

January 1972

Katz, When Parents Fail--The Law's Response to Family Breakdown

Leontine R. Young

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Recommended Citation

Leontine R. Young, *Katz, When Parents Fail--The Law's Response to Family Breakdown*, 24 Fla. L. Rev. 397 (1972).

Available at: <https://scholarship.law.ufl.edu/flr/vol24/iss2/17>

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BOOK REVIEW

WHEN PARENTS FAIL — THE LAW'S RESPONSE TO FAMILY BREAKDOWN. By Sanford N. Katz.¹ Boston: Beacon Press. 1971. Pp. xv, 251 (appendix 199-246). \$12.50.

With the changing structures of family and community, government has necessarily become more active in its control of family behavior, specifically in the protection of children. The legal questions involving parent-child rights and responsibilities are becoming more complex and acute. Sanford Katz has made a major contribution to the clarification of the social and legal issues involved and to the compilation of the laws and judicial decisions dealing with those issues.

As he makes abundantly clear, there is confusion both in the laws and in community attitudes. He points out correctly: "[T]hat no longer is it possible to delineate sharply the jurisdictional lines between government, parents, and children" (p. 5). The confusion is compounded by the fact that "[n]owhere in American law is there a comprehensive statement that adequately describes the full range of the legal responsibilities of parents to children" (p. 5). Mr. Katz has presented a thoughtful profile of parental obligations to their children as these are presently viewed by community expectations. One would wish that he had expanded this section although the very abstractness of the standards in a time of change could make this an exercise in further confusion. Nevertheless, as Mr. Katz proceeds to clarify in his discussion of specific issues, this is a central factor in the need for greater objectivity and greater clarity of direction in this emotion-packed question of state intervention in the parent-child relationship.

Mr. Katz has described with clarity and succinctness the process of state intervention and some of the problems arising out of this in situations where parents are accused of neglect or abuse of their children. He has taken a careful look at the laws and legal questions dealing with foster care and adoption when children have been either temporarily or permanently removed from parental custody. The subjective nature of many of the decisions by courts and social agencies is documented. Mr. Katz clearly indicates that the determining criterion for judicial decision should be to "promote the best interests in the child, defined in this book as encompassing a constellation of social values essential to a child's development into a physically and emotionally healthy and responsible adult" (p. 145). He rightly criticizes decisions in which children are removed from their natural parents for reasons more reflective of the biases of judges and agencies than of the essential welfare of children. He does not devote equal attention to those perhaps more frequent

1. Professor of Law, Boston College Law School.

situations in which courts and agencies refuse to remove children although parental neglect and abuse threaten their emotional if not their physical survival. There are many complex and urgent questions surrounding this aspect of state intervention, and it is unfortunate that Mr. Katz did not deal with them in more depth.

Thus, he does not raise the questions of what should constitute minimum care and protection of children, what are the contradictions between the rights of parents and the rights of children, and in what ways both courts and agencies not only fail to clarify the essential issues but may indeed add to the confusions and augment the contradictions. This is a thorny and controversial area, which generates some furious partisanship, but it must be tackled if the law's response to family breakdown is to result in adequate protection of children.

This is a valuable and much-needed book about an area of law that has not received the study and attention warranted by its importance. Mr. Katz has made a solid beginning. Hopefully he will expand his study in greater depth in future publications.

LEONTINE R. YOUNG*

* Executive Director, Child Service Association.