

INTRODUCTION:

MOORE V. CITY OF EAST CLEVELAND: HOW ONE GRANDMOTHER HELPED A NATION REDEFINE FAMILY

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When reviewing the *Moore v. City of East Cleveland*¹ decision, it is impossible not to see one of the grandmothers that Harlem Children’s Zone² (HCZ) routinely encounters in Inez Moore. While educating children is the primary focus of HCZ, working with the adults who bring those children through the doors is important to HCZ’s success. Miss Inez, as she would have been referred to by HCZ, illustrates the important role played by extended families in communities of color.

The *Moore* Court—specifically Justice William Brennan’s concurrence, which Justice Thurgood Marshall joined—echoed this sentiment:

The Constitution cannot be interpreted, however, to tolerate the imposition by government upon the rest of us of white suburbia’s preference in patterns of family living. The “extended family” that provided generations of early Americans with social services and economic and emotional support in times of hardship, and was the beachhead for successive waves of immigrants who populated our cities, remains not merely still a pervasive living pattern, but under the goad of brutal economic necessity, a prominent pattern—virtually a means of survival—for large numbers of the poor and deprived minorities of our society.³

In fact, this observation applies to my own journey. My mother, an eighty-six-year-old immigrant from Trinidad and Tobago, has lived with my husband and me from the day we had our first child. While we tell ourselves that my mother lives with us so that we may care for her, we know that her care for us is essential for our family’s success. Through my

* Chief Executive Officer, Harlem Children’s Zone. This Article serves as the introduction for the *Fordham Law Review Family Law Symposium* entitled *Moore Kinship* held at Fordham University School of Law. For an overview of the symposium, see R.A. Lenhardt & Clare Huntington, *Foreword: Moore Kinship*, 85 FORDHAM L. REV. 2551 (2017).

1. 431 U.S. 494 (1977).
2. See *About Us*, HARLEM CHILD. ZONE, <http://www.hcz.org/about-us/> (last visited Apr. 14, 2017) (describing the organization’s goal to give children the support they need to become “productive, self-sustaining adults”) [<https://perma.cc/7FQG-AR3H>].
3. *Moore*, 431 U.S. at 508 (Brennan, J., concurring).

personal experience and during my thirteen years at the New York City Administration for Children's Services (ACS) and my seven years at HCZ, I have seen firsthand how important it is to strengthen and empower extended families. Strong families are a critical foundation from which children can become self-sustaining, middle-class, tax-paying Americans.⁴

Moore represents a balancing of fundamental rights: the rights of personal liberty versus the rights of a city to govern itself.⁵ At stake here was a family's interest stacked against the government's interest. Justice Brennan's concurrence recognized this tension and observed that "[t]he line drawn by this ordinance displays a depressing insensitivity toward the economic and emotional needs of a very large part of our society. . . . For them compelled pooling of scant resources requires compelled sharing of a household."⁶

As a mother of three, a wife of twenty-five years raising her children in Harlem, and as an individual working with families in the St. Nicholas public housing development (where 50 percent of the households have no adult working and the median household income is about \$17,000⁷), I am familiar with the difficulty in pooling scarce resources. In light of my personal experience, I was elated to read Justice Lewis Powell's recitation of Justice Stewart Potter's statement that "freedom of personal choice in matters of marriage and family life is one of the liberties protected by the Due Process Clause of the Fourteenth Amendment."⁸ Indeed, throughout my career, I have seen that the family unit and the government can coexist and mutually benefit by cultivating and strengthening the relationship between these two entities.

With this in mind, we should commemorate the fortieth anniversary of the *Moore* decision. However, we should use this reflection point as a way to caution ourselves of the missed opportunities that occur when government entities fail to create policies that leverage the inherent strength of all families in all of their shapes and forms.

4. See, e.g., *Study: Close Grandparent-Grandchild Relationships Have Healthy Benefits*, BOS. GLOBE (Dec. 14, 2015), <https://www.bostonglobe.com/lifestyle/2015/12/13/close-grandparent-grandchild-relationships-have-healthy-benefits/kxL8AnugpV рBKnDuzHZDKO/story.html> (detailing a nineteen-year Boston College study finding that "[c]lose grandparent-grandchild relationships are often a marker of strong family ties overall, but these intergenerational bonds also come with their own distinctive benefits . . . As people are living longer, these bonds are becoming even more important") [<https://perma.cc/YR9K-PA5W>].

5. See *Moore*, 431 U.S. at 499–500.

6. *Id.* at 507–08.

