

Proofs 10/12/14 Children, Family, Culture and Philosophy
Essays in Honour of Michael Freeman
edited by
Alison Diduck, Noam Peleg, and Helen Reece

Dear Alison, Noam and Helen
Thank you for sending the proofs. The book looks splendid.
There are few tiny points. Best wishes
Priscilla

As you probably know IOE has joined UCL so my address is now:

Institute of Education University College London

P205 Delete ‘ ‘ after children’ children’ and rights’ all three apostrophes need to be deleted in this paragraph:

for negotiating the chaotic fusion of social conditioning, emotion and powerful interests that weave through political decision-making about children’, in order to refocus on children’s interdependent rights’ (Field, 2013: 160–161).

P207

Delete ‘ at the and after case

Each discipline can learn much from the other but I suggest the law has most need of Input... one employs research methodology, the other tests out ideas pragmatically from case to case’ (Freeman, 2012: 9).

P212 add space before 700

Between 170 to700 school students are believed to have been killed,

p213 delete ‘ after 2013].

The youth on social media started the protests about the rise in bus fares [in June 2013].’ (Santos, 2013)

p213 The parents do not work ten hour days h=they work 8 hours plus travel so that the babies work 10 hour days.

Instead of:

Many parents of babies in full-time British nurseries work ten-hour days (8.00 a.m. – 6.00 p.m. or more), longer than the eight-hour days that European laws allow the staff to work.

Say:

Many babies stay (or ‘work’) full-time ten-hour days in British nurseries (8.00 a.m. – 6.00 p.m. or more), longer than the eight-hour days that European laws allow the staff to work.

References

Comma missing after Alderson, P.

Alderson, P. “Young Children’s Human Rights: a sociological analysis” , *International Journal of Children’s Rights* 2012 20(2), 177–198.

Quite a lot of the authors’ initials had the . but not the ,

Corsaro and M. Honig (eds), *The Palgrave Handbook of Childhood Studies* (Basingstoke: Palgrave Macmillan, 2011).

Should be

Corsaro, W. and Honig, M., (eds), *The Palgrave Handbook of Childhood Studies* (Basingstoke: Palgrave Macmillan, 2011).

It would be better if 'accessed' ran straight on the same line after the address

Ndlovu, S. "The Soweto Uprising", *The Road to Democracy in South Africa, Volume 2, 1970-1980* (Pretoria: South African Development Trust, 2010) <http://www.sadet.co.za/docs/RTD/vol2/Volume%202%20-%20chapter%207.pdf>
accessed 15 September 2013.

4/10/2013 revised 15/2/2014 for

Diduck, A., Peleg, N. and Reece, H. (eds) *Law and Michael Freeman*, Leiden: Brill.

Michael Freeman's view of children's rights and some ideas arising from his views

Priscilla Alderson

Abstract

Michael Freeman is a leading exponent and advocate of children's rights, through his own writing and lectures, through his edited books and, since 1992, as founder editor of *The International Journal of Children's Rights*. The Journal has helped to shape international understanding, research, debate, policy and action on children's rights and on the 1989 UN *Convention on the Rights of the Child* (UNCRC). Scholars and advocates from a range of disciplines and professions have analysed and conducted research related to the UNCRC, to children's evolving capacities, and to children's rights and interests in many varied contexts. Yet there has not always been insight into the basically legal nature of the UNCRC and of rights. Children's rights have, at times, been misunderstood as contingent social constructions, or they have been reduced into the vague concept of "participation". This paper will consider Michael Freeman's incisive legal approach to children's rights, grounded in his thorough knowledge of law and ethics and the history of human rights, as well as his robust defence of children's rights. It will then discuss some ideas that have developed from his work.

Introduction

I will begin with four examples that illustrate the range of research and activities concerning children's rights. They lead on to a discussion about Michael Freeman's contribution to the present richly complex and evolving international understanding of children's rights, in their immense variety of social and geographical contexts, and in related activities that cover "all matters affecting the child" (UN, 1989). They involve both universal principles and also flexible, local interpretations and applications.

The theory and practice of children's rights are further developed through the complicated range of speakers and actors: children, young people and adults; specialists from many academic disciplines; professionals and policymakers in state, voluntary, commercial and international agencies; those who plan and provide services and those who use them. A few of Michael's crucial contribution to these

debates and developing knowledge through his writing, lectures and editing will be reviewed.

Scholars and advocates from a range of disciplines and professions have analysed and conducted research related to the UNCRC. Some childhood specialists are very familiar with the law (for example, Judy Cashmore, Megan Gollop, Jane Fortin, Laura Lundy, Aoife Nolan, Nicola Taylor, Kay Tisdall, Carolyn Willow with colleagues at CRAE, Karen Winter and others). Yet there has not always been a clear grasp of the basically legal nature of the UNCRC and of rights. Children's rights are more than "participation", or contingent social constructs. Michael's incisive legal approach to children's rights will be considered. It is grounded in his knowledge of international, statutory and common law, medical and family law, jurisprudence, and the history of human rights, as well as his robust defences of children's rights. He combines academic and practical advocacy approaches to children's rights. I will mention some of his criticisms of UNCRC and his interest in actively furthering children's rights. In the final chapter in this volume Michael gives a more direct and detailed account of his views of children's rights, which are also further discussed in other chapters. I will simply review and comment on some of his main concerns, and then also add some ideas, which have been encouraged by his work, and with which I hope he would agree.

