whatever happened to the American Dream?

by Susan P. Leviton

A dream has pervaded this country for over two hundred years. A dream that is etched in our culture and in our national conscience. A dream that any American child could, through hard work and dedication, rise to the top and succeed in building a better life for himself and his children... We are now in danger of losing that dream. For, if you do not possess the basic skills required to survive in today's world, then you cannot get into the system, you cannot get a job, you cannot succeed, and you will spend a lifetime on the outside looking in.

Secretary of Labor, Elizabeth Dole, State of the Work Force Address 3 (Oct. 26, 1991)

In America and Maryland today, violence, the crumbling family structure, poverty, inadequate schools, and overburdened courts all make it difficult for many of today's children to even imagine that the American Dream may be within their grasp. When high school students were recently asked where they expected to be in five years, they said: working at McDonald's, in jail, or dead. This is not the future any of us would wish for our children or for our community. As lawyers, we can broaden that vision. We can help give our youngest citizens a stake in our society so they can see themselves as able to get a job or go to college, earn a decent living, and raise a family.

The problems of our nation's children extend into every home in our state. Our society has become an increasingly aggressive consumer economy that grabs even the youngest child and promises popularity and success if only the child wears the right sneakers and jeans. For every teenager, sexually transmitted diseases, drugs, divorce, pregnancy, and the threat of AIDS are all part of life. Unfortunately, our society does not see children as a responsibility we all share.

Why haven't we invested in children? First, we live in a society of immediate gratification and immediate results. Children take years of investing before they become self sufficient, and those years do not coincide with two or four-year legislative or presidential terms. Second, we live in a society which values rugged individualism more than making a significant financial investment in the future of all our children.

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We must make people understand that most poor children are not an intractable underclass and do not require lots of government intervention and resources. For most children at risk, a boost now and then, or flexible help for the parent is enough. Children need child care, not foster care, they need a checkup, not intensive care beds, they need Head Start, not twelve years of special education, and they need a good school, not an institutional placement. Their parents need jobs, not public benefits.

**Family and Societal Violence**

Our society has become increasingly violent, challenging the very notion of childhood as a time of innocence and security. Violence has become a daily part of the lives of our children that threatens their very existence. Nationally, violence took the lives of 2,428 children in 1992, an increase of 67 percent in just six years. A survey of 536 urban elementary school children showed that over one-fourth had seen someone shot and nearly thirty percent had seen someone stabbed. Homicide is the second leading cause of adolescent fatal injuries, and it is the sixth leading cause of injury-related deaths among infants. When children are interviewed about their greatest concerns, all ages, whether urban or suburban, now list violent crimes first; they are afraid to go to parks, afraid to go outside after dark, uneasy when they are alone.

Each year approximately 14,000 American teens die from accidents, suicides, and homicides. Although accidents make up the largest percentage of violent deaths, an increasing percentage of violent deaths are a result of homicide. Maryland is part of this national trend. From 1988-1990 there were 708 teen violent deaths. The number of teen homicides more than doubled between 1985 and 1990 – from 42 to 91 respectively. For African-American youths the chances are 14 times more likely they will die from homicide, rather than an accident or suicide.

For an increasing number of women and children, the home is hardly a safe haven. Nationally, 3 million children were reported to Child Protective Services in 1992. Each year an estimated 5 million women are assaulted by their partners, and according to the National Family Violence Surveys conducted in 1975 and 1985, more than 10 million children witness a physical assault between their parents and in two-thirds of the cases, this is repeat violence.

In Maryland, reports of child abuse rose more than 200 percent between 1979 and 1988, with 10,851 children involved in indicated cases of abuse and neglect in 1992. A total of 16,834 domestic violence reports were recorded by law enforcement agencies in 1992, even with no mandated reporting requirement in this state.

Family violence has multiple destructive effects upon its victims. It is the leading cause of injury to women in America. Children growing up in violent homes are 24 times more likely to commit sexual assault crimes; 50 percent more likely to abuse alcohol or drugs; 74 percent more likely to commit crimes against others and 6 times more likely to commit suicide.