7. St. Nicholas NYCHA Property Information (2016) (on file with the *Fordham Law Review*).

8. *Moore*, 431 U.S. at 499 (quoting *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 639–40 (1974)).

Where my organization works in Harlem, 65 percent of the children are born into poverty,⁹ and about 80 percent of the students in our two K–12 charter schools qualify for free and reduced lunch.¹⁰

If we view the *Moore* decision through the lens of contemporary America, the question we must ask is: How is government today treating the families it represents—particularly the most vulnerable? When I arrived at ACS in 1996, I learned the real meaning of the term “disproportionality,” as close to 42,000 were in foster care and 93 percent of them were children of color.¹¹

My interactions with the many women at ACS—one in particular, whom I will call Rose—have strengthened my belief in strong families as the pillar of our communities. Rose had been a victim of child abuse and neglect, which is very common for many of the parents who we saw at ACS. After leaving home and marrying at a young age, Rose found herself and her two small children in an abusive relationship. She did not have the resources to go to college, which severely limited her ability to earn a better living. One day, a concerned neighbor called ACS and Rose’s children were placed in foster care. When Rose’s daughter was just ten years old, she was sexually abused while she was in foster care.

I met Rose because she was on a parent advisory board and we became close. When she got her children back, her daughter was about sixteen and was very rebellious—she did not want to go to school and she was not happy to be home—and Rose received no help in trying to heal her family. In fact, the school reported her for educational neglect due to her daughter’s absences from school. When Rose invited me to sit in on a meeting at school with her daughter, I noticed that the school officials felt constrained in how they could help her and felt forced to call ACS. After an ACS home visit, the City of New York found that Rose was doing all she could and determined that the allegation of educational neglect was unfounded.

This story illustrates the problems facing a struggling, but well-intentioned, family and the government’s inability to meaningfully and positively intervene. My experience has led me to believe that vulnerable families need support, not finger-pointing. In light of this, ACS has adopted procedures acknowledging that families need proactive solutions to address the root cause of the crisis, such as counseling, education, good jobs, and secure housing.¹² This policy is even more critical when considering that the overwhelming majority of people that the ACS interacts with are women of color with little to no resources. In my experience, the issues regarding race were mostly not discussed. In

9. HARLEM CHILDREN’S ZONE, 2014–2015 BIENNIAL REPORT: A COMMUNITY OF OPPORTUNITY (2015), <http://hcz.org/wp-content/uploads/2015/11/HCZ-Biennial-Report-2014-2015-single-pages.pdf> [https://perma.cc/BSG3-ETPQ].

10. *Promise Academy K–12 Charter Schools*, HARLEM CHILD. ZONE, <http://hcz.org/our-programs/promise-academy-charter-schools/> (last visited Apr. 14, 2017) [https://perma.cc/YJ3C-7N9E].

11. DOROTHY ROBERTS, SHATTERED BONDS: THE COLOR OF CHILD WELFARE 9 (2003).

12. See, e.g., Stanley Sue et al., *The Case for Cultural Competency in Psychotherapeutic Interventions*, 60 ANN. REV. PSYCHOL. 525, 525 (2009).

addition, nobody spoke about the fact that most of the people who came to the door of the foster care system were poor people. Thus, it is essential that the government must more adequately address issues of race, class, and culture.¹³

Children in neighborhoods of concentrated poverty need more than just a whole family to thrive; they need a diverse range of support. When children have only a frayed safety net, there is often no second chance when something goes wrong. For example, what would have happened to Miss Inez's grandson had she not taken him into her home? It is likely that he would have been forced into foster care, a very expensive and restrictive option.¹⁴ Miss Inez did her community a favor by stepping up to take care of her extended family. At HCZ, we also have many grandmothers who are stepping up to raise their grandchildren. I wonder what would have happened if Miss Inez had HCZ, or another community program, to help her family and the other children in East Cleveland whose families were struggling to survive.

On one level, the goal of HCZ is to educate children as an end in itself, and, on another, it is to educate children with the hope of breaking the cycle of generational poverty in families and, ultimately, for the entire community.¹⁵ It is necessary to scale our goals to this level because this reflects the daunting size of the problem we face. In America today, the black-white achievement gap is evident even among one-year-old children.¹⁶ For example, one study found that, by the age of three, children of professionals have 30 million more words than children of poor parents.¹⁷

In response to these very real problems, HCZ has implemented programs targeting the achievement gap. For example, HCZ offers early childhood programs and teaches parents the simple steps needed to foster optimal language and brain development.¹⁸ HCZ also concentrates on teaching parents techniques for positive discipline, which can have a tremendous impact on their children's lives. In some cases we have to respectfully push back on a family's traditional thinking that if you spare the rod, you spoil the child. We explain the difference between "discipline" and

13. *See, e.g., id.*

14. *See Moore v. City of East Cleveland*, 431 U.S. 494, 506 (1977).

