

The Debate About Moral Equality

It's time, according to both clinicians and researchers, to change how we relate to children—to move from a subject-object relationship to a subject-subject relationship.

Jesper Juul 2011, p. 6

In modern democracies, by and by, parental paternalism is running out of partisans. Since the liberal ideal is so attractive and characterizes modern life, it seemed natural to conclude that we ought to accord liberal rights to our children too. Adults have, in fact, already gone astonishingly far along this road: they respect children's views. They do not want to command them but, rather, to convince them and in medical treatment, they ask for their assent and sometimes even their consent. Samantha Brennan has argued that since we want children to become autonomous, we should give them the opportunity to develop this ability (Brennan 2002, p. 63). The more we cherish individual autonomy and freedom, the more we ought to encourage precisely those human beings who are expected to develop and foster them. Democracy and liberalism both raise a nagging uncertainty about parental paternalism (Brighouse and Swift 2006, p. 81; Archard 2015).

Yet, it is precisely the liberal idea that stands in the way of according moral equality to all children. For the concept of personal autonomy to be meaningful, there has to be a kind of threshold of competency, namely, that the competent are able to decide things for themselves. Thus, the very young child, who is unable to make competent decisions, becomes a kind of test case for moral equality. Does it make sense to accord even to the infant a moral status equal to that of adults? Classical liberals would certainly deny that it does. Moral status requires being a moral agent, and a moral agent, as it is conventionally understood,

is, at minimum, an agent who sees herself – and her interests and projects – as persisting through time, and who can reflect on her present preferences in light of her own future interests, her own system of personal values and fundamental concerns, and the norms of moral decency. Such an agent has what we might call moral autonomy (Noggle 2002, p. 101).

Young children obviously do not possess this type of agency. Consequently, Jan Narveson may not be the only one to find the idea of equating an adult's status with that of a four-year-old child "fairly mind-boggling" (Narveson 2007, p. 24).¹

Some classical liberals still cling to the idea that children are their parents' property. For the bioethicist H. Tristram Engelhardt, children, as long as they are not persons, which they would not be before adolescence, are owned by their parents (Engelhardt, 2nd ed., pp. 154–166).² Since parents "produce" their children by investing labour into them, they have the right to own them. Engelhardt concedes that this right does not entitle parents to treat children malevolently. Yet, as Stephen Hanson demonstrates, he does not provide much protection for them, for it is impossible in Engelhardt's content-free procedural account to define malevolence except by recurring to the parents' own conceptions of good and bad (Hansson et al. 2009, p. 28). Thus, he would not object to parents denying a life-saving blood transfusion or, indeed, even directly killing their young child (Engelhardt p. 329f). This appalling consequence of the property theory renders it unacceptable to most of us, not the least to parents themselves. The property theory, as Hanson criticizes, "puts a human being in the same class as a piece of furniture built in a garage or a meal made in the kitchen" (Hansson et al. 2009, p. 27).

Normally, when an otherwise plausible ethical theory leads to similarly counterintuitive corollaries, it has to be reworked. However, property concepts are still seriously discussed in philosophical circles. While it may be true that only a few philosophers fully share this view, the lack of alternative approaches in liberal theory is striking. Those who feel uncomfortable with the idea of children being owned by their parents and look for alternative approaches often give up the idea of consistency altogether and content themselves with treating childhood cases as exceptions to the rule. Tamar Schapiro, for example, expounds a strictly deficit-oriented view of childhood and concludes that the moral duty of adults is "to help children work their way out of childhood" (Schapiro, p. 735).³ Others, instead of taking childhood's challenges to moral theory seriously, simply classify it as 'atypical'. For example, in his philosophical theory of personal relationships Hugh LaFollette defines close relationships, e.g., those between friends, as reciprocal and voluntary. Therefore, he holds that young children, whose relationships with their parents are neither reciprocal nor voluntary, "cannot have a close relationship": "The child is incapable of having a personal relationship with her parent; certainly she cannot have a close relationship" (LaFollette 1996, p. 11). This is a most dubious conclusion even for the author himself. But, instead of reworking his theory, he attempts to save it by simply putting the parent-child-relationship aside as a "non-standard case" (p. 10).⁴

¹See also Brighouse (2002) and Griffin (2002).

²For other examples of the proprietarian view, see Archard and Macleod (2002, pp. 1–3); for criticism, see also Murray (1996, pp. 53–62).

³For a thorough criticism of this perspective, see Dwyer (2006).

⁴Likewise, Onora O'Neill classifies parental obligations as "atypical" (O'Neill 1979, p. 27).

In this chapter, I will delineate some of the problems of classical approaches to parenthood. It will become clear how moral adultism has seeped into much of what has been written about childhood ethics. I will examine different approaches, including child rights and welfare rights approaches, that attempt to realize the equal moral consideration of the child and show why, in a significant aspect, they fail to achieve this goal.

The Stewardship Model

For a long time, this marginalization of childhood went without much notice. Compared to the big moral problems of adults, childhood was deemed to present just some theoretical hiccups. But this picture has changed completely. Joel Feinberg, for example, showed that a seemingly small educational problem, viz., whether parents should be allowed to raise their children according to their religious worldview, could pose a serious threat to democracy (Feinberg 1980). Today, the most challenging problems for modern liberalism are to be found in the way we conceive and raise our children. Marginalizing ethical questions about childhood especially with regard to new reproductive technologies seems far too risky. What do we owe children in an age of artificial reproductive technologies and genetic engineering? Families raise universal ethical as well as political concerns and have far-reaching consequences for the way we conceive human society. Modern medical technologies, like gene therapy or organ transplantation, impact children and adults equally. Clearly, the problems childhood poses to moral theory can no longer be met simply by appealing to atypical or non-standard cases.

