Children's rights and adult confusions

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Extensive new rights have been conferred on American children. Children in some states, for example, are now empowered to divorce their parents. Thirteen-year-old girls may obtain birth control devices over the objections of their parents. A Ukrainian mother, whose twelve-year-old son was separated from her and her husband because he did not want to move back to the Ukraine with them, put the current state of affairs this way: "Who really tells the children what to do? Are the children the parents and the parents the children?"

A transformation in social and psychological attitudes is behind the change in children's legal rights, making two related issues important. First, how much equality between adults and children is desirable? That is, do we regard conflict between adults and children as inevitable—and hence believe that clear distinctions in authority between adults and children are necessary—or do we believe more equal relations will eliminate intergenerational tensions? Second, how freely may the state step between parent and child for the presumed benefit of the child?

Parenthood in early America

Debate on the first question began, in America, with the nation's founding. Among the strongest evidence to foreign observers that we, in fact, had had a revolution in America was their perception
of a new egalitarianism between adults and children. American children struck them as more independent, individualistic, and socially precocious than their European counterparts. One such observer, Captain Frederick Marryat, a British naval officer who came to the United States in 1887, was appalled by a conversation he had overheard that he thought typical of what might be expected in a democracy:

"Johnny, my dear, come here," says his Mamma.
"I won't," cries Johnny.
"You must, my love, you are all wet, and you'll catch cold."
"I won't," replies Johnny.
"Come, my sweet, and I've something for you."
"I won't."
"Oh, Mr. ________, do pray, make Johnny come in."
"Come in, Johnny," says the father.
"I won't."
"I tell you, come in directly, sir! Do you hear?"
"I won't," replies the urchin, taking to his heels.
"A sturdy republican, sir," says his father to me, smiling at the boy's resolute disobedience.\(^1\)

Yet observers differed in their assessments of this equality. Another Englishman was charmed by a father and his fourteen-year-old son who seemed to enjoy mutual equality and affection as they talked and sang together on a train trip in America: "There was no attempt," he wrote, "at keeping up the dignity of a parent as might have been considered necessary and proper with us. There was no reserve. They were . . . already on an equal footing of persons of the same age."\(^2\)

This certainly was the view of that most famous observer of all, Alexis de Tocqueville, a Frenchman who was nearly all sociologist and very little psychologist. In his travels in America in the 1830's he foretold the evaporation of traditional parental authority as the democratic spirit invaded the family and established "a species of equality" around the domestic hearth. This equality was a function of the general leveling in which the father was no longer the royal presence in the home but only another individual, subservient to general laws—a member of the community, older and richer than his son perhaps, but not otherwise privileged: "In a democratic family, the father exercises no other power than that which is granted to the affection and experience of age." Tocque—

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ville was won over by the American family, which seemed to him more affectionate and intimate because rules and authority were less emphasized. Succession to manhood was easy and there was no need for "a domestic struggle in which the son has obtained, by a sort of moral violence, the liberty that his father refused him." Tocqueville prefigured by more than a century what is close to the truth in America: "In America there is, strictly speaking, no adolescence: At the close of boyhood, the man appears and begins to trace out his own path." Tocqueville either failed to see or gave no weight to the struggles for identity and self-definition, and the need for boundaries, that more psychologically-oriented analysts of American society, such as Erik Erikson, were later to emphasize. (Of course, Tocqueville came to America a bachelor and returned to France to write his famous treatise unburdened by fatherhood.)

The American tensions

In the nineteenth century, a religious upbringing was expected to provide guidance for these conflicts. Although the teachings of modern psychology and ancient religion are often opposed, there is an echo of religion's insistence on fixed standards in Erik Erikson, who, a century after Tocqueville, wrote: "The clinician can only observe that many are proud to be without religion whose children cannot afford their being without it." Erikson—perhaps the foremost American Freudian—sees the need for strong parents who set boundaries and stand fast as loving guides as adolescents struggle to take their places in an adult world. For Erikson, the prolonged inequality of the child and the adult is as necessary as the inequality between the analyst and the patient on the couch. The parent, like the analyst, must expect conflict and at times even rage. Creative work on the part of both parent and analyst requires that they not collapse into either apathetic tolerance or autocratic guidance.

