Study*, 6 NEV. L. J. 966 (2006).

[12] For example, Annette Appell's Child Welfare Clinic and other clinics at the William S. Boyd School of Law Thomas & Mack Legal Clinic utilize the *Fordham Recommendations*.

building on the *Fordham Recommendations*.[13] On rare occasion, courts referred to them.[14] One could hardly say, however, that there has been anything approaching a sea change in the actual practices of courts and the lawyers whom they appoint to serve children.[15] Nor can one say that the legal, social, and political status of children in this country has measurably improved in the intervening decade. While ten years is a short time for such fundamental change, the groundwork of the *Fordham Children's Conference* did free children's attorneys to move to the next step in their assessment of children's representation and raise additional questions about their role in defining and promoting justice for children and how under the *Fordham Recommendations* lawyers could account for the important role of family in their child clients' lives.

III. ORGANIZATION OF THE 2006 *UNLV CHILDREN'S CONFERENCE*

These newer questions prompted veterans of the *Fordham Conference* to conclude that it was time for a similar gathering. Planning for the 2006 *UNLV Children's Conference* began three years earlier with the formation of an organizing committee with Professors Annette R. Appell of UNLV and Susan Brooks of Vanderbilt University Law School carrying the laboring oar.[16] The UNLV William S. Boyd School of Law, which organizes its clinical program around children and families, agreed to serve as the host and primary sponsor, and its law review agreed to publish recommendations and other writings that the conference would produce. The organizers secured the co-sponsorship of a dozen other organizations, most of which had also worked on the 1995 conference:

ABA Center on Children and the Law, Young Lawyers Division;
ABA Center for Professional Responsibility;
ABA Child Custody and Adoption Pro Bono Project;
ABA Section of Family Law;
ABA Section of Litigation;
Home At Last, Children's Law Center of Los Angeles;

In addition, Appell helped establish the Children's Attorneys Program of Clark County Legal Services, Nevada, and utilized the *Fordham Recommendations* to orient the office's attorney-client representation model.

[13] *E.g.*, Michael D. Drews & Pamela J. Halprin, *Determining the Effective Representation of a Child in Our Legal System: Do Current Standards Accomplish the Goal?*, 40 FAM. CT. REV. 383 (2002); David R. Katner, *Coming to Praise, Not to Bury, the New ABA Standards of Practice For Lawyers Who Represent Children in Abuse and Neglect Cases*, 14 GEO. J. LEGAL ETHICS 103 (2000); Jesica Matthews Eames, *Seen But Not Heard: Advocating for the Legal Representation of a Child's Expressed Wish in Protection Proceedings and Recommendations for New Standards in Georgia*, 48 EMORY L.J. 1431, 1453, 1460-67 (1999); Jan C. Costello, *Representing Children in Mental Disability Proceedings*, 1 J. CENTER FOR CHILD & CTS. 101 (1999).

[14] *See* Los Angeles County Dep't of Children and Family Servs., 59 Cal.Rptr.2d 613 (Cal. App. 1996); *In re* Georgette, 785 N.E.2d 356, 367 (Mass. 2003).

[15] Peters, *supra* note 11.

[16] The other members were Professors Bernardine Dohrn of Northwestern University School of Law, Bruce Green of Fordham Law School, Martin Guggenheim of New York University School of Law, and Jean Koh Peters of Yale Law School.

Juvenile Law Center;
National Association of Counsel for Children;
National Center for Youth Law;
National Council of Juvenile and Family Court Judges;
National Juvenile Defender Center;
Stein Center for Law and Ethics, Fordham University School of Law;
Support Center for Child Advocates;
Youth Law Center.

This broad sponsorship reflected the recognition of all these organizations and entities that representing children in families is important and challenging and a worthy subject of continued discussion and findings.

Although the organizers decided to adopt the process and format of the *Fordham Conference*—that is, they would organize an invitational, working conference to develop recommendations and other useful writings[17]—they had no interest in simply revisiting the questions considered in 1995. There was more to be done. Participants at the *Fordham Conference* themselves had flagged further issues requiring study, including such crucial ones as how children's lawyers should take account of children's race, ethnicity, culture, and class.[18] And while alluding to the need for children's lawyers to get to know the child client and the child's environment,[19] and to draw on the expertise of other professionals, their clients' family members, and other interested persons in doing so,[20] the *Fordham Recommendations* made no attempt to elaborate on these imperatives or generally on what it means to represent children adequately and all that must be learned and done to do so. Rather than offering the last word, the *Fordham Recommendations* sought to spur a national, interdisciplinary dialogue on the legal representation of children that had barely begun.[21]

Early on, a collective decision was made to place greater emphasis on the relationship between children's advocacy and justice. A key would be to focus on the situation of children in families. Participants would be encouraged to account for the importance of families to children while acknowledging the conflicts that may arise between children and their parents. Participants would also be invited to examine the limitations of an individual rights-based model of legal representation and to consider children's interests in a larger political arena that often views children as untethered, unaccompanied and transferable and thus holds a legalistic, one-dimensional vision of children's rights.

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[17] For a discussion of the organization and format of the *Fordham Children's Conference*, see Green & Dohrn, *supra* note 2, at 1290-94. The so-called "Fordham-style" invitational working conference has been used by Fordham Law School's Stein Center and its co-sponsors to develop recommendations on a host of other subjects, including the representation of older clients, the delivery of legal services to low-income clients, and multi-jurisdictional law practice; it has been used by other law schools and bar associations to develop recommendations on various other legal and professional issues in law practice; and it has been recognized by the ABA as a national model.

[18] *Fordham Recommendations*, *supra* note 2, at 1306.

[19] *Id.* at 1302-03.

[20] *Id.* at 1304.

[21] Green & Dohrn, *supra* note 2, at 1298.

Thus, the organizers' initial ambition for the *UNLV Children's Conference*[22] was to explore some of the questions left unresolved or only lightly addressed by the Fordham participants; to examine the significance of children's connections to their families under the earlier recommendations, including whether the emphasis on loyalty to the child client (rather than to parents, the attorney's own view, or the best interests of the child, for example) risked isolating children from their families and overemphasizing the lawyer's importance; and to consider how children's attorneys, as a growing, self-conscious, and organized bar with increasing power, can advance justice for children both through individual cases and systemic advocacy. At the same time, the organizers recognized that the conference would take on a life of its own, and that the participants would ultimately chart its course.