Still, it is unclear how to reconcile a liberal approach with the moral problems of childhood. How can we possibly grant moral equality to young children without compromising the concept of moral agency? The most common solution to this problem is to assign to adults a stewardship role. A steward represents the child as a holder of moral rights. As Brennan and Noggle put it, stewardship encompasses a set of duties towards the child: “First, there is the duty not to violate the rights of the child. Second, there is the duty to prevent others from violating the rights of the child. Third, there is the duty to promote the interests of the child” (Brennan and Noggle 1997, p. 12). With the concept of stewardship, Brennan and Noggle try to reconcile three common-sense understandings of children’s moral status: they deserve the same moral consideration as adults, they nevertheless can be treated differently from adults, and parents have limited authority to direct their upbringing (p. 2). Brennan and Noggle particularly aim at strengthening the first of these views, the moral equality of children. Since children are entitled to the same moral consideration as adults, adults should have limited authority over them only as long as they strive to promote their basic rights and needs.

Yet, what is basic (and what a need is) may be interpreted differently according to whether it is conceived from the child’s or the future person’s or the caregiver’s or even society’s point of view. Usually, parents act according to a commonly

agreed upon concept of the welfare of the child. But, does this always represent the child's perspective? Certainly not. Remember that even today some modern Western societies hold it as necessary to discipline children by corporeal punishment. Nowhere else is the divide between a child's view and her parents' or society's view on what should count as a basic need more apparent than here. Thus, moral equality requires us to clarify *whose* conception of needs and harm is crucial.

Moreover, given the importance of children's rights and needs, why should stewardship be accorded to the child's biological parents? Brennan and Noggle concede that it is not biology that gives parents the right to stewardship; rather, it is "care, advocacy and protection" (Brennan and Noggle 1997, p. 12). Parents may take care of their child as long as they do not violate the child's right not to be harmed (Brennan and Noggle 1997, p. 9).⁵ However, Brennan and Noggle have a restricted view of what harms a child, a view that, for example, does not question social inequality in child-rearing. Given that children have the right that their needs be met, is it really plausible to assign stewardship of this right to the persons who happened to conceive the child? Aren't there many better candidates? A child with wealthy parents might live in a three-storey house and receive the best education possible whereas the child next door might not even have access to medical care in the case of asthma or diabetes. From the perspective of the child as a presumed rights holder, harm through lack of medical treatment or education is by no means marginal. Thus, another major shortcoming of the stewardship model is that it does not systematically compensate children for the lottery at birth to which they are subject although doing so should be one of its own goals. If it aims at the moral equality of the child through stewardship, each child should have the right that his or her needs be met just as fully as any other child's. Thus, any true right-in-trust would call for a lot more than just settling for the next person available as steward. A minimum requirement would be to license parents in order to allow only the healthy and wealthy to reproduce (LaFollette 1980; Adams 2008). This, however, would entail a sweeping change of society that only few people would be willing to endure.

At the same time, the stewardship model has the big advantage of agreeing with our everyday wisdom.⁶ Most parents do a good job of taking care of their children's needs. Some ethicists, therefore, try to remedy the deficits of the stewardship model by taking into account the liberal principle of autonomy. Since young children are not morally autonomous, it is the future autonomous persons' views that have to be

⁵They do not explain why they consider only the right not to be harmed decisive for limiting parents' stewardship. Other rights of the child, like the right to privacy or to own property, can also be seriously violated.

⁶Yet, Thomas Murray rightly criticizes that the stewardship model wrongly implies detached, selfless care and discounts parents' interests and welfare in the parent-child relationship (Murray 1996, p. 61): "The child is more than property, and the parent is more than a caretaker. We need a model of the parent-child relationship that acknowledges the immense stake parents and children have in each other's flourishing. We need a model that emphasizes the central importance of the relationship, without losing sight of the individuality of the parties".

respected. The question then becomes: Which decision would the autonomous adult the child is to become ratify retrospectively? Only those decisions likely to be legitimated in retrospect would deserve moral approval.

Again, it is implausible that an adult would retrospectively consent to a bad education or lack of medical treatment. But, anticipated, retrospective approval raises other serious problems. First, since it postpones the ultimate justification until the remote future, the strategy of anticipated consent is far from helpful for stewards who must come to decisions here and now. Moreover, experience warns us that parents may err significantly in what their adult children will approve of later in life. Even more disturbing, the strategy would be most effective precisely when children were brainwashed to adopt their parents' values. Finally, and most importantly, the anticipated-consent strategy primarily serves the needs of the future adult, not the present child. If it's only the consent of the future adult that counts, then the child who is now the subject of decision-making may become morally irrelevant.⁷ Disregarding the child here and now would be not just morally acceptable but morally mandatory since the future adult's consent is considered to be of greater importance. One would have to ignore the wish of a child, say, not to attend piano lessons in order to please the future adult. In short, the strategy of anticipated consent fails to achieve its goal. Although aiming to grant moral equality to young children, to the contrary, it reinforces the position that their views are negligible. The child as a moral being, thus, disappears from view.

Consequently, Samantha Brennan identifies defining the right "unit" of moral protection as a major problem for any approach to the ethics of childhood:

Our worries with children are partly concerns about identifying the right unit for moral protection: the person the child is now or the person the child will become. Lumping entirely for the future person seems to ignore the very real person in front of us now. Rights protect persons but is that the person-at-a-time or the person-over-a-life-time? (Brennan 2002, p. 61).