The debate about parent-child conflict was treated in a more heavy handed way by G. Stanley Hall, who was often credited with inventing the term "adolescence." He saw it as a period filled with turbulence: "Adolescence is a new birth . . . the functions of every sense undergo reconstruction, and the relations to other psychic functions change, and new sensations, some of them very intense, arise . . . there are now repulsions felt toward home and school, and truancy and runaways abound." Then and now, others have contended that Hall exaggerated the tension between children and adults. The recent data of Daniel Offer show that contemporary
teenagers are less trusting, but suggest that psychoanalytic investigators have overestimated the turmoil that characterizes relationships between healthy adolescents and adults.\(^3\)

Christopher Lasch agrees that there has been a retreat from conflict, but asserts that it has not been healthy. He pities the modern parents who have cooperated with the helping professions in the invasion of the family "in the hope of presenting themselves to their children strictly as older friends and companions. Recent child-rearing techniques, such as Parent Effectiveness Training, rationalized the retreat from painful confrontations by urging parents and children to talk about their feelings instead of arguing about the rules and principles that provoke confrontations." \(^4\)

Another voice in this debate has its roots in the writings of Randolph Bourne, who saw corruption in age and vision in youth: "Youth, therefore, has no right to be humble. The ideals it forms will be the highest it will ever have, the insights the clearest, the ideas the most stimulating." \(^5\) It is hard to say what Bourne, who died a few years after he graduated from Columbia University in 1912, would have said if he could have lived to see the 400,000 youths who gathered near Woodstock, New York, in 1969, and who walked naked, smoked marijuana, and made love openly, living out his injunction that "prudence is really a hateful thing in youth." That was the year that Margaret Mead wrote of the elderly as immigrants in the land of the young: "For now, nowhere in the whole world are there any elders who know what the children know, no matter how remote and simple the societies in which the children live. In the past, there were always some elders who knew more—in terms of experience, of having grown up within a system—than any children. Today, there are none. It is not only that parents are no longer a guide, but that there are no guides. . . ." \(^6\) The pity is, many believed her.

These are the endemic American tensions which have sometimes been resolved (and not infrequently reversed) in the courts. Do we think conflict inevitable as adults socialize the young, and hence do we fortify the old against the onslaughts of unbridled youth? Or do we see the rising generation as a fresh hope, and encourage it

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to flow without obstruction? Do we seek greater equality with our children as a means to greater affection and easier relations? Or do we believe that by refusing to be adults and bear the pain of necessary confrontation we rob children of a childhood? Who is a child and who is an adult, and where do we draw the line? In America such questions usually wind up in the courts. In the last two decades, attempts to answer these questions have produced unprecedented new laws affecting the rights of children and restricting the powers of adults (although not necessarily reducing their responsibilities).

The early court cases

Even more than the church, the family and the school are the central socializing institutions in America. Teachers and parents must educate and prepare children for participation in the life of their society, which means they must inculcate in them the proper attitudes and ways of acting. The recent history of children's rights has been one of the progressive liberation of the child from the imposition of values by either school or family, although considerable socializing authority does remain with both institutions. In the schools, two lines of legal advance have been primarily responsible for redefining the status of children. The first set of decisions enlarges the free speech rights of children and limits the rights of those who could speak to them or force them to speak in support of particular patriotic or religious values. In 1943, the Supreme Court ruled that children cannot be required to salute the flag in school if their religion prohibits it. Twenty years later, the court struck down state laws and practices "requiring the selection and reading at the opening of the school day verses from the Holy Bible and the recitation of the Lord's Prayer by the students in unison."

In 1969 John F. Tinker, a fifteen-year-old Des Moines high school student, and his thirteen-year-old sister, Mary Beth Tinker, asked the Supreme Court to uphold their right to wear black arm bands to school in protest of the Vietnam War. The court did so in ringing language that argued that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." However, the court was careful to emphasize "the need for affirming the comprehensive authority of the states and school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools." For example, the court approvingly cited the lower court decision to allow students
to wear freedom buttons in one school where they did so peacefully but prohibited them from wearing them in another where the students wearing the buttons harassed students who did not and created disturbances that interfered with the progress of education. In Tinker, the court found that “there is here no evidence whatever of petitioner's interference, actual or nascent, with the school's work or of collision with the rights of other students to be secure and to be let alone.”

