
From Property to Person Status

Historical Perspective on Children's Rights

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The rights of children that are assured by a society indicate the progress that society has made toward becoming civilized. For hundreds of years children have been treated primarily as property. Recently, they have begun to be considered to be persons. This represents an important transition in the children's rights movement. This article provides a historical perspective on the evolution of children's rights, giving particular attention to the significance of those advances toward person status that have been achieved, those in progress, and those projected.

Children are the most vulnerable major subgroup of the human family; they are least capable of assuring their own welfare and most negatively affected by mistreatment. They are also the developing substance of the future of humanity. Children have recently emerged from hundreds of years of property status to be considered as persons. This represents a transition of the first magnitude in the evolution of children's rights. This article provides a historical perspective on the evolution of children's rights in Western nations, giving particular attention to the significance of advances toward person status that have been achieved, are in progress, and are projected. The article includes six sections: (a) major themes of a brief history, (b) origin and nature of rights, (c) evolution of the children's rights movement, (d) person status issues, (e) prerequisites to progress, and (f) summary and challenge to psychology.

Major Themes of a Brief History

Conceptions and Treatment

The very concepts of *childhood* and *child* are relatively recent achievements. With noted exceptions (deMause, 1974), prior to the 16th century most children beyond six years of age were considered to be small adults and were not separated from adults as a class (Aries, 1962; Plumb, 1972; Verhellen, 1989). Their competencies determined largely what they were allowed or expected to do. Although children derived some benefits from their classless state and assumption of adult responsibilities, including extensive intergenerational relationships and participation in meaningful work, for much of early history childhood appears to have been a "grim period" (McCoy, 1988), a "nightmare" of mistreatment (de-

Mause, 1974). Parents were accorded almost unlimited power over their children, and the children were ignored, abandoned, abused, sold into slavery, and mutilated (Pappas, 1983).

During the 16th, 17th, and 18th centuries, changes occurred in the nature of the property status accorded children. Children, first considered to be chattel, were valued for contributing to family work and supporting parents in their old age. In the early part of this period, young children continued to be ignored and were without individual identity to the extent that they were considered replaceable and interchangeable. Their upbringing was so harsh it produced "distrustful," "cruel" adults, prone to "hostility" and incapable of close relationships (Stone, 1977). Gradually, children came to be considered as a special class, and parents were increasingly expected to maintain, educate, and protect them; schools were given some child-rearing responsibilities, and laws provided reprimand for difficult children. In the 18th century, "parents were almost beginning to consider their children as of the same flesh and blood as themselves" (Bayne-Powell, 1939, p. 1). Children began to be cared for as valuable and vulnerable property.

The 19th century marked the further separation of children from adults as a special vulnerable class in need of protection because of being judged innately good (Rousseau's influence), inclined neither toward good nor evil but malleable through experience (John Locke's position), or innately sinful (the Calvinist perspective; Stone, 1977). Children were considered to be endangered by conditions of immigration, industrialization, and urbanization in ways that would create undesirable behavior and threaten society. This fostered a *child-saving* era to assure the health and welfare of children (e.g., a clean-milk campaign, the establishment of societies to prevent cruelty to children). State, private, and religious agencies began to intervene in family life to protect children. At the beginning of the 20th century, child-saving took on new meaning through a developing "widely spread belief that children were the essential human resources whose mature form would determine the future of society" (Hart, 1982, p. 4). This child-as-redeemer perspective led to child labor reform, compulsory education, and the juvenile court system. During the first half of the 20th century, the child was valued as a potential person, child-oriented family life emerged, and forces external to the

family (e.g., developmental psychology, juvenile courts) began to influence its care of children.

It was not until the second half of the 20th century that the child's existing rather than potential person status received concrete support. During this period, child protection rights advanced both in public attention and service delivery (particularly those relevant to child abuse and neglect). However, the emerging person status of children has been of the greater significance; it has provided justification for rights to protection (i.e., assurance of safety and nurturance) and self-determination (i.e., personal control over environments and in decisions; Rogers & Wrightsman, 1978). In reaction to a society too paternalistic in its handling of children and lacking respect for the basic integrity of children in their own right, children were declared "persons" under the law (*Tinker v. Des Moines*, 1969). They were assured due process in juvenile courts and, *under some conditions*, were recognized to be competent and worthy of limited freedoms (R. M. Horowitz, 1984).