In an ethics based on moral equality, it should be the person-at-a-time whose interests are of primary concern. Colin Macleod thus stresses the value of those goods children cherish qua children: "The value of sharing a knock-knock joke with a child is typically simply that the child finds it amusing. It's not valuable because it helps pave the way for later appreciation of Woody Allen" (Macleod 2010, p. 188).⁸ Yet, despite an immense literature about children's rights, we obviously

⁷In the past, cruelty to children was often justified this way (Miller 1983). The prominent saying "Spare the rod and spoil the child" served as justification for spanking the child in order to benefit the future person. For a more recent justification of privileging the interests of the future person see Anderson's and Claassen's discussion of the case of 14-year-old Laura Dekker who endeavoured a round-the-world sailing tour (Anderson and Claassen 2012, p. 519). Youf (2002, p. 132), also prioritizes the future interests of the child in medical treatment.

⁸For a critical discussion of present versus life-time autonomy see Vaught (2008). Christoph Schickhardt, too, dismisses the idea that a benefit for the future adult is an acceptable trade-off for ignoring the child's well-being right now (Schickhardt 2012, p. 184); for a critical discussion of "subsequent consent" to paternalistic acts in educations see pp. 202–204.

are still in need of a sound justification for respecting the present child's views as primary to those of her future personifications. To make progress, we have to understand the substantial differences between the educational and the ethical approach to childhood. Whereas education mainly cares about the person the child will become, this need not be so in the ethical approach.

Education and the Moral Self

'Education', from the Latin 'educare', means leading someone out of his condition towards a better one. Education's major goal is to form the future adult. Thus, the dilemma of education from an ethical perspective is preoccupation with the future adult.⁹ Since education is future-oriented, it has an innate tendency towards paternalism and overriding the child's present interests.

Preoccupation with the future adult is an inbuilt tendency of all classical theories of moral development and, in particular, the influential theories of Jean Piaget and Lawrence Kohlberg. The Swiss child psychologist Jean Piaget laid the foundations of modern child psychology of education. Starting with empirical field work with children, Piaget prepared the ground for a theory of childhood cognitive development from the sensorimotor stage of simple reflexes to the formal operational stage of systematic problem-solving by abstract reasoning.¹⁰ Piaget drew a parallel between cognitive development and moral development, which he described as similar processes. As the development of morality was comparable to cognitive development, education should be designed to stimulate this process too. An important consequence of Piaget's work was that teachers were expected to guide children to more advanced stages of moral development. Rather than simply insisting on blind obedience, they should help them, through cooperation and mutual respect, to acquire a more mature morality. Simple obedience to adult moral rules was considered an early developmental stage the child should outgrow. Heteronomy in early childhood should become autonomy later on. Through cooperation and mutual respect, children were to be empowered to reach a stage of autonomous moral reasoning, and, thus, they would finally be able to critically examine and adopt moral rules by themselves.

Piaget's theory was taken up and refined by the child psychologist Lawrence Kohlberg, who developed his well-known theory of the stages of moral development on the basis of further empirical research. As in Piaget's framework, heteronomy characterizes the very young child's moral behaviour: the child obeys

⁹For an instructive account of the philosophical preoccupation with the future adult and its critique since Rousseau, see Giesinger (2007, pp. 81–144).

¹⁰For a critical examination of the philosophical underpinnings of Piaget's developmental theory, see Gareth Matthews (1994, pp. 30–53), Carnevale (2004). For a critical perspective from a sociologist's point of view on adultism in Piaget's work, see Jenks (2005, p. 22f); James (2009). On philosophical conceptions of childhood and adulthood see Kennedy (2006).

the moral rules of adults. This is the result of the child's ego-centrism and her inability to consider the perspectives of others. In this stage, obedience and fear of punishment drive child behaviour. Kohlberg called such behaviour "pre-conventional", which is equivalent to 'pre-moral'. Later in life, children advance to the conventional and, finally, the post-conventional stages ideally reaching a stage of abstract reasoning based on universal ethical principles.

The focus of these theories is the person the child is expected to become. On several occasions, Berry Mayall, professor of childhood studies at the London Institute of Education, exposed this kind of *developmentalism*:

The public mind has latched on to one central belief: that the key thing about children is that they develop, they mature, they move from incompetence to competence, over time and during an organised, measurable journey. The notion that children are best understood as incompetent vulnerable beings who progress with adult help through stages needed to turn them into mature adults has socially recognised status; it is enshrined in policies and practices affecting children's lives. The public mind thinks of children in terms of their futures, and in terms of adult maturity and competence as the gold standard. The present tense of childhood matters much less (Mayall 2003, p. 6).

In light of current developmental theories of childhood, Priscilla Alderson, a British researcher engaged in the sociology of childhood, criticizes the still prevalent conception of children as 'becoming'—instead of 'being'—for its discriminatory potential, since "children are not simply learning and practising, they are living and accomplishing" (Alderson 2008, p. 115).¹¹

The very idea of development suggests that something changes from not at all (or barely) formed to completed and articulated. Moral equality, to the contrary, implies that from the start the child has a moral status that is equivalent to the adult's. Both Piaget and Kohlberg thought that the child had to be led through education out of the stage of ego-centrism. Indeed, if the child started as ego-centric and became a morally reflective human being only later in life, then moral equality would not make sense. In such a developmental model, the moral value of the child is constituted by being a valuable property or becoming a valuable adult, not by the child's own condition. Thus, it is precisely the idea of moral education leading the young children out of her ego-centrism that stands in the way of acknowledging her moral equality. As long as we conceive of the young child as ego-centric, we will have difficulties paying more than lip-service to the idea of moral equality. Thus, as Gareth B. Matthews rightly criticizes, these theories of cognitive and moral development encourage us to distance ourselves from children:

If we suppose that children live in conceptual worlds that are structurally different from ours, but that will naturally evolve into ours, how can we fail to be condescending toward children as moral agents?" (Matthews 1994, p. 66)

Recent research has, in fact, challenged some of the assumptions of classical developmental theory, most importantly the idea of childhood heteronomy. This research is stimulated by new evidence on cognitive and social development. The

¹¹See also Arneil (2002).

research group of the developmental psychologist Michael Tomasello, for example, has pointed out the early manifestations of the human ability for intentional cooperation (Callaghan et al. 2011, p. 4). In particular, Tomasello et al. examined very young children's "shared intentions and mental states with others, such things as joint goals, joint attention, and mutual knowledge" (p. 4). Children of around 9–12 month of age were shown to engage in genuine shared attention with caregivers by, for example, deliberately focusing their gaze on the same object to which caregivers attended. Shared attention is an integral part of sociality because "adjusting one's behaviour to the partner involves comprehending and anticipating her actions based in large part on what she is attending to" (p. 8; Tomasello 2011, p. 33f). Tomasello and his group also showed that during the second half of their first year children are able to discern helping from hindering behaviour, which is an important precondition of altruism and prosociality (Callaghan et al. 2011, p. 5). Another empirical study provided evidence that 3-year-olds voluntarily share the fruits of cooperative actions in an equitable manner (Hamann et al. 2011). These findings are stable across different cultures. Tomasello concludes that from birth on humans, as compared to, say, chimpanzees, have unique social abilities to cooperate:

And so from fairly early in ontogeny young children socially engage with others in unique ways — involving skills and motivations for shared intentionality — and this enables them to participate in unique forms of collaboration, communication, and social learning (Tomasello 2011, p. 36).

Others focus on the question of what could count as moral behaviour in early human development (Blasi 2005; Keller 2007). Charles C. Helwig and Elliot Turiel, for example, challenge the idea of childhood ego-centrism. They report evidence showing that even three-year-old pre-schoolers are able to take into account the consequences of moral actions, like pain or injury, for others. Young children also have been found to adopt a critical perspective on authority when it conflicts with the demands of morality. For example, they regard hitting others as wrong even if a teacher permits it (Helwig and Turiel 2002, p. 479). Consequently, Elliot Turiel questions Piaget's and Kohlberg's basic assumption of child heteronomy: "Research into several aspects of moral judgements indicates that starting at a young age children make moral judgements that are not based on extrinsic features like obedience and sanctions" (Turiel 2006, p. 824). Child psychologist Alison Gopnik thus concludes: "Piaget thought that children didn't have genuine moral knowledge because he thought that they couldn't take the perspective of others, infer intentions, and follow abstract rules. Modern science shows that this just isn't true" (Gopnik 2009, p. 204).

This evidence from recent psychological research indicates that it is be wrong to deny young children's abilities for social cooperation and moral judgement. They seem, at any rate, to contradict the predominant view of young children as caught in a state of ego-centrism and heteronomy. Shared intentionality, engaging in collaborate activities, identifying helping behaviour, sharing the fruits of cooperative actions and discerning moral from conventional behaviour render an altogether different picture. The ego-centric bias in educational psychology has obscured the

young child's moral self. Moreover, it is obvious that the behaviour Tomasello et al. describe is not just the child's passive reaction to adult input but requires real human agency involving social interaction and cooperation.¹² It is the basis of the child's moral self.

Adultism

When educational concepts operate like self-fulfilling prophecies, they amount to moral adultism. Adultism is the preoccupation with adult attitudes, ideas, beliefs and actions.¹³ It is an ideology "rooted in the unquestioned assumption that adults are inherently and necessarily better than young people" (Guessous 2012, p. 48). Adultism can be seen as a form of oppression and discrimination comparable in its implications to racism or sexism (p. 48). This ideology is especially pervasive given the fact that children cannot do without the help and guidance of adults. It has also seeped into moral theory. Moral adultism amounts to the belief that adults are not just older, taller or wiser but also morally superior human beings.

As we have already seen, adultism in ethics is common. To start with, ethical theory conceives of the normal moral actor as a competent adult human being.¹⁴ Children are considered atypical, immature, ego-centric or pre-moral human beings in need of moral development.¹⁵ Ethical concepts of childhood represent the adult perspective allowing adult stewards to interpret the needs and interests of the child. Most importantly, they call for subordinating the present child's interests to the

¹²However, in a critical analysis of the empirical research on early moral development, Augusto Blasi would deny this for children younger than three or four (Blasi 2000, p. 135).

¹³See Flasher (1978) and Guessous (2012). Chris Jenks uses the term "ethnocentrism", instead, to denote the fact that "socialization theories present the normative structure of the adult/parent world as their independent variable. Even though all sociologists are aware that such a notion of normative structure is itself a highly problematic belief from which to begin, it is nevertheless treated as yardstick in relation to the child. Against this yardstick of an assumed consensus of reality the child is judged to be more of less competent and consequently the continuous lived social practice of being a child with a specific and coherent meaning structure is wholly ignored" (Jenks 2005, p. 9).

¹⁴A notable counter example is James Dwyer's recent argument for the moral superiority of children (Dwyer 2011). Dwyer presents strong arguments to undermine the common conviction that adults are naturally superior to children and shows why one should base moral status on more than just one criterion. I thoroughly sympathize with Dwyer's mission, yet, unlike him, I am less interested in, and less equipped for, a philosophical analysis of moral status and more interested in the moral agency of children.