Like their predecessors, the organizers of the *UNLV Children's Conference* invited a group of children's experts and advocates, many trained in the law, and all with varied experiences relevant to the legal representation of children across a wide array of legal contexts. To ensure a broadly representative group, each co-sponsor contributed to the selection of participants and the organizers attempted to attract child advocates of all generations, from across the country and from different practice areas. The participants thus included lawyers with considerable experience representing children in different legal contexts and in administering and designing programs to assist children and families, social scientists and others with expertise and experience from outside the legal profession, and practitioners and academics with expertise in professional responsibility, children and the law, and family law.

The organizers also solicited opening papers that would help identify and frame issues relating to the two broad themes of the conference: representing children in families and reflecting on justice for children. Authors from various doctrinal orientations and disciplines were encouraged to consider certain specific questions regarding children and families.[23] Their fourteen papers, reproduced in this book, addressed a range of issues. Some looked at issues in the

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[22] During the planning stages, the organizers called it "Fordham, Las Vegas", a playful nod both to the foundational Fordham Children's Conference and to the mimicry of the postmodern city of Las Vegas which boasts its own versions of Paris, Bellagio, Venice, Luxor, and New York City. Soon, however, the *UNLV Children's Conference* took on a life of its own.

[23] The questions included: What special opportunities and challenges do children experience when they diverge from dominant race, class, sex and gender norms? How does the child's family contribute to these opportunities and challenges? How, if at all, does a child's sexuality, gender, sexual orientation, race, and class affect the lawyer-client relationship? How does the child's developmental stage affect these questions? What role does the family play in defining the child's needs and interests? How does the attorney (and child) separate the child's rights and interests from the family? How does the child's attorney identify, assess and respond to conflicts between the child and parents or other family members? What are the repercussions for individual children, and children in general, when they have independent representation that may alienate them legally or in fact from their family? How does the attorney assess the child's capacity to direct representation and whether that capacity is limited? What, if anything, can the child's attorney do when substantive law defining the child's rights or interests diverges from the interests of the family? What, if anything, can the child's attorney do when substantive law defining the child's rights or interests diverges from the lawyer's vision of justice?

context of particular legal contexts, such as in child protective, immigration, delinquency and criminal proceedings and in health-care decision-making. Others looked at crosscutting questions. The papers address issues of the state, lawyers, and justice, the significance of children's gender, race, sex, and sexuality, problems of lawyer bias, and the implications of international law. After the Conference, participants were also invited to write papers in response to the Conference and the Recommendations, and sixteen authors have done so, covering a host of additional issues.

As at the *Fordham Conference*, most of the work of the UNLV gathering took place in small "working groups" comprised of eleven to thirteen participants including a discussion leader and reporter. This time, there were eight groups on the following different (but often interrelated) aspects of and considerations in representing children:

Role of the Family;
Role of Age and Stage of Development;
Role of Race, Ethnicity, and Class;
Role of Sex and Sexuality;
Lessons of International Law, Norms, and Practice;
Representing the Whole Child;
Representing Children as Members of Communities;
Best Interests of the Child and the Role of the Attorney.

The first day began with a short plenary session to discuss the format and purposes of the Conference. During the rest of that day and the next one, participants worked in their small groups to develop recommendations on the eight broad themes. The general object of the recommendations was to advance the understanding of lawyers, courts, ethics rule-makers, non-lawyer professionals, and others about how best to represent children in families and assess the various relationships between children's advocacy and justice.

On the last day, participants reconvened in a plenary session to consider, discuss and vote on the recommendations.[24] Only proposed recommendations enjoying a strong consensus of support would be adopted as *Recommendations of the Conference*. Although some of the working groups' proposals elicited spirited discussion, and a small number were rejected (or failed to garner a sizeable enough majority to be approved), the overwhelming majority were adopted, in some cases with refinements offered at the plenary session. Given the limited time, participants focused on the substance of the proposals, with agreement that the wording of those that were adopted could later be refined by the working groups and the organizers. By the time the conference adjourned early in the afternoon of the third day, participants were generally exhausted but also enthusiastic about the fruit of their labor. No one regretted the hard work. Indeed, many volunteered to continue working over the next few months, as the recommendations were refined, organized and integrated. These volunteers provided written summaries of the working group discussions, drafted response papers, revised opening papers, and reviewed the recommen-

[24] Bruce Green facilitated the discussion.

dations. A study group also formed after the conference to examine appropriate caseload standards for children's attorneys.[25]

The results of this process are set forth in the pages that follow. First are the *Recommendations of the UNLV Children's Conference* and the earlier *Fordham Recommendations* on which they build. Next are the eight working group reports containing summaries of the group discussions and specific recommendations that formed the basis of the *UNLV Recommendations*. Finally, there are the papers that served as background to the discussions, and the commentaries prepared following the *UNLV Children's Conference*. Taken together, these writings do precisely what the organizers of the conference had hoped, offering new writing and thinking on a host of challenging and important questions facing lawyers for children and the justice system generally, thereby taking the dialogue on the legal representation of children a great distance farther.

IV. THE *UNLV CHILDREN'S CONFERENCE* WRITINGS AND RECOMMENDATIONS

Although the *UNLV Recommendations* originated in eight different working groups, many overlapped or addressed related concerns. At the plenary session, the organizers promised, with input from the discussion leaders and reporters and other interested participants, to organize and integrate the recommendations that were adopted that day. Again, Annette Appell and Susan Brooks played a primary role, with help from many others. All involved found this to be a challenging task, and no doubt, it could have been resolved in many different ways.