While many homes can escape the immediate consequences of life in a violent world, few avoid seeing it depicted on television – sensationalism disguised as news, bloodshed as drama. We live in a media world which rewards violent behavior, relies on immediate gratification, and promotes self-fulfillment in the ever-increasing consumption of goods. In a typical American household, the television is on over 7 hours a day. During “prime time,” there are five to six violent acts each hour; half of all major characters are involved in violence and ten percent in killing. For young children watching Saturday morning cartoons the violence escalates even more – children watch a violent act nearly every other minute. The background of violence and its constant reinforcement by television is only one of the new elements in the landscape of the nineties, one vastly different from the environment in which today’s parents were born.

**A Changing Family Structure**

The traditional family where Mom stays at home and Dad goes to work, now comprises only ten percent of all U.S. families. In 1960, fewer than 2 women in 5 in their childbearing years worked outside the home; by 1987 over 70 percent worked outside the home. In Maryland 73.5 percent of women with children under age 18 are in the labor force. One
of the major expenses for working families with children is the cost of child care, consuming from 16 to 29 percent of median family household incomes. There are presently 3,000 poor families on waiting list for subsidized child care. Without child care they are unable to work and often forced to return to the welfare roles.

This dramatic change in the work force since 1960 is due to economic necessity. Although the women’s movement gave women the option to work, poverty has transformed that choice into a necessity. For increasing numbers of children, however, there is only one wage earner and one parent in the family, and that one is the mother. Between 1960 and 1988, the percentage of children living in single-parent families went from less than 10 percent to nearly 25 percent. In Maryland, children in female-headed families were 10 times as likely to be poor as those in 2 parent families. This is because they have only one breadwinner, women earn less than men and child support by absent fathers often contributes little to the income of single families. In Maryland in 1993, payments were made in only 34 percent of child support cases, with only 16 percent paying in Baltimore City.

The growth of female-headed households is due in large part to the high divorce rate and the increasing numbers of unwed mothers. The divorce rate has doubled since 1965. One-half of all children born in the seventies will experience a family breakup prior to their 16th birthday. In Maryland, the number of divorces increased 131.4 percent between 1965 and 1985 while the number of marriages remained virtually the same.

Unmarried mothers account for a large percentage of the female-headed households in this country. In 1950, only 4 percent of all births nationally were to unmarried mothers. By 1986, that figure had skyrocketed to almost 25 percent. In Maryland, the statistics are even more startling. In 1980, 25.2 percent of all births were to unmarried women. By 1989, 33 percent were to unmarried women. In Baltimore City in 1989, 67.5 percent of all live births were to unmarried women. When men are unable to find jobs that enable them to support a family, they are less likely to marry or provide child support.

The problem all mothers face, particularly single mothers, are exacerbated when the mother is a child herself. In 1990 there were 8,323 births to teen mothers in Maryland or one out of every 10 births in Maryland. Five out of six of these births to teens were to unmarried teens. Somerset County had the highest percentage of births to teens.

The combination of the growth in single parent households and the economic necessity requiring more than one worker in a family in order to rise above the poverty line leads to the third change in Maryland’s families—families struggling to make ends meet and children being the poorest age group in Maryland.

Why haven’t we invested in children?

Family Poverty

Sophie, the mother of three children, works 6 days a week as a maid in a Baltimore hotel. She receives no government benefits and spends three-fourths of her salary on rent. Her company offers no health insurance and she and her children struggle to make ends meet. Her youngest child started crying from the pain of a severe earache. So Sophie faced the choice of taking her daughter to a doctor and paying for medication or paying the month’s rent. All over Maryland families are having to make these choices.

Since 1969, the number of poor families with children has steadily risen. The median income of young families has fallen, in part because of the increase in female headed households discussed above. In Allegany County, 64 percent of children who live in female headed households, live in poverty. Similarly, in Baltimore City in 1989, the poverty rate for single female headed households with children was 62.5 percent, while for married couple households, the rate was 9.9 percent.

However, the income of young families has also fallen as a result of the inability of many of those without a high school diploma to obtain jobs paying more than the minimum wage if they are able to find employment.

Unfortunately, a minimum wage job is no longer a route out of poverty; the minimum wage job has not kept pace with inflation. In 1979, full-time year-round work in a minimum pay job took a family of three out of poverty. Ten years later, a job paying the minimum wage left a family of three approximately 30 percent below the federal poverty level. In 1987, almost half of the 7 million poor people had at least one person working for more than half of the year. Twenty-seven percent of the adult clients at Maryland’s food pantries are employed.