15. *About Us*, *supra* note 2.

16. *See Lauren Camera, Achievement Gap Between White and Black Students Still Gaping*, U.S. NEWS (Jan. 13, 2016), <https://www.usnews.com/news/blogs/data-mine/2016/01/13/achievement-gap-between-white-and-black-students-still-gaping> [https://perma.cc/9F6S-4DZS]; *see also* NAT'L CTR. FOR EDUC. STATISTICS, U.S. DEP'T OF EDUC., SCHOOL COMPOSITION AND THE BLACK-WHITE ACHIEVEMENT GAP 12 (2015), https://nces.ed.gov/nationsreportcard/subject/studies/pdf/school_composition_and_the_bw_achievement_gap_2015.pdf (specifying the continued presence of an achievement gap between schools high in black student density relative to lower-density schools) [https://perma.cc/XW37-UYRV].

17. Betty Hart & Todd R. Risley, *The Early Catastrophe: The 30 Million Word Age Gap by Age 3*, AM. EDUC., Spring 2003, at 4, 6–8.

18. *The Baby College*, HARLEM CHILD. ZONE, <http://hcz.org/our-programs/the-baby-college/> (last visited Apr. 14, 2017) [https://perma.cc/9H52-R3VN].

“punishment,” and many caregivers have powerful recollections of their own childhood experiences of corporal punishment.¹⁹

The critical role played by the extended family in these communities is striking, particularly in the context of early childhood development. In recent years, scientific studies have documented the lifelong, wide-ranging effects of chronic stress on babies. When very young children are exposed to persistent stress—such as domestic violence or unstable home environments—the body’s “fight or flight” response triggers the release of chemicals such as cortisol.²⁰ This physical reaction to ongoing stress can inhibit an infant’s brain development as well as raise the lifelong risk of mental health disease and other ailments.²¹ Thus, homeless children or those placed in foster care are systemically set up to be disadvantaged in more ways than can be measured by the achievement gap alone.

When governments and communities turn their backs on vulnerable families, society risks an overall increase in the correlated issues of unemployment, homelessness, substance abuse, and crime. These outcomes are costly for both the families involved and for the government. For example, incarcerating an individual costs more than \$168,000 a year in New York City.²² Additionally, the government must bear the related costs stemming from substance abuse, violence, crime, and social services.

In light of such systemic costs experienced by struggling families or children facing homelessness or foster care, HCZ has implemented a program to avoid forcing the community to bear these astronomical costs. HCZ starts our “pipeline to success” with “The Baby College,” a nine-week parenting program for those giving care to children up to three years old.²³ To do this, we knock on doors in community, focusing on enrolling even the most reluctant people who initially tell us that the last thing they want to do is take a nine-week parenting workshop.²⁴ In many cases, The Baby College graduates stay with us in what we call the “GRADS program.” There, they meet regularly in what looks like a play group but is directed by our staff to cover a different parenting topic each session, which is followed up with home visits.²⁵

Next, HCZ employs a preschool program, the “Harlem Gems,” which runs from eight o’clock in the morning to six o’clock in the evening on a year-round basis. Many of those kids are in homeless shelters and even more of them have special needs. Many of them come from families where there is substance abuse. This program allows HCZ to ensure that, at the

19. *See id.*

20. *Stress and the Developing Brain: Overwhelming Stress and Young Children*, CTR. FOR EARLY CHILDHOOD MENTAL HEALTH CONSULTATION, https://www.ecmhc.org/tutorials/trauma/mod2_3.html (last visited Apr. 14, 2017) [<https://perma.cc/299J-V6J3>].

21. *Id.*

22. Marc Santora, *City’s Annual Cost per Inmate Is \$168,000, Study Finds*, N.Y. TIMES (Aug. 23, 2013), <http://www.nytimes.com/2013/08/24/nyregion/citys-annual-cost-per-inmate-is-nearly-168000-study-says.html> [<https://perma.cc/B544-BRHS>].

23. *See The Baby College*, *supra* note 18.