In the end, the recommendations were divided into five categories. First, there are recommendations about the role of the child, family and community in defining and enhancing the child's voice.[26] These address methods children's attorneys can undertake to better account for the complex developmental stages, identities, and dependencies of children, such as recognizing the differences between the child's world and the attorney's world, addressing the role of family and community in the child's life, ensuring that children can participate fully in, and remain at the center of, legal proceedings involving their interests, and consulting with or engaging professionals from other disciplines. The second set of recommendations identifies what children's lawyers and others (including judges and parents' attorneys) need to learn to serve their roles competently, and what sort of training is necessary to achieve these competencies.[27] The third set of recommendations identifies areas in which children's lawyers should advocate for reform and sets out strategies for identifying and accomplishing needed reform.[28] Among the reforms regarded as most important are those that would make court processes and other administrative processes affecting children more child-centered and child-friendly; those that would

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[25] *See* Shari F. Shink, *In Search of a Children's Future*, 6 NEV. L.J. 1374 (2006).

[26] *Recommendations of the UNLV Conference on Representing Children in Families*, 6 NEV. L.J. 592, pt. I (2006) [hereinafter *UNLV Recommendations*].

[27] *Id.* at pt. II.

[28] *Id.* at pt. III.

empower children and their families; and those necessary to eliminate bias. The fourth set of recommendations address the attorney-client relationship.[29] These affirm the *Fordham Recommendations* for client-directed representation and provide further guidelines regarding how attorneys can help children direct the representation, assess when a child cannot fully direct the representation, and preserve confidentiality. Finally, there are recommendations regarding necessary changes in the law, rules and judicial and administrative policies and practices.[30] Among other things, these address the right to counsel for both children and parents; the attorney-client privilege and confidentiality; court staffing and management; alternative dispute resolution; juvenile court jurisdiction and sentencing; conformity to international law; sexual and reproductive health; race, ethnicity and class; and resources for children's services.

The *Recommendations* and writings, combining pronouncements on substance and procedure and on rights and roles, are rich and difficult to summarize. In some respects, different aspirations are in tension, as both Kate Kruse and Erik Pitchal describe.[31] In particular, there is a tension between the ideas that children should direct the representation and that their autonomy should be respected, on one hand, and the more expansive mandates for holistic, multidisciplinary representation that engages the child's community and family, on the other hand.[32] The writings grapple with how to resolve these tensions in practice as well as theory. Another striking aspect of the conference and its work product is its impressive contribution to critical theory regarding children's advocacy and rights. Both the *Recommendations* and many of the papers challenge the neutrality and benignity of interventions on behalf of children and place these legal regimes in a larger context of social control and competing values. In the end, there is no way to do justice to these writings by way of summary. They just have to be read by anyone involved in or interested in children and law. That said, if only to hint at the significance of what follows, we will underscore seven of the themes: children's voices must be heard; children's individuality must be respected; children must be understood in context; children's families are vitally important; children still need lawyers to serve as lawyers; children's lawyers need to expand their horizons; and children's lawyers must pursue justice for children.

First, children's voices must be heard. The *Recommendations* stress the importance of children's voices in a variety of contexts: in the attorney-client relationship, in legal proceedings, and in formulating policy. Children need lawyers not simply to promote fair processes and outcomes, but to promote children's autonomy—their right and need to have a say in what happens to them in legal proceedings. The *Recommendations* elaborate on what it means to let the child's voice be heard and how the child's lawyer should make this happen. The child's lawyer must explain the lawyer's role and help the child

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[29] *Id.* at pt. IV.

[30] *Id.* at pt. V.

[31] Katherine Kruse, *Standing in Babylon, Looking Toward Zion*, 6 NEV. L.J. 1315 (2006); Erik Pitchal, *Buzz in the Brain and Humility in the Heart: Doing It All, Without Doing Too Much, On Behalf of Children*, 6 NEV. L.J. 1350 (2006).

[32] Pitchal, *supra* note 31, at 1351-52.

formulate positions.[33] Lawyers should encourage children to take an active role in the representation and, if they wish, participate in the proceedings involving them.[34] Lawyers should support children's right to express their individuality, including where relevant, their sexual orientation and gender identity.[35] Children should have a place at the table when entities develop social and judicial policy relating to children and should contribute to lawyers' own efforts to improve their professional practices.[36] This theme resonates in the papers written for the conference. As Jean Koh Peters describes, the UN Convention on the Rights of the Child establishes the principle that "the child who is capable of forming his or her own views [has] the right to express those views freely in all matters affecting the child," and regional agreements "buttress this international consensus that the child's voice be heard in child protective proceedings."[37] Yet in the United States, there is no consensus in child protective proceedings that a child's lawyer must advocate for the child's wishes, or even express the child's preferences. On the contrary, conceptions of the lawyer's role vary vastly from jurisdiction to jurisdiction and even among lawyers in any given jurisdiction. Even in proceedings in which the attorney's role is to present the child's objectives, attorneys may struggle to hear and project the child's voice due to competing caseloads demands and limited understanding of the child's own world.

How can lawyers give expression to children's voice? Kim Taylor-Thompson identifies some of the challenges lawyers face.[38] She notes how, either by distancing themselves from their clients, on one hand, or by over-identifying with their clients, on the other, lawyers may silence their clients' voices.[39] In their response paper titled, *Giving Voice to the Voiceless*, Miriam Aromi Krinski and Jennifer Rodriguez suggest that at times it may be best for children's lawyers to step out of the way and allow children to speak directly.[40] They emphasize the need for children's lawyers, and the legal process generally, to empower "individual children and creat[e] procedural opportunities for their participation in court hearings that have a profound impact on their lives."[41] Catherine Ross too echoes calls for foster youth to have a say in decisions that affect them.[42] She recounts studies of foster youth who are quite clear about their desire to have a voice in court and in other matters affecting them but who perceive that their own attorneys and the legal system generally do not listen them.[43] Shari Shink's response paper calls on attorneys to

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[33] *UNLV Recommendations, supra* note 26, at pts. I.B-C, IV.A.2.b.

[34] *Id.* at pts. I.B.2.a, I.C.2.a.

[35] *Id.* at pt. I.B.2.e.

[36] *Id.* at pts. III.B.2.b,e.

[37] Peters, *supra* note 11, at 983-84.

[38] Kim Taylor-Thompson, *Girl Talk—Examining Racial and Gender Lines in Juvenile Justice*, 6 NEV. L. J. 1137 (2006).

[39] *Id.* at 1157-58.

