

# Caring for the custodians

Today, foster families have no legal status. The experts agree that legislation is needed to give them rights as well as obligations, writes Marcia Kretzmer



IN THIS country, fostering is still a grey area. This provision for children who cannot be cared for by their own families is largely unregulated by law and unevenly supervised by social workers. This means little is known about the extent of informal care arrangements – nor even about how those arrangements approved by the authorities work.

Earlier this month, in an attempt to bring some order into the field and increase public awareness, social workers, lawyers and teachers held the first scientific conference in Israel on the subject of placing children in foster family frameworks. Held at the Hebrew University's Truman Institute, the well-attended conference was sponsored jointly by the university's School of Social Work and the *Mifal le'Hachsharat Yaldei Yisrael*, which operates a variety of children's homes and community settings based on the familial framework.

Foster care within individual families – as opposed to institutional or community settings – was only one of the variations studied; indeed, Professors Eliezer Jaffe and Charles Greenbaum expressed concern that only a small minority of reports to the conference related to foster care as it is normally understood.

Foster care is still an under-researched area, argued Jaffe, adding that the dearth of professional literature hampers progress in the field. He urged those present to publish their research and recommended that publications be a criterion for professional promotion.

Greenbaum was critical of the fact that nothing was heard at the conference about the fostering network in the Arab and haredi communities. Projections of the effects of rising crime and drug use – not to mention the coming wave of aliyah – make it imperative to push ahead with legislation to regulate foster care, he said.

However, according to Anita Weiner of Haifa University's School of Social Work, the reports heard at the conference represented "a quiet revolution" in the field. Data on children in foster care are beginning to be collected, she noted, while improved standards are being set in supervising and evaluating children in care.

The key, many believe, lies in legislation. Lawyer Tamar Morag of the National Council for the Child points out that fostering, unlike adoption or children's homes is not dealt with in Israeli law as, for example, it is in Britain and the U.S.

At present, although regulations lay down that foster families are to be supervised, with a social worker visiting monthly and contact maintained with the biological family, there is no legal obligation to see that this is done.

Under-the-table fostering arrangements are illegal, according to the Penal Code and the Children's Homes Law, which provide that a child may only be removed from his natural family with the approval of a welfare officer. However, says Morag, reports of maltreatment and exploitation of children in informal fostering arrangements have been reaching the office of the National Council for the Child.

LEGISLATION is also needed to give the foster family proper status in law. Morag related the story of a child born severely handicapped and abandoned in hospital by her parents. "They didn't want her to live," she said. Foster parents were found and they reared the child for 18 months.

"They did wonders with her," says Morag, "all the time in intensive contact with the natural parents. When she was four, it was decided to return the child to the parents, although a psychologist had determined that she might not with-

stand the trauma of parting from her foster parents. According to the law, the foster parents had no say.

"Finally, although he was not obliged to, the judge in the case decided to make the foster carers a side in deciding the case and ruled that the child should stay with them on a long-term basis."

At present, there is no legal way for foster care to turn into outright adoption, as the rule of complete anonymity cannot be maintained. The remedy for this would be what is called in the U.S. "open adoption."

Legislation, explains Morag, would not only provide foster families with rights, such as having the authority to make serious decisions on behalf of the child in their care, but would lay down obligations as well. At present, there is nothing to stop foster parents from walking away from their responsibilities with no prior warning, because of a passing crisis or disappointment.

It should also be possible to define in law two categories: short-term fostering, when immediate intervention is required for a certain period, and long-term care. Research carried out in 1980 showed that 52 per cent of children are in foster care for six or more years, and 20 per cent for 11 years or more.

These two routes were defined in the UK's 1989 Children's Act which, in the case of long-term fostering, provides for a category of "custodianship" – midway between foster care as it is usually understood and adoption. Custodianship would give foster parents a great deal of parental authority by court order until the child reaches the age of 18.

"You would get a different population, people who maybe cannot adopt themselves but are altruistic enough to want to give a child a chance," says Morag. "They would maintain contact with the biological parents, but would have the authority to make everyday decisions on behalf of the child themselves."

Morag recalled cases of foster parents who were not allowed to decide themselves whether the child was to go to summer camp – or even, in one instance, to resist the natural parents' decision to cut off a little girl's blond plaits when the child had lice.

According to Morag, such legal provisions would give foster parents the incentive to invest more in the child's upbringing and education, as the rewards would be correspondingly greater. The pool of families interested in fostering would also dramatically increase, she believes.