Although Tinker and the decisions leading up to it constituted a major redefinition of the rights of students by treating them as adult persons rather than as children, it was a decision that enjoyed wide support and one that most school officials felt they could live with, although it meant that they had to look anew at regulations governing dress, length of hair, and student freedom of expression in newspapers and other forms of petition and protest.

It was the Gault decision, together with Tinker, that put many school officials on the defensive and established a whole new set of procedural guarantees that changed the climate in many public schools. Although the case originated in the juvenile court system rather than the schools, it was soon applied with remarkable thoroughness in many urban public schools. Gerald Gault was a fifteen-year-old boy who was committed to the state industrial school in Arizona until he should reach the age of 21, as a result of a finding in the juvenile court that he had made lewd telephone calls. It was a bad decision by almost any standard, and the judge had taken liberties unusual even for a juvenile court in assembling the evidence on which he had based his decision. The Supreme Court overturned the decision and established the new standard that juvenile court proceedings “must measure up to the essentials of due process and fair treatment.”

The Gault decision was later extended in 1970, in the Winship case, to insist that juvenile courts also meet the standard of proving guilt “beyond a reasonable doubt.” In these two decisions, the Supreme Court basically undid the work of compassionate advocates of a different kind of children's rights at the turn of the century. The juvenile court system was established in its modern form in Chicago, in 1899, after a campaign by women's clubs and child advocates who took up the cause of ten-year-olds who were brought into court in Chicago and sentenced along with hardened criminals to adult prisons. The idea behind the juvenile court was that a kindly judge could take account of the wide variety of evidence in sentencing juveniles who might be guilty only of youthful indiscretions and
could be straightened out with a stern admonition, referral to a foster home, to a church-sponsored agency, or to a state-run reform school. In speaking for the majority in the Gault decision, Justice Fortas turned aside this view of a court “in which a fatherly judge touched heart and conscience of the erring youth by talking over his problems, by paternal advice and admonition, and in which, in extreme situations, benevolent and wise institutions of the state provided guidance and help. . . .” Fortas turned to sociological evidence to argue that “recent studies have . . . entered sharp dissent as to the validity of this gentle conception. They suggest that the appearance as well as the actuality of fairness, impartiality and orderliness—in short, the essentials of due process—may be a more impressive and more therapeutic attitude insofar as a juvenile is concerned.” Fortas worried that the “procedural laxness” of the juvenile court, when followed by stern disciplining “may have an adverse effect upon the child who feels that he has been deceived or enticed.” In sum, the Supreme Court was no longer willing to trust the discretion and judgment of the juvenile court judges.

Little time was lost in applying the same sort of reasoning to attack the “paternalism” of the school principal. It was not long before all of the tests of due process enumerated in Gault were applied to schools, namely: notice of the charges, right to counsel, right to confrontation and cross-examination, privilege against self-incrimination, right to a transcript of the proceedings, and right to appellate review.

**Formalizing the new student rights**

In the year following Gault, the American Civil Liberties Union published a widely influential document, *Academic Freedom in the Secondary Schools*. The ACLU statement laid down three principles, the first of which pushed academic freedom to a new limit by arguing that freedom implies the right to make mistakes and that therefore students must sometimes “be permitted to act in ways which are predictably unwise so long as the consequences of their acts are not dangerous to life and property, and do not seriously disrupt the academic process.” The second principle blurred the line between speech and action arguing for “a recognition that deviation from the opinions and standards deemed desirable by the faculty is not ipso facto a danger to the educational process.”

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These statements put many teachers on the defensive. Insofar as these principles were restricted to free speech issues, most school officials and most parents would probably agree with them—although they might not be happy with its relatively strong dismissal of “standards” of the adults in the schools. It was the third principle contained in the ACLU statement that bluntly warned school officials that they had better pay close attention to the Gault decision: “Students and their schools should have the right to live under the principle of ‘rule by law’ as opposed to ‘rule by personality.’ To protect this right, rules and regulations should be in writing. Students have the right to know the extent and limits of the faculty’s authority and, therefore, the powers that are reserved for the students and the responsibilities that they should accept.” In other words, students and schools should no more accept the paternalism of “rule by personality” than should alleged delinquents accept the “paternalism” of juvenile court judges. In every area of discipline, the ACLU statement takes a lawyerly view of the need to reduce adult latitude and discretion in favor of specific definitions and rules.