[40] Miriam Aromi Krinksy & Jennifer Rodriguez, *Giving Voice to the Voiceless—Enhancing Youth Participation in Court Proceedings*, 6 NEV. L. J. 1302 (2006).

[41] *Id.* at 1303.

[42] Catherine J. Ross, *Voices in the Wilderness: Who is Listening to Dependent Teens?*, 6 NEV. L. J. 1362 (2006)

[43] *Id.* at 1365-67.

decline representation when their caseloads are too high to apprehend and convey their clients' objectives.[44]

Second, children's individuality must be respected. Letting children's voice be heard means respecting their individuality and accounting for it in the representation. The Recommendations call attention to the risk that lawyers and others will make assumptions about what children want and need and about how best to serve children based on a host of biases and stereotypes and other considerations that have nothing to do with the particular child—for example, "assumptions and stereotypes based on race, language, gender, sexual orientation, and gender identity, and expression"[45] or based on the lawyer's own personal experiences, opinions, values, and biases.[46] Lawyers need to approach children with an open mind, and to do the hard work needed to get to know them. This means taking the necessary time to speak with the child and get to know him or her, and getting to know the child's family, community and other influences on the child.[47] And, in advocating for reform of the law and legal processes, children's lawyers should "advocate for policies, practices, and programs that promote the acceptance of all children regardless of whether they or their families meet or depart from dominant norms."[48]

Other writings amplify this theme and explore the complexities of representing children in a legal system that does not apprehend their individuality and which too often makes unselfconscious distinctions based on race, gender, sexual orientation, and immigration status. Barbara Fedders thoroughly explicates the complex sexual, sexual orientation, and gender identity issues surrounding representation of children who do not meet dominant heterosexual and gender norms.[49] Nesheba Kittling addresses the need to challenge racial stereotypes about black juveniles and their sexuality that have led to the unfair treatment of black juvenile prostitutes as criminals, rather than victims.[50] Kim Taylor-Thompson argues that lawyers must challenge the stereotypical "tendency to transform female sexual expression into delinquency."[51] More broadly, Annette Appell cautions attorneys not to apply generalized presumptions and values to specific children and their needs and urges attorneys to ground their individual and policy advocacy in the characteristics of the particular child or children for whom they are advocating.[52]

Third, children must be understood in context. Closely related to respecting children's individuality is another core theme woven throughout the papers and at the base of the *Recommendations*: the necessity for the justice system, including children's lawyers, to apprehend children as full, developing,

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[44] Shink, *supra* note 25, at 1374-76.

[45] *UNLV Recommendations, supra* note 26, at pt. III.C.2.c.

[46] *E.g., id.* at pts. I.A.1, I.B.2.b.

[47] *Id.* at pts. I.A-C.

[48] *Id.* at pt. III.C.1.

[49] Barbara Fedders, *Coming out for Kids: Recognizing, Respecting, and Representing LGBTQ Youth*, 6 NEV. L. J. 774 (2006).

[50] Nesheba Kittling, *God Bless the Child: The United State's Response to Domestic Juvenile Prostitution*, 6 NEV. L. J. 913 (2006).

[51] Taylor-Thompson, *supra* note 38, at 1164.

[52] Annette R. Appell, *Children's Voice and Justice: Lawyering for Children in the Twenty-First Century*, 6 NEV. L. J. 692 (2006).

and diverse human beings who have families, communities, and complex and multiple identities. The *Recommendations* observe: "Effective representation requires attorneys to be . . . respectful of the full context in which the child lives" and to appreciate "all of the particular legal and social dimensions of the presenting problem that is the initial or primary subject of the representation; the importance of the child's family, race, ethnicity, language, culture, gender, sexuality, schooling, and home; and the child's developmental status, physical and mental health," among other things.[53] The *Recommendations* contain extensive prescriptions regarding assessing children in their own worlds; these prescriptions include (with the consent of the client): engaging the child in his or her home or community; engaging the child's family and others in the child's community, including the child's place of worship or school; working with community members and organizations to better understand the child's world;[54] and working with professionals from other disciplines who may be able to shed light on the child's development and other aspects of the child's identity.[55] As Erik Pitchal puts it, "When we acknowledge that we are not the most important person in our clients' lives, we are simultaneously acknowledging that there are other adults who hold that station, including other professionals."[56]

The *Recommendations* and other writings underscore the significance of multiple aspects of children's identity, such as race, class, culture, gender, sexual orientation, and sexual identity. The writings call attention to the importance of cross-cultural competency for lawyers and the need, given the demographic disparities between lawyers and the children they serve, for children's attorneys to be aware of their own biases. Thus, the *Recommendations* include cross-cultural knowledge as a competency that all children's attorneys should have and for which law schools and continuing legal education should provide training.[57] Barbara Fedders discusses the particular importance of understanding the unique vulnerability of young clients who identify themselves as lesbian, gay, bisexual, transgender or queer, or who are questioning their sexual orientation or gender identity, and of understanding how to respect and support them.[58]

In addition to these aspects of children's (and attorney's) identity, participants urged attorneys and the justice systems to view and respond to children in the context of their developmental stages (including sexuality), to take account of their mental health, and to note the significance of the particular legal matter or decision in issue. For example, Kim Mutcherson's article emphasizes the importance of distinguishing between deliberated choices, such as health care decisions, made in consultation with adults like parents and doctors, and more impulsive, sometimes criminal, choices made in the heat of the moment among

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[53] *UNLV Recommendations*, *supra* note 26, at pt. I.A.1.

[54] *Id.* at pt. I.A.

[55] *Id.* at pt. I.E.

[56] Pitchal, *supra* note 31, at 1359.

[57] *UNLV Recommendations*, *supra* note 26, at pts. II.D.2.a, II.F.2.c, II.F.3.