24. *See id.*

25. *See id.*

conclusion of the program, these children are completely ready to tackle school.²⁶ And that is just the start of what is a dual pipeline of supports: we have two charter schools for students from kindergarten through high school, and we offer after-school programs for elementary, middle, and high school students who attend traditional public schools to complement their school work through tutoring and enrichment classes in creative disciplines such as video, fashion, dance, and robotics.

Finally, it is important to note that HCZ reaches 938 students currently in college,²⁷ most of whom did not go to our charter schools but instead live in our community and participated in our after-school programs. Our goal in offering these specific programs is to ultimately encourage all of our participants to graduate from college. Our program, the “College Success Office,” is specifically designed to support students while they are in college because so many first generation college students stumble when they embark on this new chapter.

Because HCZ is invested in our children’s lasting success, we created an agency-wide program, “Healthy Harlem,” in response to the findings that 45 percent of the program’s kids were overweight.²⁸ Further, we have the opportunity to feed HCZ participants healthy food, ensure they are exercising, and teach them about good nutrition. Buttressing our lifestyle and educational programs, we have several ACS-sponsored preventive programs that serve families in crisis, particularly those that are being considered for foster care.

Working closely with the parents in our community is critical to our work and these relationships provide some of the best assessment information to evaluate and improve the program. One example of the importance of these relationships is illustrated by my experience with a community grandmother who sought my help in aiding her daughter, who was battling a drug addiction while caring for her own children. One of these grandchildren was in second grade, the other in our Harlem Gems prekindergarten program, and the third was an infant. We convinced the daughter to enroll her new baby and herself in The Baby College program. Through our staff’s careful attention, we learned that the baby was suffering from serious health problems because the mother did not understand how to adequately care for her child. Realizing we would have to involve ACS, we explained to her that we would do so cooperatively and that she would have the full support of HCZ during this difficult time. For example, we were able to keep her children in our school, provide transportation, and keep the grandmother in close proximity while the children were in foster care for a very short period. One of the first things she did when she got her children back was stop by to thank us.

26. *See id.*

27. *See College Success Office, HARLEM CHILD. ZONE,* <http://hcz.org/results/> (last visited Apr. 14, 2017) [<https://perma.cc/X8LS-AEK5>].

28. Harlem Children’s Zone, Inc., Report to Bristol-Myers Squibb on the HCZ Obesity Initiative (Aug. 12, 2005) (on file with the *Fordham Law Review*) (detailing demographics and survey findings from a 2005 study).

While this mother's story is not over, HCZ will continue to be there for her and her children. Our mission is to be vigilant and ready to lean in as necessary as families need to be strengthened.

HCZ's most important contribution is helping to dispel the myth that poor children of color cannot succeed at a large scale. Today, we have 938 young adults in college. Ninety percent of our high school seniors were accepted to college and are on their way. At the beginning of our pipeline, 100 percent of the prekindergarten kids are ready for school. At The Baby College, more parents are reading regularly to their children.²⁹ Today, when a little boy at HCZ looks around, he is surrounded by his friends and older peers preparing for college. When college and success become the norm—and failure the outlier—we can begin to reach the tipping point in a devastated community. We hope low-income families have the same expectations for their children that middle-class families have in anticipating that their children can work hard, graduate college, and provide for their families.

This brings us back to Miss Inez and the *Moore* decision. By caring for her grandson and keeping a vulnerable child in a loving and nurturing home, Miss Inez performed foundational work to benefit society. By living within a consistent family unit, Miss Inez's grandson had a better chance of attaining a positive future. East Cleveland should have awarded Miss Inez a medal—not a fine or jail sentence.

An old adage about our country is that America is great because it is good. But that goodness needs to be cultivated, and we need to recognize that children living in neighborhoods of entrenched and concentrated poverty are our children too.

Forty years ago, the U.S. Supreme Court did the right thing by empowering an embattled grandmother.³⁰ *Moore* was a small step in the right direction toward reinforcing our country's organizing principle—one United States of America for all of us. But if this country is going to continue its remarkable story, it needs to adequately address the crisis in our low-income communities. Folks like Miss Inez are the first responders, literally saving the lives of children, and they need our support.³¹ When it comes to raising vulnerable children, sometimes love is not enough—but it is a great start.

29. See generally Philliber Research & Evaluation, Experiences of Parents Attending Baby College: A Report on Findings from the Cycle 69 Classes Beginning in April, 2016 (Aug. 2016) (on file with the *Fordham Law Review*).

30. See *Moore v. City of East Cleveland*, 431 U.S. 494, 508 (1977).

31. See *id.*