The recommendations of the ACLU statement of 1968 have become standard operating procedure in many urban schools, often with something close to a verbatim account of the following recommended rights of due process:

The teacher and/or administrator should bear in mind that an accusation is not the equivalent of guilt, and he should therefore be satisfied of the guilt of the accused student prior to subjecting such student to disciplinary action. . . . Those infractions which may lead to more serious penalties, such as suspension or expulsion from school, or a notation on the record, require the utilization of a comprehensive and formal procedure . . . (which) should include a formal hearing and the right of appeal. Regulations and proceedings governing the operation of the hearing panel and the appeal procedure should be predetermed in consultation with the students, published and disseminated or otherwise made available to the student body . . . prior to the hearing, the student (and his parent or guardian) should be: (a) Advised in writing of the charges against him, including a summary of the evidence upon which the charges are based. (b) Advised that he is entitled to be represented and/or advised at all times during the course of the proceedings by a person of his choosing who may or may not be connected with the faculty or administration of the school and may include a member of the student body. (c) Advised of the procedure to be followed at the hearing. (d) Given a reasonable time to prepare his defense.

At the hearing the student (his parent, guardian or other representative) and the administrator should have the right to examine and cross-
examine witnesses and to present documentary and other evidence in support of their respective contentions. The student should be advised of his privilege to remain silent, and should not be disciplined for acclaiming this privilege. The administration should make available to the student such authority as it may possess to require the presence of witnesses at the hearing. A full record should be taken at the hearing and it should be made available in identical form to the hearing panel, the administration and the student. The cost thereof should be met by the school.

Thus, students who now enter Boston public schools receive a twenty-five page document, called "The Book," which contains thousands of words on student rights but only eleven lines of type referring to their responsibilities. From this pamphlet, a student learns that there are five different types of suspensions and that the least serious is the short-term suspension for three days or less. Before even the latter can be meted out, a student has the right to request an informal hearing with the principal and his parents, and, if he is dissatisfied, to appeal to the community superintendent. He has the right to summon student witnesses to each of these hearings and to have an advocate or lawyer appointed to represent him. Before a student can be expelled, he may exhaust all these steps and additionally have a formal hearing with the deputy superintendent and will have an automatic review and appeal by the superintendent of schools of the City of Boston. He can be expelled only if he has inflicted serious injury on a student or a staff member or has "repeatedly and flagrantly committed a suspendable offense and your continued presence in the school would threaten the physical safety of others or the regular running of the school and all appropriate disciplinary methods short of expulsion had been tried, but you have not corrected your behavior." Similarly, a teacher cannot request that a student be transferred from one class to another in a Boston high school unless officials can prove repeated instances of "flagrant misconduct." 8

Yet the new rules seem neither to have improved the disciplinary climate nor to have convinced students as a whole that the schools are more just. In their recent survey of public and private schools, James Coleman and his associates found that discipline was better and that poor black students achieved more in Catholic schools than in public schools. More to the point of the present discussion, students who supposedly had the benefit of new rules and proce-

dures in public schools were much less likely than those in Catholic schools to say that discipline was fair or to believe that their teachers took an interest in them.⁹

**Teachers as adversaries**

The Gault decision was justified as a procedural guarantee in a courtroom. Burdensome rules and elaborate codes of evidence are a small price to pay when life and liberty are at stake. But it seems grossly misapplied in schools where the costs in time and loss of discretionary authority are great, and where disciplinary penalties are not of the same order. Even an expelled student may pursue other avenues (entering a different school, readmission after a time, transfer to a parochial school) in a society that provides many second chances.