[58] Fedders, *supra* note 49.

peers.[59] In her opening paper, Susan Brooks argues for understanding the child's behavior in the context of family and other dynamics, rather than as symptomatic only of the child's experiences and volition.[60] Similarly, Marty Beyer's response paper, based on a short piece she circulated prior to the conference, explains the mental trauma children involved in legal systems often face and how that trauma manifests itself.[61] And Catherine Ross highlights the importance of education to the well-being of foster teens.[62]

Fourth, children's families in particular are vitally important. While reaffirming that attorneys should ordinarily take direction from the child, the Recommendations and many other writings recognize how vitally important it is for children's lawyers, and the justice system generally, to take account of children's families, and most especially, parents.[63] Families are, of course, the context in which children live, and any understanding of children must take account of their families. As importantly, families are crucial to children's well being and, ordinarily, no one has a greater concern and responsibility for children's well being than their parents. The attorney-client relationship, by definition perhaps, separates children from their families because legal professionalism views child clients and their interests as somehow distinct from the families of which they are a part and which are major sources of children's identity. The challenge is to maintain an effective and appropriate attorney-client relationship—consistent with the norms of client-centered advocacy—while recognizing that the client's legitimate legal objectives and needs are ordinarily inextricably intertwined with their families.

So, for example, the *UNLV Recommendations* maintain that children's lawyers "should seek to identify and engage those with whom the child is connected" when counseling the client,[64] and should encourage children to speak with their parents;[65] that children's attorney should recognize the importance for children "to maintain connections to their families"[66] and work with clients to strengthen those connections;[67] and that when possible and with the child's consent, the child's attorney should engage family members in juvenile court proceedings in particular.[68] The *Recommendations* recognize that in child protection cases, to achieve fair and appropriate outcomes for children, parents need to be represented by high-quality lawyers of their own.[69]

The other writings elaborate on the importance of children's families, and parents in particular, in children's lives, and the important contributions they

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[59] Kimberly Mutcherson, *Minor Discrepancies: Forging a Common Understanding of Adolescent Competence in Healthcare Decision Making and Criminal Responsibility*, 6 NEV. L. J. 927 (2006).

[60] Susan L. Brooks, *Representing Children in Families*, 6 NEV. L. J. 724 (2006).

[61] Marty Beyer, *Developmentally-Sound Practice in Family and Juvenile Court*, 6 NEV. L. J. 1215 (2006).

[62] Ross, *supra* note 42, at 1368-70.

[63] This can be true even when parents are inadequate, harmful, or inappropriate.

[64] *UNLV Recommendations*, *supra* note 26, at pt. I.B.2.c.

[65] *Id.* at pt. IV.A.2.b.ix.

[66] *Id.* at pt. I.A.2.f,

[67] *Id.*

[68] *Id.* pt. I.A.2.f.

[69] *Id.* at pt. V.B.2.

can make to the representation. Susan Brooks proposes that children's attorneys and legal systems adopt family systems theory, a "disciplined theoretical framework grounded in well-established, proven social science research."[70] Among other things, this approach would acknowledge that children's affections, needs and identities are deeply connected to and intertwined with their families and that the families' needs and the child's attachments to the family are valuable and must be valued. Focusing on juvenile justice cases in particular, Kristin Henning explores the complicated role parents play even when the child client can and must ultimately direct the representation; children themselves often want their parents to be involved in decision-making and other aspects of the representation, and therefore respect for the child's own desires will often call for according parents a supportive role in the representation.[71] In the child welfare context, Marty Guggenheim's opening paper criticizes the lack of funding for parent's attorneys in a context in which children receive legal representation that in fact often serves state interests and undermines the fundamental parent-child relationship.[72] David Thronson illustrates the stunning disconnections among family law, immigration law and the lived lives of the growing number of children in mixed-status families, highlighting the necessity of children's attorneys to view children in families.[73]

Other writings explore the complexities of drawing on families' strength, expertise and support, consistent with the child's autonomy and in some cases, the need to be protected. Ann Haralambie's response paper affirms the conference findings and recommendations that children and their families are experts on their own lives, problems and solutions.[74] She further observes that children's attorneys "represent clients who come from families" and that no matter the ultimate outcome of the representation, families are both important to and constitutive of the child clients.[75] Chris Gottleib presents a compelling case on prudential and legal grounds for children's attorneys to consult with parents regarding the child's interests when the child cannot direct the representation; "however counter-intuitive, even in child welfare cases, parents in fact remain the best ones to gauge children's interests . . . [and] the best source available to courts, to foster care agencies and to children's lawyers."[76]

The papers and conference materials further examine the tendency for legal and social systems to over-involve themselves in the lives of families, reaching beyond the issues that brought the family into the legal system, and mandating multiple services that the family may not find helpful and may in fact undermine parenting. Thus, in her response paper, Catherine Krebs

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[70] Brooks, *supra* note 60, at 724.

[71] Kristin Henning, *It Takes a Lawyer to Raise a Child? Allocating Responsibilities between Parents, Children & Lawyers in Delinquency Cases*, 6 NEV. L.J. 836 (2006).

[72] Martin Guggenheim, *How Children's Lawyers Serve State Interests*, 6 NEV. L.J. 805 (2006).

[73] David B. Thronson, *Choiceless Choices: Deportation and the Parent-Child Relationship*, 6 NEV. L. J. 1165 (2006).

[74] Ann M. Haralambie, *Recognizing the Expertise of Children and Families*, 6 NEV. L.J. 1277 (2006).

[75] *Id.* at 1277.

[76] Christine Gottlieb, *Children's Attorneys' Obligation to Turn to Parents to Assess Best Interests*, 6 NEV. L.J. 1263, 1264 (2006).

explores how well-meaning interventions can overwhelm a family and suggests that attorneys remember that the child's and family's life does not revolve around the particular matter that has involved them in court, but that there are many demands on the child and family apart from the forensic matter.[77]

Fifth, children still need lawyers to serve as lawyers. The *UNLV Recommendations* go far beyond those developed at Fordham a decade earlier. But they also resoundingly reaffirm the earlier recommendations. In particular, the UNLV participants reaffirmed that children need lawyers in a variety of contexts not limited to delinquency and dependency cases,[78] and further, that children's lawyers should serve consistently with the norms governing the attorney-client relationship.[79] When children are able to do so, they should be allowed to direct the representation as would any other client, and in such cases, lawyers should advocate for their clients' objectives.[80]

All of this was the subject of debate both in the working groups and in the plenary session. Some participants advocated departing from the client-directed model as a political response to the still prevalent "best interests" model and the National Counsel of Commissioners on Uniform State Laws ("NCCUSL") draft model statute;[81] others simply did not think that a client-directed model worked, particularly for younger children. These views were expressed in recommendations put forth by the working group on "Role of Age and Stage of Development"[82] and in the contributions to this collection of Don Duquette and Robert Harris.[83] Nevertheless, these turned out to be minority views among the participants.