Four examples

The examples illustrate a little of the range of research about children's rights.

1) Australian lawyers were interviewed about their work of defending Aboriginal families, whose children are removed by social workers. Indigenous children make up only three per cent of the population, but they are 24 per cent of children placed in care. In Queensland nearly half of all infants aged under one year placed in care are indigenous babies.

Lawyer 1. Most parents whose children are removed have been removed themselves [as children from their families].

Lawyer 2. So that's pain on top of pain...Five generations in some families now.

The lawyers wanted the children's human rights and their history to be understood and respected by the social workers who tended to be young and inexperienced (Douglas and Walsh, 2013).

2) Many thousands of young people each year are excluded from school. This sets them at higher risk of losing their school education and qualifications, and of engaging in unhealthy and criminal behaviours, with potentially very long-term adverse effects. Researchers have examined how school policies ignore children's rights, and how applying the United Nations 1989 Convention on the Rights of the Child (UNCRC) could inform and transform these school policies (Hemphill and Schneider, 2013).

3) Children who work as domestic servants more or less fulltime – or very much overtime – are particularly hidden away from the public. They are therefore most

vulnerable to abuse. Many are trafficked or coerced. Yet many others, wisely or not, decide to migrate and take on this domestic work, hoping to increase their family's income or at least not to be a burden to their parents.

All children work, at school, and usually at home, besides often having part-time employment. Therefore to make all work or specific types of work illegal for all children, or for children under certain ages, raises problems.

- It can disrespect their valuable contributions to society and to their family.
- It can disrespect the fact that their employed work is often essential to pay for their food and schooling and other family expenses.
- It can remove vital legal protections from working children.
- It can increase the risks that children outside the law will be trafficked, concealed, exploited or abused.

If migrant young domestic workers are discovered in households in Britain, would it therefore be better to treat some of them as capable agents rather than as helpless victims? How might this respect their UNCRC rights, especially Articles 3 (best interests), 12 (right to express views), and 32 (protection from economic exploitation and hazardous work)? How could this connect to national and international law? Would these children and young people be better served if English law recognised the rights of certain minors to choose to migrate and to work in Britain? (Scullion, 2013).

4) The UN Security Council works to maintain world peace and security and to prevent violations of human rights, by setting standards and influencing national and international law, though it does not make law. Whereas the Council respects adults primarily in terms of their human rights, the Council tends to favour the protection of children over all their other human rights.

This does not necessarily best promote the rights and freedoms, for example, of children affected by armed conflict: their rights to life, to survival and development, to healthcare and education, to promotion of their best interests, to non-discrimination, to express their views and to be heard, as well as the decision of many to become child soldiers. It is paradoxical and self-defeating to exclude children from the Council's main concern and guiding priority with human rights.

Sarah Field documents the disadvantages for children of their exclusion from human rights, and concludes that the Security Council is insufficiently influenced by the UNCRC. Instead, it is driven by social conceptions of immature children and by biomedical models of children's vulnerability and reactions to adversity. However, the UNCRC, she argues, provides a framework:

'for negotiating the chaotic fusion of social conditioning, emotion and powerful interests that weave through political decision-making' about children', in order to refocus on children's interdependent rights (Field, 2013: 160-161).

Understanding and advocating children's international rights

The four examples will be familiar to readers of the *International Journal of Children's Rights* (IJCR). They all appear in a single issue (21:1), illustrating the way examples from around the world and from every UNCRC Article and concern are packed together. IJCR has played a key part in building up the living, international, widely interdisciplinary study and debate about children's rights, with close links to policy

and practice. For 21 years IJCR has consistently been doing the sterling work of negotiating “the chaotic fusion of emotions, myths and powerful interests” (Field, 2013) that can both undermine but also promote children’s rights. And IJCR keeps redrawing everyone’s attention to those specific rights.

As the founder-editor of IJCR, Michael Freeman has immensely contributed to the present richly complex international understanding of children’s rights. IJCR does justice to these rights in their variety of social and geographical contexts, covering “all matters affecting the child” (UN, 1989), in other words, every aspect of life, with examples from every part of the world.

Understanding of children’s rights is further developed through a complicated range of speakers and actors. In its reports of research and activity with children, young people and adults, IJCR publishes papers by specialists from many academic disciplines. The work of professionals and policymakers in state, voluntary, commercial and international agencies is reported and critically discussed along with the views of those who plan and provide services and who use them. Work that unreservedly supports children’s rights is published and reviewed as well as cautious or sceptically critical work. All help to promote debate leading towards greater knowledge and evolving awareness in Michael’s edited books and IJCR. The fat later volumes of IJCR, compared with the thin earlier ones, show the great increase of interest and activity around children’s rights, for which IJCR can take some credit. The increase is also shown in IJCR’s rate of rejecting submitted papers, which has doubled from around 30 per cent to around 60 per cent today.