Children are more likely than any other age group to be living in poverty. In Maryland, children are the poorest age group. In 1989, one in ten children lived in poverty. African American children were close to four times more likely to be poor than white children. Maryland has the fifth highest per capita income in the United States, yet the disparity in income among the counties is wide. For example, in 1989, Howard County had only 3.7 percent or 1,797 children living in poverty, while Baltimore City had 57,203 or 32.2 percent children living in poverty.

For children born into families with a poor young single parent who may not have completed high school, the odds are against their developing into healthy productive adult members of society. They are often premature babies, suffering from an absence of maternal prenatal health care, and the attendant risk of low birth weight. They may die in infancy. If they survive their first year, they may suffer from malnutrition, inadequate health care, neglect and abuse. They arrive at school door unprepared intellectually, socially, or emotionally,
destined for failure, but with unrealistic media-based expectations of the good life.

The Mis-education Of Poor Children

Last fall 780,000 kids across Maryland started a new school year. Some of those students are having a better school year than others. Alan and Betsy are two of those students. Both are ten years old. Yet when Alan began school in September, he received $2,671 less than Betsy did for her year of schooling. Both of these children attend a Maryland public school, yet due to Maryland’s formula for educational funding, Betsy, because she lives in a wealthier county, will receive 56 percent more money for her education.

There was a time in this country when public education paved the road out of poverty; this is no longer true. The American dream has always been that rewards are based on individual achievement and hard work. Yet the accident of where a child is born coupled with an unwillingness to invest in the growing numbers of poor children, has denied thousands of Maryland children any real chance to develop their potential and realize that dream.

What this means for students like Alan is that they go to schools where their teachers make on average $6,000 less than Betsy’s teachers. We spend $1.75 a year on his school library services compared to the state average of $12.35. And we put Alan in classrooms that have the highest class size in the state. Critics of fundamental school reform in Maryland claim we cannot afford it. They claim the economy isn’t growing fast enough to provide new money and no one will support a tax increase. Wealthy counties zealously guard the state money they receive now and won’t allow a more equitable distribution of existing funds. The reality is, however, that we cannot afford not to have school reform. The economic cost to the state under the current system is incalculable and growing each year. One out of every four youngsters entering the ninth grade will drop out of school. They become unproductive adults, who require welfare or fill our jails. In 1992, Maryland spent more than 2.6 billion on welfare, medical assistance for the poor and prisons. That’s a 100 percent increase in just five years.

Not too long ago, our economy had room for poor school dropouts. They could get jobs, even decent ones in factories, assembly lines, steel mills and port facilities. They joined the mainstream, raised families, paid taxes and voted. Today, foreign competition has disseminated the manufacturing segment. Low paying dead end jobs in the service sector took their place. Today, the good new jobs require increased skills in reading, writing, math, thinking, communication and working with others. Soon, the average new job will require at least a year and a half beyond a high school education. Maryland’s low income children, attending many of the worst schools, will be locked out of real educational and economic opportunity. With few options, these children see having babies or dealing drugs as their only life options. They have no stake in any real future.

We must give the Alan’s and the Betsy’s the chance to be winners. If these children had a voice, they would demand a transformation of the state’s educational efforts. Because they know that the American rags to riches story is meant to be more than a dream. It is through education that disadvantaged children climb the economic ladder. We must give them the chance to climb. We must make all the children of the state winners.

The Courts

We need courts and agencies that can devote adequate resources to children. It is a strange irony that we believe it is important to have a judge decide if we pay a $17.00 parking fine, but we let a master decide whether or not a child should remain with its parents. There are also too few attorneys available to represent children and their families in court. In the first three years of this decade, the amount of money Maryland appropriated to build additional beds in the adult prison and correctional services was equal to the entire juvenile services budget.

Courts and agencies need to make a stronger commitment to ensure that all children have a permanent place to call home. Children need to belong to a family. Not belonging often does serious psychological harm and it is important that we provide supportive services to families so that children will not have to be re-
moved from their homes. However, some parents will not be able to parent their children and these children need to be able to be adopted much more expeditiously. The time that a child is in foster care is often viewed by the child as a time of great uncertainty. It is appropriate to view time from the child's perspective: one year in foster care for a five-year-old is one-fifth of that child's life. The longer a child is in care, the more likely the child is going to be emotionally damaged. Agencies, attorneys, and the judiciary must do everything possible to establish timeliness, track the process, and monitor performance to ensure stable home environments for children.

Although it is the policy of the state to ensure permanent homes for children, that policy has not become the reality. Rather, in Maryland, once a child enters the foster care system, it takes on average, 44 months or a little under four years for a child to be adopted.