¹⁵See, e.g., Robert Noggle's characterization of infants and very young children: "Infants and very young children begin in an 'egocentric predicament'. Their concern is focused on their own immediate interests. From this initial stage of straightforward, naïve, and immediate egoism, the child progresses to a stage of more enlightened—though still quite direct—egoism. In this stage, punishment, reward, and the desire to please and imitate the parent operate to make morally decent behaviour pay off in a purely short-term, self-serving way" (Noggle 2002, p. 110).

interests of the person-to-be, who will, again, be an adult. Thus, moral theory, even when striving for the moral equality of children, is based on the premise of adult moral superiority and only indirectly includes the views of children.

Obviously, moral adultism and the idea of the moral equality of children are incompatible with each other. If we are to give the idea of moral equality more than just lip service, we not only have to question some of the assumptions of moral psychology, we also have to critically reflect on the idea that to grow up and become an adult is, besides a biological necessity, a moral aim. Thus, the question is: How can we acknowledge the necessity of human development and education without automatically inferring the moral superiority of adulthood?

In taking the idea of equality seriously, we have to distinguish our understanding of our moral being from our physical, psychological and social being. The latter may be in significant need of development; that of the former may not. Truly respecting the moral equality of children would require, firstly, identifying a quality (or qualities) that counts morally and cannot be understood, even in the young child, as an inferior, underdeveloped version of the adult quality. This quality might undergo a process of change while the child develops, but the process would not significantly alter its moral significance. Secondly, it should also work in the other direction, i.e., it should call for treating adults the same way we treat children. So far, prevailing ethical theories of childhood have not passed this important test. For example, stewardship with regard to religious education is morally acceptable with young children but would not be so with adults. Thirdly, this quality (or qualities) should account for the moral role of parents. Why do we hold the restricted number of individuals we call 'parents' particularly responsible? We are looking for a reason that is found in the child's, even the very young child's, situation and that does not depend on the adult person she is to become.

At the same time, this quality (or qualities) should explain the significant difference between children and adults. Common sense tells us that children have to be treated differently from adults. There are good reasons to protect a child from falling down the stairs or running onto a motorway. Children sometimes have to be protected from physically or psychically harming themselves. In these cases, benevolent paternalism is undoubtedly necessary for moral reasons. We owe it to the child to protect her. How, then, can it be that we owe the child benevolent paternalism for her sake and, at the same time, should treat her as morally equal, in the same way we as adults prefer to be treated? Nothing less than this vexing paradox of human morality, which has mystified a considerable number of ethicists, is to be solved.

Child Rights

Up to now, I have not discussed the topic of child rights, and some readers might wonder why. Child rights have long been promoted as a remedy for the moral equality problem. Unfortunately, they are not although they are undoubtedly

indispensable for further delineating the moral standing of the child. In the following chapters, I will explore how the idea of moral equality can profit from a rights perspective on childhood and why it is, nevertheless, the wrong instrument for realizing it.

The debate about child rights spanned the whole 20th century; their international recognition, however, was an achievement of the last 25 years (Archard 2004). As early as 1923, the British activist Eglantyne Jebb (1876–1928) drafted a *Declaration of the Rights of the Child*, which the League of Nations adopted. Jebb was especially appalled by how children suffered from hunger and poverty after the First World War. Her declaration focused on what we today call basic welfare rights: the rights to be fed, sheltered and otherwise helped. With the dissolution of the League of Nations in 1946, the declaration ceased to be in force officially, but it inspired the United Nations' two more detailed versions of 1959 and, finally, 1989. Since Jebb's time, the call for securing the child's moral position with a rights approach has never fallen silent.¹⁶

Fighting for women's rights and the rights of ethnic minorities, the civil rights movement in the second half of the 20th century also strongly supported the idea of equal rights for children. In his seminal work *Escape from Childhood* (1974), the American pedagogue John Caldwell Holt (1923–1985), for one, fought for de-institutionalizing childhood. Childhood, he argued, should no longer be the subject of adult planning. Holt acknowledged that most people want to treat children well (even better than adults); nonetheless, he pleaded for liberation not only from custody and control but also from having to be loved, cuddled and protected and being confined within the realm of the family and, thereby, distanced from the world of adults. In an instructive chapter, Holt describes how children are belittled by being treated as merely "cute" in situations "when they are most intent and serious about what they are doing" (Holt 1974, p. 91). Through this behaviour, however well-meaning its intention, we turn the child into an actor in our show. But, children should not be romanticized as "little angels" nor belittled as "living dolls" (p. 88). Holt pictures the child as a moral being worthy of the same moral respect as adults. Moral respect demands an authentic response to the child: "Our response to a child is authentic when we are responding to qualities in the child that are not only real but valuable human qualities we would be glad to find in someone of any age" (p. 85). In fact, this sounds like a perfectly concise maxim for a moral-equality approach.

In the second half of his book, however, Holt attempts to realize this goal by attributing adult rights to children including the rights to vote, work, own property, travel, choose one's guardian, receive a guaranteed income, shoulder legal and financial responsibility, control one's learning, use drugs, drive, and enjoy freedom in sexual relations.¹⁷ Unfortunately, he does not specifically take up the issue of the

¹⁶For a detailed historical account of the international reception as well as the German theological discourse, see Surall (2009); for a discussion from the French perspective, see Renaut (2002).