Besides the daunting demands of teaching, lecturing at many conferences, convening these annual colloquia on 15 different topics in relation to law, and editing the 15 books that report them, as well as editing other journals, Michael has published over 60 books, and many chapters and papers. He is a very involved editor of IJCR, frequently reviewing the submitted papers and often writing the book reviews. His book reviews note errors frankly. For example, on a book that aims to present a critical philosophy of rights law, he commented: “This is a noble ideal, but whether the book as a whole lives up to it may be doubted” (Freeman, 2013a). Michael’s reviews also do the vital work, too rarely undertaken, of critiquing books, which attend mainly or only to adults and generally ignore children, and of showing how fully relevant these works are to children too (just one example is Freeman, 2013b). His reviews are usually encouraging as well as critical – unless the book opposes children’s rights without convincing logic or evidence. There is his well-known demolition of Martin Guggenheim’s (2005) book *What’s Wrong with Children’s Rights?* in the paper *What’s Right with Children’s Rights?* (Freeman, 2006).

Academics generally aim to hold mixed, cautious and inquiring views about any topic they research, but many academics also attempt to sit on an imaginary neutral fence, such as trying to hover somewhere between being basically either pro- or anti-children’s rights. “Objectivity” involves the crucial values of being fair and open-minded, of striving to analyse and understand all relevant data impartially, and to work towards balanced conclusions with a certain detachment that avoids prejudice, bias, self-interest and premature judgments. However, “objectivity” is sometimes hijacked also to mean value-free, as if no academic should have guiding values, or at least should not let these influence their work (see for example, Hammersley, 1995; Seale, 1999). (These authors do have values, but they count their “liberal” views as neutral, in contrast to “ideologies” such as feminism.)

Steven Lukes (2008) and Andrew Sayer (2011) show at great length that relativist claims to be “value-free” are illusions and deceptions, because values are central not

only to researchers' own lives, but also to the topics and the people they are researching. Human life and relationships can only be understood in relation to inherent values such as honesty, respect, justice, equality and compassion, or their opposites. Michael's academic experience helps him to be objective, while his barrister training also helps him to be a strong advocate of children's rights, prepared to admit and explain his values of respect for them. He protests against corporal punishment (Freeman, 1999) and supports children's viewpoints, critical of groundless complacency when "smug satisfaction still oozes from the government" (Freeman, 2002: 97).

Childhood studies and children's rights

Editing IJCR and reading the submitted papers, both accepted and rejected, means that Michael probably knows more than anyone in the world about the whole current range of children's rights activity and research in law and policy, in anthropology, sociology, geography, psychology, social work, history, healthcare, education, economics, cultural and media studies, crime, youth studies, comparative and development studies, and other disciplines, as well as by NGOs in every continent. This involves some understanding of different theories and methods, technical terms and concepts in each discipline. His interest in different disciplines is shown in the 15 multi-disciplinary colloquia he convened "Law and –". The fourteenth colloquium, Law and Childhood Studies, was followed by a book of thirty chapters, which included Michael's comprehensive introduction and his review "Towards a Sociology of Children's Rights" (Freeman, 2012: 1-9, 29-38).

Michael is one of the few lawyers working, speaking and writing on adult and child rights and law, and also on childhood studies. He works to bridge the gaps between lawyers and social researchers, and to promote cross-disciplinary, critical debate. He commented: "Each discipline can learn much from the other but I suggest the law has most need of input...one employs research methodology, the other tests out ideas pragmatically from case to case" (2012: 9).

The pragmatic legal testing can be greatly informed by the wealth of social research about children's diverse views and experiences, needs and interests, and by sensitive methods of communicating, which researchers have developed with children and young people. Karen Winter's book (2011) based on her PhD research reported her skilful new approaches to listening to children aged 4 to 7 years, who had been severely neglected and abused. For example, Karen sat next to each child instead of opposite them, which could be potentially intimidating and overbearing. Able to avoid eye contact if they chose, while they talked the children decorated shoe boxes with art work and drawings. On the outside they showed the kind of person they were or felt they seemed to be, and on the inside they expressed their "wishes and feelings", to which the 1989 Children Act requires professionals to listen. The children were able to control the pace and topics during the interviews; if they wished to avoid or delay answering a question, they could deflect it by saying, "pass the glue", or by being absorbed in their art work.

Although the youngest children are at highest risk of severe and even lethal abuse, and although repeated public inquiries stress the urgent need for adults to listen to them, these children are still seldom heard. Most lawyers and social workers appear to believe that either these children cannot express their views, and/or they do not have views worth expressing. As Karen's supervisor, I was impressed that her young

interviewees shared such profound views with her about their hard lives, which she reported and analysed so carefully. As one of her viva examiners, Michael showed his concern and respect for these very young children's views and rights and for Karen's important work on developing listening methods for professionals to use.

Childhood studies differ from the older and still dominant discipline of child development. Child development theory stems from bio-medical traditions, including the philosopher, doctor and educationalist John Locke in the seventeenth century up to today's medico-psychological experts (Hardyment, 1984). Children's gradual cognitive development mapped, for example, by Jean Piaget (1928) tends to be seen as a universal genetic unfolding that mirrors physical growth (Morss, 1990). Another medical influence is the emphasis in child psychology on identifying the abnormal or pathological, in the hope of providing preventions and remedies to such problems. However, if psychometrics treat children mainly in terms of pathologies and problems, which are given high scores, and dismiss 'normality' with a zero score in psychometrics, it is hard to respect children as competent agents (Oswell, 2013) or as citizens (Cockburn, 2013). And if young children are seen as pre-social, pre-moral, quite helpless becomings and not yet human beings, they can scarcely be entitled to human rights. This poses the great problem of how rights can genuinely be "human" if they cannot apply to every human being from birth.