Influencing Factors

The family: child bearing and child rearing. Prior to the 18th century, child bearing and child rearing were dangerous and unsatisfying because of various conditions—lack of birth-control knowledge, the high incidence of maternal and infant mortality, diminished food supply, loss of work, beliefs that sexual intercourse should be avoided during pregnancy and lactation, and reduced interaction because of swaddling. Consequently, many children were unwanted and negative parent-child relations existed, which led to serious abuse and neglect of children (deMause, 1974; McCoy, 1988; Stone, 1977). As these conditions improved, adults developed empathy for the state of childhood and bonds of caring grew between parent and child. This in turn strengthened child-saving attitudes and produced the child-oriented families of the first half of the 20th century (deMause, 1974; Sears, 1975). More recently, the fast pace of living (Elkind, 1981), breakdown of marriages (F. D. Horowitz, 1989; Wallerstein & Blakelee, 1989), and superficial adult-child relations have given children more opportunities to choose for themselves, without the benefit of sufficient support and direction from responsible adults (Bronfenbrenner, 1970; Feuerstein & Hoffman, 1982; Henriksen, 1982).

Economics, work, and education. Most of the "progressive" changes in regard to children were experienced first by the economic "haves", particularly the middle class. However, it was the children of the poor, including immigrants, who were the primary targets of child-saving, because they were in greater danger of mistreatment, which could produce antisocial behavior threatening society (Takanishi, 1978).

Until the middle of the 19th century, children were valued primarily for their economic contribution. In small-town agrarian societies "the labor of children was a social fact, not a social problem" (Bremmer, 1970, p. 103). In one's own family or in an apprenticeship setting,

work was thought to serve the child's future good through promoting discipline. Industrialization led to the exploitation of poor children as cheap labor. During the child-saving era, children's sentimental value—a sacralizing of children—replaced their economic value (Zelizer, 1985), and the school became the major work setting for children. The school work setting has nurtured the potential person status of children by developing competencies for the child's future as an adult. However, it has generally been oppressive in its use of fear and intimidation as control measures and it has denied children opportunities for self-determination or meaningful contributions in their daily lives (Hart, 1987; Henriksen, 1982; Plumb, 1972; Takanishi, 1978). Compulsory education instituted the artificially prolonged childhood currently experienced by young people (Aries, 1962).

Developing sciences and professions. Prior to the 20th century, scientists and professionals affecting children dealt primarily with protection and nurturance supports, and during the last few decades they have given some attention to self-determination issues. For example, the medical field promoted breast feeding, encouraged and later discouraged swaddling, developed birth control methods and disease prevention controls, and provided evidence of physical abuse (Kempe, Silverman, Steele, Droegemueller, & Silver, 1962; McCoy, 1988); psychologists have provided (a) guidelines for child care and discipline, (b) measures of child characteristics, and (c) prescriptions for child disorders and family living (Brassard, Germain, & Hart, 1987; Heatherington, 1975; F. D. Horowitz, 1989; Takanishi, 1978); and social workers have led child-saving movements to improve health and welfare and end abuse and neglect (Axinn, 1975). Education, from its early religious origins, has promoted recognition of children as a separate class in need of stern discipline (Plumb, 1972), and during the last 100 years, education has increasingly assumed major child-rearing responsibilities. Twentieth-century lawyers and jurists, who along with psychiatrists, psychologists, and social workers have been recognized as major support groups for the rights of children, have led the debates on the self-determination rights of children (Farson, 1974; Feshbach & Feshbach, 1978; M. S. Goldstein & Drotman, 1977; Hart, 1982, 1989).

State's interests and court activism. Prior to the 18th century, common law in England and the United States paid little attention to children. Early state law supported parental control, even to the point of providing capital punishment for disobedient children (R. M. Horowitz, 1984). As the child was recognized to be a special, vulnerable class of resource, the state intruded into family life to encourage minimum standards of health, reduce exploitative labor, assure education, and stop abuse and neglect (Margolin, 1978; Takanishi, 1978). The state's interest in protecting children evolved to *parens patriae* actions (first reported case in 1838), a position fully embraced through the development of the highly paternalistic, authoritarian juvenile court system of the first half of the 20th century. This system gave little attention to

the child's perspective and accorded no due process rights (R. M. Horowitz, 1984).

During the second half of the 20th century, the court moved from viewing children's rights as "anathemas" (R. M. Horowitz, 1984, p. 4) to (a) proclaiming children as persons under the constitution, with some rights to freedom of speech and (b) further empowering children by providing rights to treatment and privacy and placing limits on parental control over a pregnant teenager's decision to have an abortion. Recent court actions have reflected society's ambivalence regarding civil or self-determination rights for children by affirming parental authority in some important areas (e.g., allowing parents to commit children to a mental health facility without due process). R. M. Horowitz and Davidson (1984) have provided an extensive review of developments in children's law.