Writings in this book both reflect and justify the strong consensus in support of the traditional attorney-client model and also show how far the current reality departs from that ideal. Jane Spinak writes specifically about the importance of "child-centered, child-driven advocacy," particularly in response to the surprising draft proposal of the NCCUSL, which endorses the heavily criticized best-interest model of the lawyer's role.[84] Kris Henning, Kim Brooks Tandy, and Michael Pinard address the complexity and necessity of client-directed representation in the juvenile justice and education contexts when parents are heavily involved in the proceedings and sometimes have competing

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[77] Catherine Krebs, *Evaluating the Impact of Intervention on Families*, 6 NEV. L. J. 1296 (2006).

[78] *UNLV Recommendations, supra* note 26, at pt. V.A.

[79] *Id.* at pts. IV.A-B, V.A.

[80] *Id.*

[81] Uniform Representation of Children in Abuse and Neglect and Custody Proceedings Act, http://www.law.upenn.edu/bll/ulc/RARCCDA/2006FebChildRepStrikeScoreDraft.htm (last visited on March 12, 2006) [hereinafter NCCUSL Draft].

[82] *Report of Working Group on the Role of Age and Stage of Development*, 6 NEV. L.J. 623 (2006).

[83] Donald N. Duquette, *Two Distinct Roles/Bright Line Test*, 6 NEV. L.J. 1240 (2006); Robert F. Harris, *A Response to the Recommendations of the UNLV Conference: Another Look at the Attorney/Guardian ad Litem Model*, 6 NEV. L. J. 1284 (2006).

[84] Jane Spinak, *Simon Says Take Three Steps Backwards: The National Conference on Commissioners on Uniform State Laws Recommendations on Child Representation*, 6 NEV. L. J. 1385, 1387 (2006).

opinions or interests.[85] Abbe Smith illustrates the simple and painful importance of legal representation in criminal cases for the least sympathetic child clients who are very much on their own or who will spend the rest of their lives incarcerated.[86]

The *Recommendations* and papers identified two major legal impediments to the realization of client-directed representation of children: the federal mandate that children subject to abuse and neglect petitions be provided a representative who will report their best interests to the court and mandatory child abuse and neglect reporting, both of which are rooted in Child Abuse and Treatment Act ("CAPTA").[87] Although CAPTA applies in particular to child welfare matters, its reach is wide both because a large portion of children's attorneys provide representation in these abuse and neglect proceedings and because its reporting provisions are not limited to children's child abuse and neglect attorneys. Jean Koh Peters and Gerard Glynn describe how CAPTA hinders realization of a client-directed model.[88] Given participants' overwhelming endorsement of the client-directed model for children, it is not surprising that the conference recommended that CAPTA be amended to explicitly permit appointment of client-directed attorneys for children.[89]

Sixth, children's lawyers need to expand their horizons. While reaffirming that children need lawyers, the *Recommendations* urged children's lawyers to take an expansive view of legal issues and solutions, looking beyond the immediately applicable law and traditional ways of thinking about legal problems. The *Recommendations* encourage children's lawyers to become knowledgeable in a wide range of areas, including about how race, class and culture relate to their clients and to the legal and social systems in which their clients are involved.[90] They also encourage children's attorneys to provide holistic representation of children that utilizes and is responsive to the child's specific familial, social, economic and developmental context.[91] To do so, children's lawyers will need to draw on the learning of other professions about such subjects as child development, education and mental health.[92] They will also have to draw on knowledge about their clients' particular communities and about non-dominant cultural norms.[93] Given the limitations of legal training, this will often require additional education.[94] In some cases, lawyers will have to work with other professionals, including not only to translate other languages when dealing with non-English speaking children, families and communities,

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[85] Henning, *supra* note 71; Mutcherson, *supra* note 59; Michael Pinard, *The Logistical and Ethical Difficulties of Informing Juveniles about the Collateral Consequences of Adjudications*, 6 NEV. L.J. 1111 (2006).

[86] Abbe Smith, *Defending and Despairing: The Agony of Juvenile Defense*, 6 NEV. L.J. 1127 (2006).

[87] Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5106a(b)(2)(A)(xiii)(II) (2000).

[88] Peters, *supra* note 11; Gerard F. Glynn, *The Child's Representation Under CAPTA: It is Time for Enforcement*, 6 NEV. L.J. 1250 (2006).

[89] *UNLV Recommendations, supra* note 26, at pt. V.A.2.

[90] *Id.* at pts. II.A-D.

[91] *Id.* at pt. I.A.

[92] *Id.* at pts. I.E, II.A.2.a.

[93] *Id.* at pt. II.D.

[94] *Id.* at pt. II.F.

but also to help translate children's experiences.[95] Expanding on these themes, Susan Brooks encourages children's attorneys to question the very foundation and coherence of children's law, and suggests looking to other disciplines, particularly social work, to inform the legal discipline and establish some sort of normative framework for children's law.[96] Psychologist Antoinette Kavanaugh and her colleagues at the Cook County Juvenile Court Clinic provide a research-based best practices model for forensic clinical evaluations of children that can also assist attorneys to better advocate for and communicate with their clients.[97]

The recommendations and writings also call upon attorneys to consult sources of law beyond those that directly relate to the legal question for which the attorney was appointed or retained.[98] For example, international law may provide an additional wellspring of rights, if not a basis for legal arguments about the scope of children's rights under domestic law. Bernardine Dohrn's paper describes the growing body of international "children's common law" addressing many pressing questions, such as the extent of a child's right to participate in legal proceedings, the balancing of children's and parents' interests when families have been separated, and how to address various forms of violence against children.[99] In response, Naomi Cahn argues that U.S. law, although far from perfect, has much to offer countries that are less economically and legally developed.[100] And David Thronson explores the complications arising out of a child's own and family members' immigration status, and how the various immigration, asylum and family and children's doctrines can undermine family relations and drive difficult family decisions.[101]

Seventh, children's lawyers must pursue justice for children. The Conference affirmed that children's lawyers should seek justice for children not only in individual cases but also through systemic reform of the law and legal processes that shape children's lives, employing not only legal methods but also extralegal ones such as community organizing and media advocacy.[102] There are several noteworthy observations about the conference's call for justice for children: children's voices need to be heard; justice for children may best be accomplished indirectly; government must be accountable to children; and there is a lot of work to be done.