In contrast to child development theory, and like the UNCRC (1989), interdisciplinary childhood studies emerged much more recently. They were formally set out, theorised and researched from around the mid-1980s. For example, with colleagues Jens Qvortrup (1991) established in a cross-European survey that childhood is a universal social phenomenon. The numbers of children in Europe were falling, while numbers of older people were rising. Children featured ever less often in public and political concerns, and they were increasingly likely to live in poverty. Jens's warnings from over 20 years ago have been vindicated by the way current austerity policies especially hurt children and young people, when they cut state benefits and services in Britain (CRAE, 2013), as well as around Europe and the United States (Nadesan, 2010), and across the globe through International Monetary Fund restructuring (Klein, 2007; Harvey, 2012). The economic oppressions increase the urgent need to understand childhood through the perspectives of political and economic rights, rather than through the lens primarily of personal psychological development. IJCR plays a vital part in mapping children's economic needs and rights around the world (among many examples see Nolan, 2013).

Childhood studies move on from developmental psychology's concern with immature, unstable, incomplete, dependent children, who slowly work up the genetically determined stages towards mature, stable, complete, independent adulthood. Instead we recognise that people of all ages, children and adults, can be competent and incompetent, foolish and wise. In 1990, six tenets of interdisciplinary childhood studies were proposed by Allison James and Alan Prout (1990/1997).

They held that:

- Childhood is understood as a social construction, not an inevitable biological state;
- It varies in time and place, and with class, gender and ethnicity – there is not one childhood but many;
- Children's lives are worthy of study in their own right;
- Children are active agents in their own lives and relationships, not simply passive subjects of social or biological structures and processes;

- Ethnography is a particularly useful method of studying children's views and behaviours through observations, interactions and interviews directly with them (not depending wholly on adults' reports);
- In a double hermeneutic, adults and children together construct children - as helpless victims with rescuing adults, or needy dependents with providing adults, as naughty deviants with disciplining adults, or as resourceful actors interacting with respectful adults.

There were, of course, precedents. Philippe Ariès (1962) showed how today's sheltered childhoods are partly a middle-class, post-feudal invention, and John Holt (1975) advocated far more respect for children's rights. Margaret Donaldson's (1978) research demonstrated that young children are much cleverer than Piaget supposed. Her book appeared in a remarkable series in the 1970s about babies' and young children's profound understanding and agency. Myra Bluebond-Langner (1979) recorded the insight and courage of young children who had cancer, while they tried to protect their parents from stress and grief. Michael Freeman started writing about children's rights in 1980 and his *Rights and Wrongs of Children* (Freeman 1983) predates the UNCRC and is likely to have influenced its ten years of being slowly written and agreed. And the English *Gillick* case (*Gillick v West Norfolk & Wisbech A.H.A.* [1985], 3All ER) partly exceeded the rights in the later UNCRC. The Convention, in Article 12, only allows children to express views on matters that affect them according to their age and maturity, and states that adults should give "due weight" to these views. That leaves adults with great power to determine whether, when or how to give this "due weight". The *Gillick* ruling, however, respects legal minors' right to be the main decision maker in certain personal matters. The UNCRC Article 41 respects any national cases or laws, such as *Gillick*, "which are more conducive to the realisation of the rights of the child" than the UNCRC is.

These and other matters relating to law and children have been extensively analysed in Michael's many edited volumes. His work finely balances social science theories of childhood and children's lives with the more precise and abstract world of the law. Crucially, childhood studies pave the way for social researchers to respect children not only as agents but also as active rights holders, with legal rights such as "*Gillick* competence", and to see children as real complicated human beings as well as the becomings that we all are at every age (for example, Alderson, 1993 on children's rights to give or withhold informed consent to major surgery).

Children's rights, dissent and protest

The UNCRC rights are said to be indivisible and interdependent. Central to them all is a degree of freedom for rights holders as agents to choose, including their options to dissent and protest without fear of punishment or prejudice. Children's and adults' rights are, however, qualified by the demands of public law, order and morals – the common good. Free speech does not include the right to be racist, for example. Yet without freedoms, "rights" might better be understood in terms of welfare, benefits, needs or interests. And these welfare aspects of children's entitlements, to basic protections and provisions to sustain their life and growth, are generally accepted – despite neoliberal policies to cut state benefits and services with little mention of how children are especially affected (Harvey, 2012; Klein, 2007; Nadesan, 2010).

Still, the main controversies around children's rights involve their freedoms: of information and expression, thought, conscience and religion, association and

peaceful assembly and privacy (specifically in UNCRC Articles 12 to 17). Michael has repeatedly criticised the views of those who would deny children's freedoms. They belong to two main groups that could broadly be called pro-rights liberals and anti-rights critics.

Pro-rights, paternalist liberals tend to believe that rights and freedoms are defined as the prerogative of rational adults, and that children can only risk harming themselves or others if they try to exercise them. If adults choose to harm themselves they may do so, but children must be protected. Liberals allege that all children are immature and unable either to know their best interests or to make rational choices. Liberals fear the threat to adults' freedoms and responsibilities, especially those of parents and teachers, if children's rights are respected (O'Neil, 1988; Brighouse, 2002) (see Freeman, 2006, 2011 and his other critical papers).