Origin and Nature of Rights

The uneven trends that have moved children from property to person status present a pattern that is not simply the product of chance. The relativism of both the positivist position, crediting legal or state actions, and the utilitarian position, crediting adjustments for practical living, have been rejected as the originating impetus for human rights (Lauterpacht, 1945; Rawls, 1972; Wong, 1980). Instead, the concept of human rights seems to express a shared sense of the natural, inherent, and inalienable rights of human beings, emanating from the intrinsic properties of persons and given philosophical, social, and political policy support throughout history (Pappas, 1983; Worsfold, 1974). The source of this conception of rights appears to be the intrinsic properties of human needs that we hold in common. Adler (1981; Moyers & Adler, 1982) argued that a relatively small set of needs—not desires or wants—are intrinsic to all humans, that their satisfaction is essential to experiencing goodness, and that these needs may be translated directly into rights. The needs Adler and others (e.g., Gil, 1987) have referred to are subsumed by Maslow's (1970) human needs hierarchy. Although the nature of these needs and their significance for human development are insufficiently understood (Goud, 1983), they appear to be essential to successful and healthy development (Hart & Brassard, 1987; Garmezy, 1987; Montagu, 1970; Vaillant, 1977), including the development of autonomy (Farmer, 1982).

Increases in rights have been associated with increases in the degree to which children are considered to be persons (Melton, 1983b). Property status was conferred on children as economic assets and later as valuable resources for the future. The philosophical perspectives of Thomas Hobbs, John Locke, and John Stuart Mill encouraged protection for children and limits on their freedom until they were able to make and understand the consequences of covenants and pursue reasoned self-improvement (Worsfold, 1974). Person status and its accompanying rights were to be granted only when the child developed these competencies.

Children's Rights Movement

Evolution Toward Children's Rights

The human rights movements for mistreated and denied adults eventually extended to children (M. S. Goldstein & Drotman, 1977). Twentieth-century history documents the shifts from adult to children's rights and from protection to self-determination rights for children. The United Nations (UN) Declaration of the Rights of the Child in 1959 had its roots in the Geneva Declaration of 1924, the Charter of the United Nations, and the UN Universal Declaration of Human Rights of 1948 (Pappas, 1983). The White House Conference Children's Charter of 1930 (Myers & Newton, 1936) and the 1959 UN declaration were devoted totally to protection and nurturance rights of children. By the 1970s, more attention was being given to self-determination rights. Both the list of children's rights produced by the White House Conference on Children in 1970 and the Declaration of the Psychological Rights of the Child developed by an international body of psychologists were predominantly protection- and nurturance-oriented. However, the White House list gave modest attention to meaningful choices and a meaningful voice for children, and the psychological rights declaration espoused the right to personal identity and independence and the freedom to express these (Hart, 1982).

United Nations Convention on the Rights of the Child

The recently adopted UN Convention on the Rights of the Child (UN General Assembly, 1989), covering a broad range of categories (e.g., health, family, education, maltreatment, freedom), is the best available formal expression of international opinion on the rights of children (this issue, pp. 50–52). It has the status of a legally binding international treaty for all nations that ratify it, now that more than 20 nations have done so. The UN Convention on the Rights of the Child is a strong indicator of the increased, formal, societal emphasis being given to participation and autonomy or self-determination rights for children, in balance with protection and nurturance rights. Nearly one fourth of the substantive articles are participation and self-determination rights, assuring access to information; freedom of movement, association, belief, expression; privacy; liberty; and development toward independence. The Convention's adoption is the formal beginning of what may be the most important period yet for advancing children's rights. Its emphasis on rights peculiar to person status challenges the long-standing property status of children. The principles, conflicts, and ambiguities embodied by the Convention will be central to the next stage of the children's rights movement (see Cohen & Naimark, 1991, this issue; Melton, 1991, this issue).