First, harkening back to an earlier theme, it is critical that children's voices be heard in defining the "justice" that children's lawyers seek. Children's lawyers cannot always presume to know what is a just process or a just outcome. They may be influenced by biases based on dominant norms regarding race, ethnicity, culture, class, gender, sexuality, sexual identity and sexual orienta-

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[95] *Id.* at pts. I.E.2.b, d.

[96] Brooks, *supra* note 60.

[97] Antoinette Kavanaugh, Jennifer Clark, Tiffany Masson, & Barbara Kahn, *Obtaining and Utilizing Comprehensive Forensic Evaluations: The Applicability of One Clinic's Model*, 6 NEV. L.J. 890 (2006).

[98] *UNLV Recommendations, supra* note 26, at pts. I.D.2.b,d, II.A.2.f, II.B.2.

[99] Bernardine Dohrn, *Something's Happening Here: Children and Human Rights' Jurisprudence in Two International Courts*, 6 NEV. L.J. 749 (2006).

[100] Naomi Cahn, *Representing Children and International* Norms, 6 NEV. L.J. 1232 (2006).

[101] Thronson, *supra* note 73.

[102] *UNLV Recommendations, supra* note 26, at pt. III.

tion. In defining justice writ large, as in ascertaining an individual child's objectives, needs and interests, it is important to be respectful of children's complex identities and experiences, to engage their families and communities, and to draw on the expertise of other professionals. Otherwise, many of the authors suggest, children's lawyers may find themselves promoting unjust systems or unjust applications of the law that punitively and differentially target poor children and families of color,[103] that undermine children and families based on race, gender and class,[104] or that otherwise harm children.[105] The *Recommendations* urge that efforts to reform legal systems be community based and informed by best, rather than existing, practices.[106]

Second, the *Recommendations* and other writings make clear that in many instances, true justice for children can only, or best, be accomplished indirectly. As the Working Group on the Role of the Family notes in its report,

> Despite its lofty ideals, our current system too commonly disserves the interests of children, and too often does so by devaluing and condemning families to which they are born. Our conviction is that the systems that intervene in the lives of children and families should be reoriented toward identifying the strengths and benefits we conclude exist in those families. Until those systems recognize that they must value the children's families, no procedural or substantive change has any real hope of making a difference.[107]

Insofar as children are inherently dependent, and as they are part of families (even if their dependency is placed on the state in lieu of their biological parents temporarily or even permanently), the *Recommendations* favor achieving justice for children by achieving justice for their families and communities. Thus, the *Recommendations* support providing high-quality counsel to parents in dependency cases;[108] call for the attorney-client privilege to outweigh any statutory mandate to report child maltreatment;[109] urge an end to vicarious parental liability for children's delinquent or criminal actions;[110] and call for adoption of the federal child welfare financing reforms recommended by the Pew Commission on Children in Foster Care (which would provide greater flexibility to states to fund social services for families instead of placing children in foster care).[111] Chris Gottlieb captures the general sentiment of many of the writings when she argues, frankly, for children's attorneys to turn to parents as decision-makers on a host of questions related to determining what is

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[103] *E.g.*, Guggenheim, *supra* note 72; Kittling, *supra* note 50; Taylor-Thompson, *supra* note 38; Thronson, *supra* note 73.

[104] Guggenheim, *supra* note 72; Kittling; *supra* note 50; Taylor-Thompson, *supra* note 38.

[105] Appell, *supra* note 52; Guggenheim, *supra* note 72; Kelly Browe Olson, *The Importance of Using Alternative Dispute Resolution Techniques and Processes in the Ethical and Informed Representation of Children*, 6 NEV. L. J. 1333 (2006); Kim Brooks Tandy & Teresa Heffernan, *Representing Children with Disabilities: Legal and Ethical Considerations*, 6 NEV. L.J. 1396 (2006).

[106] *See* Katherine R. Kruse. *supra* note 31.

[107] *Report of the Working Group on the Role of the Family*, 6 NEV. L.J. 616, 619 (2006).

[108] *UNLV Recommendations*, *supra* note 26, at pt. V.B.2.

[109] *Id.* at pt. V.C.2.b.

[110] *Id.* at pt. V.E.2.b.

[111] *Id.* at pt. V.I.2.

in the children's best interests—essentially positing that children's attorneys can do best for their clients by sometimes giving voice to their parents.[112]

One key indirect approach to achieving justice is through procedural reform. Within the Recommendations and writings there is a deep and cross-cutting recognition that children's lawyers have a critical role to play in framing and supporting alternative approaches to dispute resolution—non-judicial processes that allow children and their families an authentic voice in decision-making and that result in potentially better outcomes for everyone.[113] The *Recommendations* and other writings explore a variety of other procedural reforms to enable self-aware lawyers to give voice to children and families and draw on their wisdom in matters that affect them. Among other things, the conference recommended that children's attorneys promote reforms to ensure that children may be present in dependency and other proceedings;[114] that they challenge policies and procedures that unnecessarily sever family ties and stigmatize parents based on race and poverty;[115] and that they promote diversity among judges, prosecutors, public defenders and children's lawyers.[116] Some writers urge employing a social justice lawyering model,[117] looking to parents to help define children's interests,[118] and viewing children in context, as members of families and communities, and not simply in terms of the particular legal issue that is presented.[119] Others proposed alternative approaches to resolving legal matters regarding children, such as family group conferencing[120] and therapeutic jurisprudence.[121] Kelly Browe Olson takes a different tack, offering progressive models of alternative dispute resolution to avoid some of the more regressive aspects of juvenile and family law, and suggesting that ADR can include family members and other professionals in crafting more satisfying and healthy outcomes.[122]