Some childhood researchers confuse traditional liberalism with ruthlessly individualistic and competitive neoliberalism. They then dismiss liberal rights as neoliberal ploys (for example, Wells, 2009). When the USA and UK cite "abuses of human rights" as grounds to oppress and invade other states, the accusations do indeed seem hypocritical. The USA and UK also violate rights, when they too commit torture and hugely invasive public surveillance, hold secret trials, and deny entry to asylum seekers. Yet these travesties demonstrate how liberal rights, far from originating in neoliberal policies, challenge them.

Anti-rights arguments come from anthropologists on two main grounds. First, research should be value-free, impartial inquiry, and therefore should not be influenced by normative concerns about rights. I have considered this illusion of value-freedom earlier. And the notion and aim to be value-free could itself be seen as a moral ideology. The anthropologists' second objection is that universal rights are untenable in a world of vastly differing cultures, especially because they are social constructs based on Western norms. To support this claim, an extreme and unreal concept of rights may be advanced. For example, Jo Boyden (2004: 247) reports many practical difficulties in her valuable ethnographies with children in war zones. She then concludes, without referring to any rights treaties or literature, that human rights are normative assumptions, which "clash with the way different societies organise themselves and think about infractions and justice". In the "Judeo-Christian" rights worldview:

"the individual human being exists as an autonomous entity in itself [*sic*]...In most other cultures, the individual cannot be isolated from the whole in this way, but forms an integral part of the natural, spiritual and social worlds. Persons are bound to social groups through a complex network of obligations and duties that are associated with their position in those groups: individuals have no claims that are independent, or outside, of these groups and the notion of rights is entirely foreign. [War and atrocities] may be understood as caused not by [individual or group] human agency...but by upheavals in the social, supernatural or natural worlds."

These are untenable, extreme dichotomies. One set of children and adults is no more entirely isolated, than another set is entirely integrated. Human rights exist within relationships and are necessary because of them, to guard against abuse or neglect. One type of culture is not wholly concerned with autonomy and rights any more than others are entirely concerned with duties. If, as implied, non-Western societies run wholly on "obligations and duties", their wars and terrible atrocities that

Boyden researched would not occur. The UNCRC Preamble moves beyond the alleged individualism into social concepts of rights to equality and solidarity (fraternity) as well as liberty: "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". Many "westerners" are aware of their integral dependence on natural (physical, ecological), spiritual (religious, ethical, aesthetic) and social (plus political and economic) worlds; they acknowledge these deep, structural causes of armed conflict, such as over land, water or oil, besides individual causal agency.

To claim that "the notion of rights is entirely foreign" could mean, as I found with school students I interviewed, that although they did not use the language of rights, they were centrally concerned with the bases of rights in justice and respect. Alternatively, the claim could mean the absence of any concept of oneself as partly a separate, needy individual whose integrity can be honoured or violated. That would entail children's and adults' indifference to being abused or exploited, starved, raped or tortured. It implies they would socially construct such experiences as meaningless, or as duties to be borne without protest for the good of the whole community.

Jo Boyden (2004: 247-8) is concerned that "by framing war events in terms of human rights standards, researchers may neglect" the respondents' own perceptions and experiences. They may perceive children as victims to protect, instead of as "conscious agents" with "political consciousness and activism" and "motives" to join in armed conflict. Unsurprisingly, the last few phrases (inadvertently) fall into the language of human rights, indispensable to any analysis of war. Jo Boyden makes a powerful case to respect the right of children to protest, apart from avoiding explicit rights language.

Since all children's rights are too often shrivelled into protection and provision, the following points are reminders about the crucial "participation" freedoms. Human rights have been refined by philosophers and lawyers over centuries, and are enshrined in international treaties. Yet originally, pre-notions of rights slowly emerged through many centuries of protests and rebellions. The biblical story of Exodus, the so-called "children of Israel's" escape from slavery in Egypt, may have been told in the sixth or eighth century BCE. Many or most of the migrants literally were children and young people, given the very short life-span then. The British Empire saw many mass protests by Muslims, Hindus and adherents of other faiths.

Moving to the twentieth century, the longest running strike in Britain (1914-1939) was conducted by school children, in support of two teachers who were sacked for such enormities as lighting a fire in the damp school without permission - to dry the clothes of children who had walked three miles to school in the rain (Bertram, 1971). In Poland, child rights advocate Janusz Korczak fully shared with the children the democratic running of their orphanage in a Warsaw ghetto, with a parliament and a newspaper, and his final protest was to choose to share their death in the gas chambers in Treblinka. A student on our MA course on children's rights, Gabriel Eichsteller, submitted a version of his dissertation on Korczak to IJCR. Michael responded that although he had been writing a paper for the journal about Korczak, one of his heroes, Gabriel's paper was better and he would publish that instead (Eichsteller, 2009). School and college students sparked the American civil rights movement in the 1960s by refusing to be served in blacks-only canteens (Red Card, 2013). And an estimated 20,000 school students in Soweto ignited the anti-apartheid movement in South Africa in 1976, when they protested against the introduction of

Afrikaans as the medium of instruction in local schools. Between 170-700 school students are believed to have been killed, an indictment that no one knows all the names and numbers of those who perished (Ndlovu, 2010). Even today and contrary to UNCRC Article 7, every year an estimated one third of births are not recorded, signifying that states do not treat these babies as citizens with rights, which states undertook to honour when they ratified the UNCRC and related treaties.