In our observations, urban desegregated schools tended to be the most rule-bound and legalistic.¹⁰ Students are quick to tell teachers and staff, “You can’t suspend me.” In many urban schools today, hall guards or quasi- or actual police officials are expected to maintain order in the halls and to some extent even in classrooms. The presence of raw power indicates that authority has been lost. All behavior is regarded as tolerable unless it is specifically declared illegal. Jurisdiction is so narrowly defined that a student who comes to a school principal after lunch complaining of being beaten-up is asked which side of the street he was standing on when the beating occurred. If he was across the street, it would be out of the school’s jurisdiction and hence of no concern to the principal. Often when students need help, teachers are afraid to intervene for fear of legal reprisals. One teacher, explaining why she hadn’t interfered with a girl who clawed another in her classroom, said, “You’ll only be after trouble if you physically handle them.” Another teacher was still shaking as she told us about a group of students who had verbally assaulted her and made sexually degrading comments about her in the hall. When we asked why she didn’t


¹⁰ My colleagues—Urmila Acharya, Sharon Franz, Richard Hawkins, Wendy Kohli, and Madhu Prakash—and I visited 33 public and private schools in the northeastern United States and selected five in which we spent a day of observation each week for the school year 1979-80.
report the students, she responded, “Well, it wouldn’t have done any good.” “Why not?” we pressed. “I didn’t have any witnesses,” she replied. Adult authority is increasingly defined by what will stand up in court, so to speak. There are fewer and fewer adults who have the confidence to act on Justice Frankfurter’s dictum that “much that is legally permitted is repugnant to the civilized mind.”

The tendency to see school officials as the other side of an adversary proceeding has been enhanced by a variety of advocacy groups that encourage students and parents to use their new rights. A billfold-sized card for the National Committee for Citizens in Education lists parents’ rights on a state by state basis. In Boston, the Educational Coalition published a guide to “Games the System Plays.” An article in *The New York Times*, “A Guide for Parents who Take on the School System,” gathered advice from a variety of the new experts who speak of parents as “consumers” of educational commodities. Parents are advised to speak up for their rights and to take a witness along to school meetings as though they are collecting evidence for a lawsuit. A community organizer, Ginny Johnson, advises parents: “Get the facts on the teacher. Take a friend with you to observe the teacher three or four times.” Gloria Cabrera, a lawyer in the southwestern office of the United States Commission for Civil Rights, advises parents: “Plan your strategies carefully. If a child suddenly dislikes school, the parent should fish around until they find out what’s wrong.” However, Mrs. Cabrera has had to modify her tactics because, “We got so many calls asking us for legal aid that we decided to tell parents what they can do short of filing a lawsuit.”

**What is child abuse?**

Although parents were suing the schools in greater numbers, a parallel development was encouraging children to sue or bring charges against their parents under new child abuse laws. Spurred by the development of new x-ray techniques that revealed damage to children’s tissues and organs even after surface bruises had healed, the plight of the “battered child” touched the conscience of many and led in the 1960’s to the adoption and toughening of child abuse statutes. By 1968 all fifty states had enacted such laws. While no one questions the right of the state to intervene to protect children against genuine physical abuse, the right of the state to intervene between parent and child in cases of alleged “psychological” or “emotional” abuse began to draw serious criticism as child
protective service bureaucracies multiplied. Albert Solnit of Yale University's Child Study Center wrote that, given vague criteria for what constitutes emotional abuse, and confusion about its effects on the child and its treatment, such a category should be eliminated as justifying coercive state intervention.

In the medium-sized city where we carried out our studies, teachers are warned by the child protective service that "a maltreated child is a child less than eighteen years of age whose physical, mental or emotional condition has been impaired or [is] in danger of becoming impaired, as a result of the failure of his parent or person legally responsible for his/her care to exercise a minimum degree of care." These are reasonable guidelines if they are restricted to instances of clear physical abuse or to the failure to exercise minimum care, such as, for example, parents who fail to give seriously ill children prescribed medicines. But under the vague category of emotional abuse, the guidelines would bring nearly every parent under the net of the child protective worker's surveillance. The emotionally abused child is defined as one who is "allowed to stay home from school whenever he wants" and abusing parents include those "adults who really care about children but lose control of themselves when they are angry," or "who expect behavior that is too advanced for their child's age" or "who have few friends or relatives to call upon when trouble occurs" or "who may be suffering from a crisis such as loss of a job." Teachers are warned: "If you don't report a suspected case, you are guilty of a Class A misdemeanor and could be civilly liable for any injuries to the child subsequent to your failure to report." In that city, allegations of child abuse increased five-fold in the late 1970's. In the state as a whole, 51,842 complaints were registered in 1979, or about one every ten minutes.