Although approximately 1300 children in Maryland have a plan of adoption, last year only 400 were adopted. Clearly, there are delays throughout the process. One major delay occurs once the petition for terminating parents' rights is filed with the courts. The law requires that once the petition is filed, the case is to be decided in six months. However, in reality, it takes twice as long or 12 months. This need for children to have a place to call home has fueled a nationwide attention on the rights of children. This past year, three major cases have attempted to answer these questions and, while doing so, have fueled a nationwide debate on the legal status of children. Twelve year old Gregory Kingsley sued his mother, Rachel Kingsley, to terminate her parental rights so he could finally have "a place to be." Fourteen year old Kimberly Mays also sued her biological parents to terminate their parental rights so she could remain with the only father that she has known. Finally, the DeBoers attempted to keep Baby Jessica by arguing that she had the legal right to remain with the parents who have raised her for the first two and a half years of her life.

A major question remains from these highly publicized cases: what is the prevailing legal status of children in this country? Are children individuals with legal rights and with a voice in the justice system? The answers to these questions vary greatly among the states. Fortunately, in Maryland, children have a strong voice in our justice system.

In Maryland, Section 3-821 of the Courts and Judicial Proceedings Article of the Annotated Code grants a party in a Child in Need of Assistance (CINA) proceeding the right to counsel. In 1992, the Maryland General Assembly greatly restricted the parent's right to counsel, but did not restrict the child's right to counsel. Thus, Maryland law grants the child his or her own voice in the courtroom spoken through the attorney.

Perhaps the most significant way that Gregory's case would have turned out differently in Maryland is that Section 5-317(b) of the Family Law Article of the Annotated Code of Maryland allows the child's attorney to file a petition on behalf of the child to grant guardianship to the Department of Social Services (DSS). When the court grants guardianship to DSS, the court has terminated the biological parent's parental rights. Thus, Maryland law creates legal standing for the child to file suit against his or her parents to terminate parental rights. This law was missing in Gregory's case.

An Agenda for Change for Maryland's Children

Although Maryland's children have many legal rights, they need additional resources spent wisely to ensure that these rights are implemented. They need lawyers and all members of our community to speak out and to ask us all - What are the true values of Marylanders, the fifth wealthiest state, that let infants and children be the poorest group of citizens. We know poverty makes children more likely to be born too small, to die, to be sick, hungry and malnourished, to fall behind in school and drop out and to cost all of us billions in later remedial costs and loss productivity.

We can improve children's chances by embracing an action agenda which will provide support to families, a decent education and employment skills for youth, or be prepared to suffer the consequences of producing a lost generation of youth who will then become the parents of the next generation at risk. The following are a few of the elements that agenda might include:

First, we should encourage the development of an anti-violence strategy which includes effective gun control, improved family supports, a K-12 anti-violence curriculum in our schools, and efforts to encourage the media to reduce the level of violence to which children are exposed. Second, the social service and economic support system needs to be restructured. It needs to support families both during crises and before crises arise and, assist, not supplant, them in raising their children. We must also change policies which impede the development of two parent families and support comprehensive family planning services. Third, because a child has the right to belong to a family, to be raised safe from harm and to be loved, we need to provide additional adoption workers, attorneys and judges who can ensure that this right becomes a priority and that agency and court processes are expedited. Fourth, since the most effective way to assure the well-being of children is to ensure that their parents can earn a living wage, economic barriers to work must be eliminated and we must create more decent paying jobs. Fifth, many of our schools need more money. In addition to money, the state also must make sure that resources, both existing and new, are spent wisely. Every school must be evaluated and the state must require unsatisfactory schools to meet improvement goals or be reconstituted so that students will graduate prepared to enter college, trade schools, or the workforce. Sixth, Family Courts should be established to quickly and effectively solve both simple and complex family problems.

These suggestions represent only a few of the ways in which lawyers can begin to improve the lives of Maryland's children. However, implementing those ideas is the real challenge. As a study commemorating the 25th Anniversary of the Kerner Commission on Civil Disorders concluded:

Those wish vision need not despair about the experiment in democracy that Alexis de Tocqueville described so eloquently in Democracy in America in 1835. The fact is that we already know quite a bit about which investments work...[The policies that work can be summarized as investing in people - especially children and youth... This is our vision for the future and our hope.