In the tradition of protest, this century has seen unprecedented gatherings by young people facing violent police and armies (Mason 2012). They are willing to die for “our rights” - meaning other people’s as well as their own rights - in extreme solidarity. They demonstrate how some, many or most children and young people understand justice in terms of human rights, and how to protest if they believe they have just cause. For example, Rene Silva Santos (2013) lives in one of the largest of the many favelas (slums) of Rio de Janeiro. Housing is crammed into tiers rising up the hills around the city, with open sewers and few if any public utilities or services. Dominated by drug cartels, the favelas are regularly raided by the police. Rene described how when he was 11 years old he started a community newspaper in 2005. “No one heard the children and the people who live in the favela and we never went into the central city. I knew then that it was very important that we should be heard.” In November 2010, televisions reported a police raid with helicopters and armed vehicles searching for traffickers. The sloping hillsides exposed great tracts of the favelas to view.

“I started reporting on twitter, correcting the media reports. I couldn’t believe it, my live tweets were on TV about what was happening. I already had 600 followers, and suddenly I had 10,000. Famous people were asking, ‘Are you ok? We want to know your view? Is it true? How do you know?’ I said, ‘I live here, not like you journalists who cannot get in.’...Next day all the media wanted to interview me. I knew I had to show positive things about our favela and change people’s minds...It’s very important that we take part and fight for our rights and for democracy in Brazil. The youth on social media started the protests about the rise in bus fares [in June 2013].”

Such examples illustrate how misleading arguments, that children cannot and should not understand and exercise their freedom rights, may serve adults’ interests rather than children’s. From 1990, many researchers hoped that the new paradigm of childhood studies would emancipate children away from child development theory and into mainstream “adult” academic research and policy, practice and public debate. They hoped that childhood studies might advance children’s rights, just as feminism and gender studies have advanced women’s rights. Similarly, many people hoped that the UNCRC would remind everyone that children have human rights too, and that the Convention would increase practical and moral respect for all children in all areas of public and private life.

This has hardly happened. There have been some moves forward but many reversals. Developmental psychology continues to dominate professions such as paediatrics, teaching, social work and international development, as well as public opinion and policymaking. Psychology stresses protection of children and provision for them, but scarcely endorses their freedoms, as Boyden (2004) rightly criticised when she reported research in armed conflict zones. Too often, psychological attempts to explain problems that confront children involve implicitly or explicitly blaming children’s ascribed, immature dependence or deviance. The effect can be to

shrink massive economic problems down from international politics and into the personal failing of individual children or parents.

There are now fewer public and commercial spaces where young people are “allowed” to meet one another. Painful mosquito alarms, which adults cannot hear, whine to drive young people and children away from shopping centres. Town centres are being privatised, with private police to move young people away – unless they are avidly shopping. The rural areas and pleasanter, greener, city areas where they once lived and played are being emptied of younger families, many of whom cannot afford the rising mortgages and rents (Harvey, 2012). Children and young people are generally more excluded than they were 20 years ago, let alone 120 years ago, off the streets and into spending longer hours in pre-schools and schools.

Many babies in fulltime British nurseries work ten-hour days (8.00 a.m. - 6.00 p.m. or more), longer than the eight hour days that European laws allow the staff to work. And the shorter staff hours mean that babies have to cope with changing shifts and rotas so that they lack continuing care by the same group of adults through the day. Among numerous examples, in another very different aspect of children’s rights, the great increase of children and young people in detention centres and prisons includes many very young parents whose own children are punished too. Young prisoners are likely to have been looked after (in care). They are often moved between prisons far from home, causing great distress. They tend to have poor literacy and numeracy skills, and to have housing, unemployment, addiction and mental health problems. Many have been sexually abused (Jacobson et al., 2010).

Researchers can inform public protests, and other work with and for children to benefit their daily lives, by documenting, analysing and explaining such experiences through a children’s rights lens and through such channels as IJCR, the Children’s Rights Alliance for England’s annual reports and website (CRAE 2013, www.crae.org.uk), the international website Children’s Rights Information Network (www.crin.org), and the Centre for Crime and Justice Studies www.cimeandjustice.org.uk.

Theories of children’s rights

Besides collecting and reporting data, the central task of research is to develop or reveal theories. Theories have three main meanings here: to help to clarify and define formerly blurred and confused concepts; to explain often underlying, hidden and misunderstood but powerful processes; to examine and connect outcomes to these processes.

Childhood studies are strong on certain theories, such as meanings and explanations about the child and childhood. For example, Jo Boyden (2004) challenged the dominant psychological theories of children as passive, traumatised victims of war. She showed how 100,000s of children are instead deliberate agents during warfare. She criticised the favoured research method of standardised psychometric questionnaires. Children are asked to select responses already determined by the researchers and their theories. These may yield only superficial, irrelevant or misleading data. Almost inevitably the outcomes replicate and confirm the theories and methods. These tend to miss children’s real experiences and concerns, and their local contexts. More relevant and revealing research relies on more complex theories of children as conscious agents, who have concerns about their future as well as their past.

However, there is generally less clarity and insight in childhood studies generally in theories about rights. One common limitation is to reduce the whole range of human rights into UNCRC Article 12, children's right to express views, or to "participate" in "decision making" (neither term is mentioned in the Convention) mainly in adult organised agendas. Some researchers criticise the UNCRC, when faults actually lie in the many ways the Convention has been misunderstood or misapplied, misquoted or misinterpreted, or simply not read.