The law provides that those who accuse others of child abuse are granted anonymity and that all complaints must be investigated within 24 hours. The child protective worker serves papers on the accused, notifying them that a complaint has been filed in the state's central registry and that a 90-day investigation has been authorized. We have found that parents charged by their teenage children or their friends—sometimes after parents have begun to crack down on drug or alcohol use by their children—are traumatized by the serving of the papers. One parent we talked with, who was later acquitted of any abuse other than washing the child's mouth out with soap, said she had gone into a mild state of shock. Teachers have found that ordinary disciplinary action can put their
job in jeopardy if the machinery of child abuse is invoked against them. Eugene Brooks, a principal in the Webutuck School District who had to restrain a rowdy and abusive student, found the next day that he had been charged with child abuse. It took him several months to close the case and have it expunged from state records. Another teacher charged by a student he had restrained who was disrupting a test in school said, “Next morning the police came to my home and arrested me. They led me out of my home in handcuffs.”

The home as courtroom

Often when a parent who has been served with papers explains why he or she had to discipline the child, the child protective worker suggests that the parent may wish to get what has become known in New York State as a PINS petition, or a petition for a Person in Need of Supervision, which can be used if a parent wishes to have a child placed outside the home. The home becomes a courtroom with the parent answering the child’s petition with one of his or her own. In a careful review of research on child abuse, Dante Cicchetti of Harvard University and J. Lawrence Aber of Yale warn that “coercive intervention by a state social worker” may be a typical response: “Often a family’s refusal to accept help in improving child-rearing skills is itself viewed by social service professionals as evidence of sorts that the child is ‘at-risk’ for abuse or neglect. Here the professionals seem to confuse the risk of injury to a child whose family has never been abusive with the risk of reinjury to a child already abused . . . [which] encourages violations of the constitutionally protected rights of parents to rear their child free from unnecessary state intervention.” They also warn against “the dangerous tendency for temporary foster care to become permanent, much to the detriment of the child. . . .”

Although precise figures are hard to come by, there is some evidence that teenagers are increasingly using these laws to threaten parents when parents begin to tighten disciplinary measures. “When you live at home, you’re constantly being threatened by your parents,” said one student. “So at sixteen, you turn around and threaten them.” It requires no hard evidence to initiate a complaint, only a telephone call to the child protective service, whose number is now listed on the inside page of the telephone directory in some states.

along with numbers for fire and police. Parents or teachers need never be faced with their accusers nor even know what the true nature of the complaint was. Yet they must suffer the trauma of an investigation and the potential inquiry of a child protective service worker asking neighbors whether they have seen any signs of "alleged child abuse." One child protective worker broke ranks to complain of the harm that comes from requirements to initiate an investigation "no matter how ridiculous it might seem." She said "many reports turn out to be false or exaggerated." Complaints may be made "because the caller has a grudge against the family." Custody battles or differing standards of child rearing may be at issue: "Just because a neighbor's lifestyle doesn't jibe with mine is not reason to blow them in on child neglect." Some of the complaints stem from people who "like to play cruel tricks on others, or are too stupid to understand the harm they are doing."

The abuse law can be an offensive weapon in the hands of teenagers in a climate in which it is also possible for them to obtain birth control devices over the objection of their parents and, in New York State, to force their parents to support them if they do not wish to live at home. One father wrote to New York's Governor Carey that the only reason his daughter would not stay at home was that "We won't allow her to run with her friends." He charged that the current laws were irresponsible and said they were "passed by people who can afford to give their children whatever they wished and if it turns out to cause problems they can afford to remedy that. Not so with the people the law affects most. As far as I am concerned, the law says kids can do what they please and parents must face the consequences."