Third, pursuing justice for children in large part means keeping government systems that are supposed to serve children and families accountable to these constituents, most of whom are marginalized politically. In the *Recommendations*, there are calls for: increased strengths-based and individualized services, so as to maximize the likelihood that the services provided will result in the desired outcome;[123] respectful services that take into account differences in race and culture, and sex and sexual orientation;[124] challenges to ineffective service programs;[125] equal access to services for children regardless of whether they are adjudicated delinquent offenders, and regardless of whether or not they

[112] Gottlieb, *supra* note 76.
[113] Olson, *supra* note 105; *UNLV Recommendations*, *supra* note 26, at pts. II.E.1,3.
[114] *UNLV Recommendations*, *supra* note 26, at pt. III.A.2.a.
[115] *Id.* at pt. III.B.2.a.
[116] *Id.* at pt. III.C.2.a.
[117] Appell, *supra* note 52.
[118] Gottlieb, *supra* note 76.
[119] Appell, *supra* note 52, at 695; Brooks, *supra* note 60, at 724-25; Haralambie, *supra* note 74, at 1277-78.
[120] Olson, *supra* note 105.
[121] Brooks, *supra* note 60, at 729-31.
[122] Olson, *supra* note 105.
[123] *E.g.*, *UNLV Recommendations*, *supra* note 26, at pts. I.B.2.c, III.C.2.
[124] *Id.* at pt. I.B.2.b.
[125] *Id.* at pts. III.A.2.c, III.B.2.a.

are in state custody;[126] and the use by children's attorneys primarily of neighborhood-based social services that are respectful of clients' differences (and the concomitant inference that children's attorneys should refuse to refer clients to, or to support government use of, service programs that do not meet these standards—thus bringing to bear the power of attorneys' collective demand to affect the supply of services).[127] Children's attorneys are also encouraged to provide or promote appropriate training of judicial and other leaders, and other members of the bar, so that key decision-makers throughout the system are educated and knowledgeable about exactly the issues discussed throughout the *Recommendations*.[128]

As to the substantive contours of justice for children, suffice it to say, the message of this conference is that there is a lot of work to be done. The *Recommendations* and papers brought to light the ways in which the legal line dividing children from adults is, in ways that harm children, increasingly porous and heavily influenced by race and gender.[129] The *Recommendations* call for juvenile, rather than adult, court jurisdiction over children, on the ground that jurisdiction should be determined by the child's age, not his or her offense.[130] And, as noted, the *Recommendations* identify a host of other changes in the law for which children's lawyers should advocate. These include (to identify a few) modifying CAPTA and other laws that impede client-directed representation and client confidentiality,[131] expanding children's and parents' right to counsel,[132] ratifying the UN Convention on the Rights of the Child,[133] adopting statutes permitting youth in state custody equal access to health services,[134] and decriminalizing youth involvement in prostitution offenses.[135]

V. CONCLUSION

The breadth and depth of the writings emerging from the *UNLV Children's Conference* may prompt some to wonder what results this national assembly of lawyers, academics, and other professionals expect to produce. There may be a tendency to view the *Recommendations* as idealistic and impossible to implement given the existing conditions of representation, including the justice system with its high caseloads and increasingly punitive mandates and the harsh socio-economic conditions affecting the children who are most likely to need legal representation.[136] Although many of the *Recommendations* do suggest concrete steps and attitudinal approaches that are accessible

[126] *Id.* at pts.V.E.2.c. V.G.2.a.
[127] *Id.* at pts. I.A.2.i, I.F.2.b; II.E.4, III.B.
[128] *E.g., id.* at pt. II.F.3.a.
[129] Kittling, *supra* note 50; Mutcherson, *supra* note 59; Pinard, *supra* note 85; Smith, *supra* note 86; Taylor-Thompson, *supra* note 38.
[130] *UNLV Recommendations*, *supra* note 26, at pts. V.E.1, 2.a.
[131] *Id.* at pts. V.A, V.C, V.F.
[132] *Id.* at pts. V.A-B.
[133] *Id.* at pt. V.F.2.a.
[134] *Id.* at pt. V.G.2.a.
[135] *Id.* at pt. V.G.2.b.
[136] *See* Kruse, *supra* note 31, at 1323-24.

to any attorney, the more resource-intensive recommendations regarding individual representation, competencies, and community engagement and methodology, may be out of reach for many children's attorneys at this time.

But the *UNLV Conference* did not occur in a vacuum. Child advocacy in this country is a robust, growing specialty, and the *Recommendations* and writings serve to both join and advance a conversation about what it means to be a child advocate and what the priorities in the field ought to be. The ten years between the *Fordham* and *UNLV Conferences* saw tremendous growth in the community of child advocates. The National Association of Counsel for Children's annual conference now garners over 500 attendees; the ABA Center on Children and the Law has an extensive program of technical assistance and has developed standards of practice; various jurisdictions, including California, have enacted statues or court rules regarding children's lawyers, in an effort to reduce caseloads and increase the quality of representation; and a federal district judge issued a ruling declaring children's constitutional right to counsel in dependency cases.[137] There are now more attorneys seeking to specialize in representing children, and they are more self-aware and self-critical about their practice than ever before.

The *UNLV Children's Conference*, its *Recommendations*, and these writings thus come at an ideal time: the growing cadre of dedicated children's attorneys need inspiration to continue the hard daily work of fighting for children under difficult conditions and the longest of odds. As overwhelming as this volume may be, change does not come without vision, goals and ideals. As Kate Kruse asserts, an "idealized vision of a responsive and well-functioning system may serve an especially important function as a polestar to guide a lawyer's practical decision-making in a dysfunctional system when the swirl of the 'way we do things around here' threatens a loss of direction."[138] We hope that readers of this volume find it inspiring, thought provoking, challenging, and useful, and that they pick up the conversation where this volume leaves off.

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[137] Kenny A. v. Perdue, 356 F. Supp. 2d 1353 (N.D. Ga. 2005).
[138] Kruse, *supra* note 31, at 1321.

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