Whereas mainstream "adult" law and policy tend to ignore children's rights, childhood researchers tend to pay little attention to rights and law. They often miss basic meanings and theories of rights: that these are legal, carefully worded, practical and potentially enforceable concepts, about specifically defined behaviours, which can at least partly be held to account in a court of law. Love is not a right because parents cannot be sued for not loving their child enough, for example, but parents can be held to account for neglect or abuse. Researchers who miss this basic theory, that rights are about law, risk inventing vague rights that would be quickly dismissed in a court of law: the "right to a childhood", or "the right to be properly researched". The meaningless "right to health" claim opens up rights to be ridiculed by critics. Try telling a child who is dying of cancer, "don't worry you have a right to health". Instead the carefully worded UNCRC (Article 24) speaks of "the highest attainable standard of health", and of international cooperation between richer and poorer states towards achieving this. On my above third point about theories, that they examine and connect outcomes to earlier processes, rights are not simply slogans or debates but goals to work towards.

A potentially useful project about "citizenship from below" (Liebel, 2008: 32) involved African children in townships and African working children "being able to confer rights on themselves". This phrase ignores structural, political, historical and accountable aspects of rights. Which powerful groups would recognise or respect any invented, self-conferred rights of weak disadvantaged groups? "Top down" pressure from the United Nations is so weak that separate pressure "from below" is likely to be even less effective, unless these two work together.

The African children discussed and then "formulated" and "adopted" rights that were mainly "orientated to the UNCRC", though they do not seem to have read the Convention. For example, the working children claimed: "We should be allowed to play with our friends on Saturdays and Sundays" (Liebel, 2008: 40). The township children stated: "All children have the right to demand health and medical care, without obtaining permission from their parents or mentors" (Liebel, 2008:39-42).

The hope of these important aims being formally honoured by authorities could have been considerably strengthened if the children had had more informed legal help. This could have advised them about knowing which rights are already enshrined in the UNCRC and the African Charter (1990) and so are already ratified by their governments. Legal help could have furthered their understanding of how rights are general and quite sparsely worded principles, open to a great range of local interpretations. Then they could have seen how to build on the general and already ratified rights in order to explain and claim the specific further ways in which these needed to be interpreted and implemented. This would involve seeing the crucial importance of clear, specific wording.

A "right to demand" healthcare does not mean much, since it requires no response. It is much weaker than: "State parties shall strive to ensure that no child is deprived of his or her right of access to such health care services" (UNCRC Article 24, 1). This can then be followed by the vital point that if parents and mentors deny such access,

children should not therefore have to depend on their permission. The *Gillick* English case law applies in many of the 54 or so British Commonwealth countries, of which South Africa is one, so that in theory the children already have this right, on certain conditions.

The claim, “We should be allowed to play with our friends on Saturdays and Sundays”, slips from the rights language of entitlement down to the conditional language of permission, and sets unhelpful limits on the time and type of play. The phrase is more weak and limited than the UNCRC’s unconditional, complementary and mutually reinforcing rights: to rest and leisure (Article 31), freedom of association (Article 15), freedom of expression in any medium (including play) (Article 13), best interests (Article 3), non-discrimination (Article 2) and other powerful rights.

The examples illustrate how childhood researchers and advocates, as well as children and young people, need to know more about rights within legal framework and how these can serve children. More of Michael’s interdisciplinary law↔childhood work is much needed. He has helped to clarify knotty problems of the relationship between international law, national statute and numerous common law cases, see Freeman (2007b), for example, a work that also addresses the minefields of how concepts of children’s best interests can further their rights rather than undermining them, whether there can be international checklists, and how the world’s resources can serve children’s best interests.

Exploring new areas

Unfortunately, research journals about childhood tend to expect empirical papers, with little space for new thinking, and to reject more wide-ranging reflective work. For example, the leading international journal *Childhood* refused to publish a review of a splendid book on *Education, Asylum and the “Non-citizen” Child: The Politics of Compassion and Belonging* (Pinson *et al.* 2010), as outside their remit. The book reports English school children’s successful campaigns to stop their asylum-seeking friends from being detained or deported. The authors extended their empirical work into theorising about the growing political awareness of children who challenge received ideas, including xenophobic views held by some of the adults in their lives as well as by the mass media and politicians. The children learned to look beyond prejudices and to relate to young asylum seekers in their school in terms of compassion, belonging and justice.

The book crucially questions the received wisdom: that uncivilised children are taught and socialised by adults into gradually becoming mature citizens. First, like many children and young people around the world who join in public protests, the children in the book could show political maturity and courage at an early age, from around 6 years, when they had relevant experience of injustice and suffering. Second, although some teachers and parents joined in the children’s campaigns, adults cannot be counted on to teach the politics of compassion rather than the dominant neoliberal politics of self-interest and competition. Third, the authors identified political maturity with the children’s awakening awareness of their need to question and protest against received and dominant views when these are unjust. This raises vital questions about citizenship education, and its present emphasis on *talking* about current systems. In contrast, in this book, children learned through directly *experiencing* and actively challenging dominant but unjust systems. The IJCR did publish a review of this book, and it accepts other papers rejected by

journals, which seem to find them too unusual, or maybe too challenging, for their readers.