Counseling and confidentiality

This peculiar constellation of tensions within the school and between the parents and the school is vividly illustrated by developments in California. There a new law states that any information disclosed by a student twelve years of age or older in conversation with a school counselor may not be revealed except to licensed physicians, psychiatrists, or psychologists, or to report child abuse or a serious crime. Both parents and principals remain unapprised unless a student specifically signs a waiver permitting them to be informed. The counselors, concerned about child abuse and eager to establish themselves as the professional peers of psychologists and psychiatrists, argued that in order to do their job properly they
needed to assure confidentiality. Both parents and some principals began to organize against the new law and the conflict broke out in the letters column of *The Los Angeles Times*. One principal argued that the law assumed that administrators were intent on violating the rights of students, and asserted that "the law severely restricts the flow of information between the school and the parents of youngsters needing help." The response by counselors was swift. They argued that they were not "a tool of the school administration." The president of the San Diego Teachers Union tried to explain the counselor's new role: "The counselor's job is not that of an extension of the administrator's duty to control the action of students. Instead, a counselor provides a caring and understanding ear when students have problems," and he added: "When students know or fear that the details of the problem will bring a brutal reaction from parents instead of a loving response, they must turn to someone who will replace the parents and respect confidences and give advice rather than punishment."

The counselor in this instance may be like the mother who protects a child who approaches her with an offer of confession only if "you won't tell Dad." Often, the child's offer may be perfectly harmless, but it may also represent (say, in the case of a teenager getting deeper into a drug habit) a child who wants a one-parent advocate for his or her own version of reality. The child's object may be to get the sympathetic parent to protect him against the parent presumed to be the hard liner, to change that parent's behavior if possible, or at least to protect himself from punishment. If the sympathetic parent enters into the deal, the child then has the further weapon that "you told" if the other parent punishes. Wise parents will not enter lightly into such agreements, if at all, knowing that it is their joint responsibility to set certain expectations and standards for the child, even if that means confrontation and punishment. Something like this is being played out in the case of the school counselor setting himself up as a sympathetic ear while portraying the principal as tough-guy cop. The principal wants help in establishing the norms and expectations for the community as a whole. The counselor has carved out a professional niche relieving him of responsibility for the old-style teamwork of "policing" the halls, and has gained a considerable degree in independence and autonomy.

Of course there is a genuine conflict of rights. Individuals do have a right to privacy and to the protection of certain kinds of confidential relationships. But principals have a right to expect
cooperation, and parents have a right to be informed about their children. The question is whether a twelve-year-old should be treated as an autonomous adult with respect to decisions about counseling, and whether therapy of this quasi-professional sort is the proper role of the schools. Certainly, any good school manages to provide sympathetic ears for the young—in the principal's office, as well as among teachers—but this can be done without turning the school into a therapist's office.

**Reviving adult responsibility**

This is not to argue either that adults are always wise and compassionate or that children have no rights. Clearly they have rights as persons, among them protection from adults, including their parents, who may do them harm. But it does not mean that children and adults are equal. Children's claims to equal rights are moderated by their material dependence and by their limited capacities and paucity of experience.

However, while I fear that the growth of new procedural rights for children may do more harm than good in schools, I do believe that fairness often requires that children have a hearing. Good principals make an effort to gather evidence and to assess it before acting. At times a child does need an advocate—either a parent or someone who can act as a parent would. But we do not need to turn schools into courtrooms in order to insure fairness. Principals and other school authorities should be held accountable for treating children fairly without being required to rule by quasi-judicial procedures. If a bad or unjust principal is in charge of a school, the imposition of elaborate procedures will not produce justice. If universally promulgated, however, such proceedings may drive out good teachers and principals, and in the long run engender an adversarial climate detrimental to the education of all children.

In the home, it is clear that parents as well as children suffer from alternating moods. In a hedonistic age, parents who seek more pleasure and freedom may encourage precocity in order to relieve themselves of bothersome responsibilities. Less selfishly, some parents are merely confused and doubtful. When children or their advocates call in the protective service without sufficient cause, many parents are too intimidated to shut the door. They accept the authority of the children's police or turn to the new therapeutic experts out of a lack of confidence.
Parenthood, like teaching, has never been easy. The modern fallacy is to believe that it should be painless and that when conflict arises it should be settled either on the therapist’s couch or in the courtroom. The way out of our present confusion is to make a more careful distinction between the rights of all persons, including adolescents, and those rights granted to adults as a function of their capacity to exercise concordant responsibilities.