Person Status Issues

Ambiguity of Principles and Challenges to Parents

The best interests of the child, an overriding principle of the UN Convention (Article 3), refers to "such protection

and care as is necessary for his or her well-being" (UN General Assembly, 1989, p. 7). When added to the Convention's equally ambiguous right-to-life principle (Article 6), protection rights are implied for prenatal through postnatal periods which, depending on national interpretations, may conflict with a wide range of parental authority and behavior during child bearing and rearing (e.g., personal nutrition and substance abuse; abortion; child discipline). Children's rights more definitely focused on the self-determination issues of access to information (Articles 13 and 17) and the holding and expression of personal beliefs (Articles 12, 13, and 14) present their own problems. These principles, played against the convention's respect for the rights and duties of parents to provide direction and guidance for the child (Articles 5 and 14), predict conflict between parental authority and children's rights. In the United States these directives find ready fields of contest; for example, the child's access to movies and musical lyrics that are judged to be inappropriate by adults has been under seige (Saltzman, 1990) and the courts have denied the child access to information that might foster independence from the family life-style (*Wisconsin v. Yoder*, 1972). Given the primacy of the family for meeting the basic needs of children and the necessity of a good relationship between adults and children to foster the mediated learning that is a prerequisite to critical thinking (Feuerstein & Hoffman, 1982; Garbarino, Kostelny, & Dubrow, in press), resolution of these conflicts must be sought.

Balancing Protection and Choice

For the past 25 years, the major advocates for the self-determination rights of children have favored (a) giving children all adult rights (Farson, 1974; Holt, 1974), (b) assuring children a developmentally appropriate balance between protection and choice rights (Baumrind, 1978; Hart, 1982), and (c) denying to children only those rights that are empirically proven to be beyond their capacity (Verhellen, 1989). Although the vulnerability of children to dangers that are capable of producing long-term disorders is clear (Brassard et al., 1987), protections that prolong dependence and powerlessness have conflicted with long-term objectives for development (Margolin, 1978; Ross, 1982). However, the encouragement to give children all of the rights of adults—that is, complete permissiveness—is recognized as likely to increase the responsibilities and animosity of parents, to be in conflict with developmental readiness, and to endanger the long-term best interests of children (Baumrind, 1978; Bernstein, 1968; Feuerstein & Hoffman 1982; Rosenblatt, 1986). The weaknesses of extreme positions (i.e., complete denial or provision of self-determination rights) emphasize the need for a balance between protection and self-determination rights that will overcome current associated conflicts and confusions; for example (a) selective and conflicting references to children's decision-making competencies are used to argue for the rights of minors to choose to have an abortion (Dodson, 1984; Gardner, Sherer, & Tester, 1989) and to be protected from criminal

penalties applied to adults (*Thompson v. Oklahoma*, 1988), and (b) educational practices belie the respect and high expectations for child development expressed in educational goals (Hart, 1987).

Critical Supports for Advancing Person Status

Empirically Validated Developmental Approach

A comprehensive and empirically validated design for the progressive development of the self-determination capacities of children does not exist (Ross, 1982). There are compelling reasons why such a design should be produced. The evolving capacities and maturity of the child have been set as primary criteria by the UN Convention for determining the degree of freedom children will be given (see Articles 5 and 14). The establishment of attitudes and competencies that assure the responsible exercise of freedom has a longstanding history as the prerequisite for person status, particularly in a democracy. Legal statutes and policies in the 20th century have given recognition to the developing competency of older children by granting them a conditional right to work at age 14, sexual relations and emancipation at 16, and majority at 18 (R. M. Horowitz & Davidson, 1984). Psychologists have identified the early stages of adolescence as the period when a child's competency for responsible decision making should be recognized (Melton, 1983b), and children's decision-making competence has been identified as a core mental-health services issue (Koocher & Keith-Spiegel, 1990). Issues evoking substantial conflict in adult-child relations have been identified (e.g., access to media, privacy, social relations, sexual conduct; Bohrnstedt, Freeman, & Smith, 1981). Such issues should be dealt with in a manner that progressively shifts the balance, throughout the developmental period, from external control and guidance to mediation and toward autonomy for the child.

Some guidance currently exists that can promote developmentally sensitive movement toward autonomy: theoretical orientations of Erikson (1963), Maslow (1970), Piaget (1952), and Kohlberg (1969); increased expectations for infant exploratory and executive behavior (Field & Fogel, 1982; Gibson, 1988), children's decision-making potential (Tester, Gardner, & Wilfong, 1987), and the influences of social contexts on learning (Vygotsky, 1986); designs for mutual respect and democratic problem-solving processes in parenting (Gordon, 1970; McGinnis & McGinnis, 1982); and education for critical thinking and prosocial and moral development throughout the developmental period (Adler, 1982; deBono, 1981; A. Goldstein, 1988; Kamii, 1984; Mentkowski, 1988; Power, Higgins, & Kohlberg, 1989). However, the present level of knowledge of the progressive development of children toward responsible judgment has not been sufficient to provide clear or convincing direction to a society ambivalent about children's self-determination rights (Gardner et al., 1989; Hart, 1987; R. M. Horowitz & Davidson, 1984; Melton, 1983b, 1991).