¹⁷The last is the only one not to be conceived of as a clear-cut right.

young child. Most of these rights, like the right to work, travel or drive, cannot be meaningfully applied to young children at all. Others, like the right to vote or own property, might be reasonably attributed to children as holders of rights, but as long as the child is incapable of making use of these rights she will still be in need of a steward's help. Holt does not discuss how this could be worked out practically nor, more importantly, whether implementation would contradict his original intentions. Since these rights make sense, if at all, only for older children and since executing them in most cases requires a guardian, Holt's rights approach leads to similar problems as the stewardship approach and, so, does not solve the moral equality problem.

A number of scholars have questioned the idea of equal rights. Serious difficulties would arise if they were put into legal practice. Hafen and Hafen, for example, question the idea of freedom rights for children (Hafen and Hafen 1996). Most importantly, Laura Purdy stresses that equal rights are hardly in the interest of the child. Rather, freedom rights could damage the child's opportunities for a free life. An abolition of compulsory schooling, for example, would drive children into work at an early age; a consistently liberationist policy could even leave children stranded without parents (Purdy 1992, p. 214f; see also Renaut 2002, p. 341f). Eventually, the rights discourse marginalizes and, sometimes, even obfuscates children's needs for love and affection (Schrag 1980).

These observations notwithstanding, we should not dismiss the idea of moral equality altogether. The concept of child rights has earned much public consent, and many parents live up to the idea that children do have moral rights though they cannot easily be spelt out in practice. Some child rights at least contribute to safeguarding equal moral consideration for children without drawing upon parental stewardship. For a more thorough examination of how child rights might help to safeguard moral equality, we should have a closer look at the modern version of Holt's ideas, the United Nations *Convention on the Rights of the Child* (CRC).

Welfare Rights

We have already seen that, for a number of reasons, moral equality is difficult to achieve simply by implementing rights for children. This is particularly true for welfare rights. Welfare rights "protect important interests (such as health, bodily integrity, and privacy)"¹⁸ They are indispensable to safeguard the moral standing of the child, but, they raise problems when they are to be spelt out in practice since welfare and interests are ambiguous terms which can be understood in an objective or subjective way. Interest approaches are prone to adultism because when interests

¹⁸Archard, David William, "Children's Rights", *The Stanford Encyclopedia of Philosophy* (Winter 2014 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/win2014/entries/rights-children/>, accessed February. 22, 2016.

have to be qualified as “important” and morally relevant those adults held important for children will usually be prioritized. This problem typically arises with regard to all of the welfare rights fixed in the United Nations *Convention on the Rights of the Child*.¹⁹ Although aiming at the welfare of the child, they address the care-giver and adults have to interpret them.

The CRC lists the following welfare rights of children: to life, survival and development (Art. 6); to protection against illicit transfers (Art. 11); to protection from all forms of physical or mental violence, injury, abuse, neglect or negligent treatment and maltreatment or exploitation including sexual abuse (Art. 19); to have their best interests ensured in case of adoption (Art. 20); to protection and humanitarian assistance as refugees (Art. 22); to enjoyment of the highest attainable standard of health (Art. 24); to benefit from social security (Art. 26); to enjoy an adequate standard of living (Art. 27); to education (Art. 28); to protection from economic exploitation (Art. 32); to protection from illicit narcotic drugs and psychotropic substances (Art. 33), and to protection from all forms of sexual exploitation and sexual abuse (Art. 34). Obviously, only a small number of the rights listed, e.g., the right to life, have objective criteria; rather, most depend on adult standards of what protection, promotion or support would mean in particular cases. Some children, for example, might prefer not to be protected from “narcotic drugs” or not to enjoy the benefits of education. Benefits are gauged according to adult criteria. Thus, although aiming to improve the situation of the child, interpretative authority remains with the adult community.

Welfare rights, therefore, remain ambivalent with regard to the moral equality of the child. On one hand, they undoubtedly contribute to improving the situation of the child in society. On the other, they do not significantly discourage adultism; on the contrary, they invite the privileging of adult standards of benefit and harm either by aiming at the future adult the child is to become or by generally relying on adults’ standards and norms. This conflict, as the Swiss pedagogue and philosopher Johannes Giesinger states, is pertinent to the rights perspective, particularly in education:

The problem is, however, that the child’s rights might be in conflict with the future adult’s rights. In these cases, the adult’s rights may be given priority over the child’s autonomy rights. Thus, we cannot say that these rights provide a clear-cut normative constraint on future-oriented educational interferences.”²⁰

While welfare rights fail to solve the moral equality problem, another type of rights might be better equipped to do so. These are agency rights or, as they are usually called, ‘participation rights’. A close reading, though, reveals that they imply more than just child participation.

¹⁹Freeman (2009, p. 386f). Usually, the CRC’s rights are divided into provision, protection and participation rights. However, provision and participation rights both aim at the welfare of the child. For this ethical analysis, then, I deal with both under the category of welfare rights.

²⁰J. Giesinger: “Dignity and Education”, Presentation at the Conference “Encountering Children—Dignity, Autonomy, and Care”, June 9, 2011, University of Zurich, Switzerland.