Michael is willing to publish a variety of formats from empirical research reports, to critical overviews, to analytical and sometimes provocative papers, which he also authors. He accepted my paper (Alderson 2012), which was rejected by the editors of a special issue sociology journal on human rights. They chose detailed empirical studies instead. My paper hovered on the edges of mainstream sociology, childhood studies, history and ethics. It reflected on possible reasons for sociology's neglect of human rights – let alone of children's rights. The first stream on human rights was not convened at a British Sociological Association meeting until the sixtieth annual conference in 2011. Yet the BSA opened shortly after the *European Convention on Human Rights* was agreed in 1950, the *Universal Declaration of Human Rights* was agreed in 1948, and the *Nuremberg Code* on international medical research ethics was agreed in 1947. Research ethics is another topic that has been grossly neglected and even rejected by sociologists until recently. All three international quasi-legal documents were outcomes of the Nuremberg Trials following the Holocaust. The Holocaust too is almost entirely missing from sociology (Bauman 2003). Yet human rights could count as a major social concern, and the Holocaust was a key social event of the twentieth century.

Like the book by Pinson *et al.* (2010), my paper considered whether rights are wholly taught to children by adults, or are learned through personal experience. It looked at how childhood studies, through research about the early origins of rights awareness among young children, might inform research about adults' rights. Years ago Michael argued for a shift in understanding children's rights, to move from rights of having to rights of being, from assessing (adult-orientated) capacities and competencies to respecting the rights of all children "by virtue of being children" (Freeman 1998: 442). Zygmunt Bauman (2003) questioned the assumption that rights have to be taught to antisocial children. That implies rights belong to culture but not also to human nature. Yet if rights are somehow against nature, what are their origins and relevance to our daily lives? The views of Emile Durkheim and Talcott Parsons assumed that educators must teach children a moral compliance that supplants their initial dysfunctional, amoral noncompliance. However, Bauman (2003:173) saw dangers if compliance is seen as the sole moral option, when "actions are evil because they are socially prohibited, rather than socially prohibited because they are evil". Instead, he identified morality with those rare people who are brave enough to protest against injustice and cruelty, such as the Holocaust. Powerful feelings about compassion and sharing, respect and trust, justice, questioning and protest, all grounds for practical support for shared human rights, seem to exist in very early childhood. The feelings appear to be part of our authentic human nature, sometimes arising from embodied pain and fear, and not solely through synthetic instructions, although these early intuitions can be gradually refined and clarified through years of experience and education. I have explored these new areas, linked to Michael's phrase "rights of being", in a book on childhood and realism, which centres on being (ontology) (Alderson, 2013).

Conclusion

Among other people, Michael has criticised the UNCRC and the UN Committee (such as in Freeman, 2007b) for omissions, for instance, under-attention to the most

disadvantaged children, lack of children's own views, and the lack of enforcement procedures. Although he has called for a revised Convention, he agrees that would hardly be a realistic hope. It would not get the near universal ratification of the present version, largely achieved by the great efforts by an American, James Grant. Governments are now much more aware of what they have ratified, and how their reports to the UN Committee can embarrass them. The UN is now more torn by disputes than during 1979-1991 when the UNCRC was being written and ratified. There are new conflicts and angers, such as between religious sects, which seem likely to preclude future international consensus on any matter, let alone on children's rights. The USA has less influence, and in any case it has not ratified the UNCRC, while no other major power seems interested in taking a lead to promote children's rights.

The best way forward would seem to be to promote ever more understanding of the meaning of the present UNCRC and its links to other UN Conventions, with the potential relevance of their broad terms to address longstanding problems, new problems, and old problems as they become newly visible, such as climate change, which especially affects the youngest generations. Research, practical action and debates among states, services, NGOs, and among adults and children generally (see Laura Lundy's chapter) could all help to expand the positive influence of the UNCRC. This would include increasing general understanding of the crucial importance of children's rights, and of the benefits as well the barriers in efforts to implement them, with possible ways to overcome the barriers, thereby further developing much of Michael's work.

I will end by listing some of the essential qualities or powers of children's rights, which Michael identified in one of his papers (Freeman, 2007a), in the hope that everyone researching and working on children's rights will keep them in mind.

Children's rights:

- Respect children as subjects in their own right;
- Are inclusive;
- Are indivisible and interdependent;
- Cover the whole range of civil, political, social, economic and cultural life;
- Respect the dignity, integrity and humanity of every rights bearer;
- Respect children's competence and also their needs and interests;
- Address power, and the real, risky, often dangerous world, not an idealised one;
- 'Trump' all other considerations;
- Enable agency and effective decision making;
- Are advocacy tools and weapons;
- Make long suppressed needs visible;
- Are entitlements, beyond the vagaries of whim or privilege;
- Are most necessary and potentially powerful when they seem to be absent and are violated because they demand remedies and, therefore, basic resources and changes;
- Support legitimate protests;
- Promote equity and emancipation;
- Offer internationally agreed, reasoned moral arguments and advocacy;
- Can justify and be the basis for positive action.

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Priscilla Alderson PhD is Professor Emerita of Childhood Studies at the Institute of Education, University of London. With Professor Berry Mayall she designed the Institute's MA course in international children's rights. Recent books include *Young Children's Rights* (Jessica Kingsley, 2008), *The Ethics of Research with Children and Young People* (with V. Morrow, Sage, 2011) and *Childhoods Real and Imagined, Volume 1* (Routledge, 2013).