Further research and program development will be

necessary to produce an empirically validated developmental approach to guide children toward autonomy and, thereby, advance their person status. An adequate design will clarify expectations and prescriptions for balancing protection and self-determination rights not only at adolescence but throughout the developmental period, and assert that a balance is always necessary. It will enlist children in practical decision making at progressively higher levels of complexity and values conflict (Melton, 1983b) in a manner that respects the wide range of intraindividual and interindividual differences in development that are not predictable by age (Zigler, 1963).

Necessity of a Positive Ideology

Public support appears to exist for advancing self-determination rights for children, according to recent opinion research with adults and children (Bohrstedt et al., 1981; Nixon, 1982; Remley, 1988). However, this cause has suffered nationally and internationally from the lack of a broadly supported vision of what is in the best interests of children. A positive ideology of children, valuing them for what they are and can become, in addition to what they can do for others, may be the essential missing ingredient necessary to the children's rights movement (Gil, 1987; Hart & Brassard, 1987; Melton, 1983a). A positive ideology could serve as the primary standards framework against which to judge child treatment and outcomes.

Pluralistic societies are not without the ingredients for achieving a strong consensual perspective on children. The concept of natural human rights has long historic credibility as a basis for this ideology. Values held by the diverse U.S. population have proved to be surprisingly stable over time (Rokeach & Ball-Rokeach, 1989) and have given increased emphasis to the development of autonomy for children (Remley, 1988). The UN Convention on the Rights of the Child could be raised to the status of the international positive ideology of the child. As a variant of the original-position perspective on children's rights (i.e., your choice for every person if you were any person; Rawls, 1972), the convention explicitly targets the superordinate objectives of independence, social responsibility, and self-actualization that have been proposed for a positive ideology of the child (Hart, 1989). If the UN Convention is accepted in this role, it can be translated into policy and practice that will not only save the children but will assure that they are saved to live as persons with dignity, as children and as adults.

Children as Participants in Establishing Their Rights

Justifiable criticism has been levied at traditional methods of studying children's needs only from the outside, and this has led to recommendations that children's views be assessed (Melton, 1987). Guidance is available to direct communication with children to obtain their perspectives (Garbarino & Stott, 1989). Also, support is growing for children to assert their rights and participate in the children's rights movement (Gross & Gross, 1977; Verhellen, 1989). Effective and developmentally appropriate involvement of children in the movement for their rights

will be dependent on the existence of the empirical supports and positive ideology addressed in the last two subsections. Inclusion of the perspectives and active participation of children in negotiating and asserting their rights will increase the validity of the standards promoted and indicate that children are valued as persons at each point in the developmental process.

Summary and Challenge to Psychology

Children's rights are now the central issue in the human rights movement. Child rearing at home, in school, and in the community will determine both the course of society, nationally and internationally, and the dignity accorded all persons. During the last few hundred years, children have progressed through property and potential person status, with protection and nurturance rights, to partial person status, with some self-determination rights. Public opinion, policies, and laws are converging in support of assuring self-determination rights for children to validate their person status. To do so responsibly, an appropriate balance between protection and self-determination rights must be achieved for children at every point in their development. To determine and support this balance will require the existence of (a) empirical evidence of need and readiness for various protection and self-determination opportunities throughout the developmental period, (b) a broadly supported positive ideology of the child, and (c) the active involvement of children in establishing their needs and rights. Some of the necessary child-development knowledge is available, more is needed. The UN Convention on the Rights of the Child, respecting the natural and inalienable rights of persons, is a viable candidate for the positive ideology of the child to guide progress in children's rights during the next few decades.

Psychologists have contributed to the understanding of, respect for, and policies and practices regarding children. Many opportunities are available for psychologists to make further contributions to children's rights in areas such as child-rearing curricula, adult-child relations, and child-development assessments and prescriptions. Certainly, psychologists should be expected to make major contributions to assure that children are protected from psychological maltreatment. However, the proposed three prerequisites for advancing the person status of children (an empirically validated developmental approach, positive ideology of the child, and involvement of children) deserve consideration for high-priority status in psychology's agenda for children. As a science, psychology is capable of providing the leadership needed to produce both empirical evidence of children's readiness and the best practices for progressively achieving self-determination development that is balanced with protection and nurturance supports. As a human service profession, psychology is capable of translating its knowledge base into support for a positive ideology of children that involves them in establishing their rights. Psychology has a preeminent responsibility to assist persons toward higher

levels of self-determination and personhood (McCully, 1966; "Psychology Tomorrow," 1982).

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