Agency Rights

Agency rights are a special class of rights in the CRC that focus on the child as actor, not just as recipient of benefits. Since they imply an act or an interpretation on the part of the child herself, they refer to the child as a person. The child not only bears a right but executes it. In the CRC, these rights almost outnumber welfare rights; yet, except for Article 12 on the freedom of expression, most of them have gained little attention in the ethical discourse. In detail, they are the rights of the child: to acquire a nationality and, as far as possible, know his or her parents (Art. 7); to preserve his or her identity, including nationality, name, and family relations (Art. 8); to maintain direct contact with both parents (Art. 9); to express his or her views freely, the views of the child being given due weight in accordance with his or her age and maturity and, in particular, to be heard in any judicial or administrative proceedings affecting him or her (Art. 12); to freedom of expression including the freedom to seek, receive and impart information and ideas of all kinds (Art. 13); to freedom of thought, conscience and religion (Art. 14); to freedom of association and peaceful assembly (Art. 15); to privacy and family (Art. 16); to mass-media information (Art. 17); to conditions, for mentally or physically handicapped children, which ensure dignity, promote self-reliance and facilitate active participation in the community (Art. 23); to develop his or her personality, talents and mental and physical abilities to their fullest potential (Art. 29); to rest and leisure, and to engage in play and recreational activities (Art. 31) and to due process of law (Art. 40).

Wishing to respect both welfare and agency rights entails a typical quandary. Since even in the moderate version established by the CRC child rights do not all address the same agent, they give rise to contradictory conclusions: the right to education, for example, demands something other than what the right to play does and likewise with the right not to be harmed and the right to mass-media information, etc. We just tacitly assume that there is an adult to solve these contradictions in the interest of the child. We are again caught in the trap of adultism. An appeal to child rights may be nothing but rhetoric and sometimes simply engenders replacing parental authority by state authority (Guggenheim 2002, 2005).

In any case, agency rights are better candidates for establishing equality since they address the child and are, therefore, less vulnerable to adultism. Obviously, the authors of the Convention assumed that the child acts as a moral agent and should be respected as one. This is a contentious claim to some. A moral agent, as Robert Noggle states in the definition rendered above (p. 21), “sees herself—and her interests and projects—as persisting through time, and ... can reflect on her present preferences in light of her own future interests” (Noggle 2002, p. 101). Most philosophers would doubt that young children have moral agency since they mostly do not reflect on their preferences in the light of their future interests. But, the Convention invites us to take a different look at the moral agency of the young child. Take, for example, a two-year-old undergoing a medical exam. Following the Convention’s moral approach, we would, for example, expect the paediatrician to

encourage the child to ask questions and tell him freely what might be frightening to her. We would also expect the doctor not to ignore the child's worries and to motivate her to cooperate even in unpleasant procedures thus promoting the child's self-reliance in medical treatment. In so doing, the physician would, as far as possible, respect the child as a morally relevant person. The physician seeking the cooperation of the child addresses her as a moral agent whereas a physician aiming simply not to harm the child treats her merely as a morally valuable object. To put it another way, the harm to be prevented is the damaging of the child's self-respect or self-esteem.²¹ We can derive from this example that for the child to be a moral agent it is not essential that she be able to reflect on some future interests. It is necessary only that it be possible to engage in a moral interaction with her here and now.

Agency rights are considerably less prone to moral adultism. Yet, they presume an unconventional interpretation of moral agency. If we base moral agency on autonomy, which implies rational deliberation and a stable life plan, then young children are necessarily excluded from the circle of morally equal human beings. A more inclusive approach, on the other hand, requires a different understanding of what creates moral vulnerability.

Johannes Giesinger suggests such an approach on the basis of Peter Strawson's concept of moral interaction. Strawson explained how in interpersonal relationships we hold others responsible for what they do to us. When we resent how others treat us, "we see ourselves as having the normative standing to make claims" *vis-à-vis* other human beings (Giesinger 2010, p. 4). Strawson called this a *reactive attitude* (Strawson 2008 [1962]). For Giesinger, to acknowledge the moral vulnerability of children means to attribute to them a participant's reactive attitude, i.e., "to ascribe to them the normative standing to make claims" (Giesinger 2010, p. 5). Giesinger points out that even if very young children do not have full-blown moral self-respect, as adults do, the way we treat them should enable them to see themselves as holding a legitimate moral claim. A child who is repeatedly humiliated cannot develop self-respect and is, thus, morally wronged.

Giesinger offers an attractive interpretation of the moral standing of children in terms of self-respect. As moral beings, we all depend on respect in human interaction, and so do children.²² Moral agency rights aim at promoting and protecting moral self-respect in children as well as adults. Giesinger's approach also helps us understand why harm is such a multi-faceted notion. Damaging a child's self-respect constitutes harm just as much as violating her physical integrity does. Take, for example, the recent case of thirteen-year-old Hannah. Hannah was a

²¹Anderson and Honneth (2005) distinguish between self-respect as related to one's competency and personal authority and self-esteem as related to one's worth, but since both pertain to the dignity or moral core of one's personality, I will use them indiscriminately. For a philosophical discussion of the notion 'self-respect', see also the book edited by Dillon (1995). Unfortunately, none of the authors of this book discusses the self-respect of children.

²²Cf. Peter Schaber's interpretation of human dignity as being based on self-respect (Schaber 2004).

British girl who was diagnosed with leukaemia. For several years, she had been treated with chemotherapy until she finally suffered heart failure as a side-effect. Since this is a life-threatening condition, her paediatricians recommended that Hannah undergo heart transplantation. But Hannah refused. She was so tired of being in hospital all the time and being unable to live the life of a normal teenager that she could not stand the prospect of further medical treatment. She wanted to go home and be with her family.²³ In Hannah's situation, harm could have meant rather distinct things. On one hand, Hannah might have died; on the other, she might have been denied moral respect, which would have damaged her self-respect, perhaps the only valuable thing she had left. Harm, thus, comes in a wide range of forms: present or future harm or harm to one's physical integrity or identity as a moral being. Depending on which type of harm is considered most relevant, the moral consequences may vary significantly. The harm principle in childhood ethics depends on underlying moral beliefs about what really counts for human beings, be they children or adults. The concept of self-respect prompts us to look at the harm principle in the light of the child as having a moral self. Giesinger concludes:

However valuable a (future-oriented) educational aim may be, its achievement should not run contrary to the child's present ability for self-respect. Thus understood, the notions of respect and dignity function as a normative constraint on future oriented educational interferences. They restrict 'intrapersonal trade-offs' in education (Giesinger 2012, p. 10).

Given the importance of moral equality, this claim is appealing. From his approach, we can derive that it is possible to conceive of the young child as a moral agent. Equality requires respecting the child here and now and abstaining from the routine subordination of her preferences to the benefit of her future self.

Conceptions of Parenthood

Yet, since the self is an evolving entity, much depends on how one conceives the relationship between parent and child. How can we ensure treating the child as a moral equal in a relationship of utter dependency? Some of the CRC's agency rights listed above refer to the child as an individual, others to the human relationships of which the child is a part. This second subdivision can be called 'relationship rights' (Dwyer 2006). They are the rights to family relations (Art. 8), to maintain direct contact with both parents (Art. 9), and to privacy and family (Art. 16). These obviously involve a particular form of human agency which implies moral relations to other persons. Children are not only expected to develop their personalities, talents and mental and physical abilities, they are also part of a network of morally relevant human beings, for example, a family. Perhaps, relationship rights can lead us to a better understanding of moral equality?

²³For a discussion of the case, see Cornock (2010), Schickhardt (2012, pp. 267–274).

The importance of relationship rights is additionally stressed by the fact that, contradictory to its name, the *Convention on the Rights of the Child* also addresses the rights of parents. Some articles deal exclusively with parents' rights. These are Art. 5 ("States Parties shall respect the responsibilities, rights and duties of parents"), Art. 14 ("States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child"), Art. 18 ("States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child"), Art. 27 ("The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development") and Art. 29 ("States Parties agree that the education of the child shall be directed to ... the development of respect for the child's parents, his or her own cultural identity, language and values..."). These articles underline the important role parents have and the relevance of their personal relationships to the child.

The right to have parents or to belong to a family is a strange moral right for adults. How can the child be conceived of as morally equal to adults while so heavily depending on relationships with other persons? Without analysing the moral role of parents, we lack the key to understanding the moral equality of children. What is the moral nature of parenthood? Remember that we have to deal with modern reproductive technology's challenges to the traditional biological understanding of parenthood. In surrogacy, for example, genetic, gestational, and intentional parents often fight for the right to custody, and homosexual couples, to give another example, are striving for the right to become parents with the help of assisted reproductive technologies. In these controversial cases, we are concerned precisely with children's relationship rights. What could a right of the child to family, to family relations or to maintain contact with both parents possibly mean? The overarching questions that have become pertinent are what a family is from the perspective of the child, who a parent is and, in particular, what the moral meaning of parenthood from a child's point of view is.

Ethical approaches to childhood, so far, reflect the adult view and, in consequence, have been stuck between a rock and a hard place. On one hand, they stress the moral right of the parent as producer of the child, which renders children's view of parenthood irrelevant. Yet, this position has become unacceptable to most of us. On the other hand, they regard parents as representatives or stewards of children's interests or moral rights but, then, tacitly accept that this role is assigned through a biological lottery leaving the common preference for the biological parent unaccounted for. To justify the biological privilege, ethicists like Samantha Brennan have argued that children are best taken care of in an individual and personal relationship and are, therefore, in need of individual parents (Brennan 2002). This may be true, but it does not explain why we should routinely privilege those human beings, irrespective of their abilities and social standing, who happen to conceive the child. Other ethicists are, therefore, inclined to reject the biology privilege in

favour of the best-suited caregiver or a pluralistic account of parenthood.²⁴ Whichever concept one chooses, it should not only determine how parents should behave *vis-à-vis* the child, but also reveal what should be expected of a parent from the child's moral point of view.

Conclusion

Given the difficulties we have to overcome in adequately explaining who is and who should be a parent, it is surprising that parenthood is such a historically stable and culturally invariant social institution. Since the concept is apparently fuzzy, why do innumerable societies stick to the same idea? How come those few attempts to overcome individual parenthood by socializing childcare have failed and been given up after a generation or two? Maybe we have not yet grasped the most important feature of parenthood. There must be more to the idea than we have managed to make explicit so far, some barely considered aspect that would help us understand the intuitive appeal of parenthood throughout the world's most diverse societies, something that might explain the stability of this notion as well as its social and moral importance, something that might cover the moral idea and the social institution as well.

Such a conception of what it means to be a parent should realize the moral equality of the child by incorporating the views of the child; it should avoid developmentalism and moral adultism, and focus on the child's agency and moral self-respect. We will have to look at matters from a completely different angle and explore in depth what it means for a child to be born. We will have to turn our attention to natality.

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²⁴Tim Bayne and Avery Kolers sketch a pluralistic picture of the nature of parenthood rooted in gestation, genetic derivation and intentions (Bayne and Kolers 2003). Yet, they do not account for the perspective of the child. Michael W. Austin in his book "Conceptions of Parenthood" combines the two approaches and also arrives at a pluralistic account including "a consideration of the interest of current parents, potential parents, children, and society as a whole" (Austin 2007, p. 58). Bonnie Steinbock argues that the concept of parenthood should be based on the standard of the child's best interest (Steinbock 2006). For a concept based on rights and responsibilities see (Archard 2010).

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