Children's rights

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T Waterston, N Mann

A practice perspective

The year 2004 marked the 15th anniversary of the UN Convention on the Rights of the Child, which has had a remarkable impact on the position of children in society both in the UK and internationally. To bring the concept of children's rights alive for practising paediatricians, we requested articles from a number of professionals including an academic, a general

paediatrician, a paediatric surgeon, and a nurse.

We requested they give their own personal perspective on what children's rights meant to them, and were not too prescriptive in our invitation. They were also asked the reasons why they think children's rights are important, how the concept enters their ordinary work including academic work, and any

proposals to make children's rights central to paediatric practice.

Additionally one young person (a member of the Young National Children's Bureau) was asked for her comments on two of the articles, and these are included in an attempt to add a different perspective in order to identify key issues. We hope you enjoy...

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Children's rights

Children, rights, and responsibilities

D M B Hall

Helping young people make the distinction between wants and needs

The images are heart-breaking, the statistics mind-numbing:¹

- UNICEF estimates that 1 million children are trafficked each year for sexual exploitation²
- There are 300 000 child soldiers in 30 conflicts around the world³
- In 23 countries more than 30% of children under 5 years of age are moderately or severely underweight
- There are at least 25 countries where more than 15% of children die before they reach the age of 5
- UNICEF puts the number of primary school age children out of school worldwide at 121 million, with a marked excess of girls—65 million girls and 56 million boys.⁴

A recent review on the impact of the United Nations Convention on the Rights of the Child (UNCRC) on these statistics reveals little progress or even regression in some countries, but real change in others.¹ For example, there is significant improvement in the proportion of girls enrolled in school and in the number of children completing primary school.

The UK is a signatory to the Convention and although UN Conventions do not have the force of law, countries do report at regular intervals to the relevant UN Committee on their progress in implementation. The UNCRC does not have the same force as the Human Rights Act,⁵ although it is widely quoted in policy documents.⁶ The concept of "Rights" cannot change human behaviour, but it "adds an element of accountability and a legal framework that can be used to make governments wake up to their obligations to make things happen".⁷

The Convention contains some Articles related to civil and political rights which are deemed to be absolute and others dealing with economic, cultural, and social issues, which each country should implement progressively according to its stage of development. In poor countries, many of the Rights set out in the Convention are a distant dream for many millions of children. In the western democracies the need for and potential impact of the Convention may seem less obvious to UK professionals, many of whom are ill informed about its provisions or are ambivalent

about its value. It has much to say that is relevant to the delivery of health care,⁸⁻⁹ but in this article I will take a broader approach to the concept of Rights and argue that we should teach children—by public example and in school—to understand the intimate relationship between Rights and Responsibilities, whatever the stage of development in their home country.

THE CONCEPT OF "RIGHTS"

Moral dilemmas occur when there are good moral reasons in support of two opposing and mutually incompatible courses of action. Within ethical theory, the notion of "rights" sits somewhat uncomfortably.¹⁰ Who confers these rights? How are they defined and on what basis? Can they be taken away or forfeited? Rights movements—Civil Rights in the USA, the anti-apartheid struggle in South Africa, and many others—have justifiably used the language of rights to further their cause. For the modern Western democracies, this language reflects the pervasive culture of liberal individualism. In a post-modern society the concept of rights has taken the place of absolute, externally defined, moral and religious principles.¹¹⁻¹²

If someone has a right to a service or a good, then someone else has an obligation to provide it. Usually, as in the case of the UNCRC, these obligations are placed primarily on the State.¹⁰ The 41 articles that make up part 1 of the Convention place two kinds of obligations on governments.¹³ Positive rights entail an obligation on the part of authority to provide a service or good; negative rights entail an obligation to refrain from doing something.

Box 1: Sort it out

Three thousand children responded to a questionnaire about children's rights, citizenship, and their priorities for change in London. Their ages ranged from 5 to 18 with a peak around the 10–12 age group. The list shows their top five priorities, followed by many other issues they raised.

- Violence and safe streets
- Abuse
- Drugs
- Bullying
- Racism
- Other: good and bad schools, crime, poverty, jobs and work, having fun and the cost of going out, space to play, health care, particularly emotional caring including elders, homelessness, traffic, filthy streets

Negative rights, for example the requirement that governments not permit or resort to torture (Article 37), or interfere with freedom of worship (Article 14), are justified in ethical theory by reference to the principles of respect for autonomy, non-maleficence, and justice. Non-interference by the state is stressed by individuals and countries with a strong philosophy of personal responsibility and independence.

Positive rights and obligations are justified in particular by the principle of beneficence—one ought not merely to refrain from causing harm but actually to do good. Positive rights carry more weight in societies with a long tradition of welfare and state support. By their nature, they require action by government, leadership, a degree of state control, and substantial state expenditure. Thus Article 23 refers to special provision for disabled children, Article 24 to access to health care, Article 26 to insurance and social security, Article 27 to an adequate standard of living, and Article 28 to education. The exercise of these rights and obligations depends on resources—people, skills, and finance. In a democratic society they need the support of the majority of the population who must meet the cost through taxation.

Statements about rights have some inherent problems as well as benefits. They can discourage or override the development of cogent moral arguments for or against a particular course of action in a given set of circumstances. They can be used to distort judgments as to how resources ought to be used. They can encourage selfishness by placing excessive emphasis on the rights of individuals. And it is too easy to pay lip-service to rights without any real commitment to action.

A SELF-CENTRED SOCIETY?

We should not blame the language of Rights for the pervasive individualism, indeed selfishness, that characterises many current debates, but difficulties arise in a society whose members have become more preoccupied with their rights than their duties to fellow citizens. Article 24 refers to the right to “the enjoyment of the highest attainable standard of health”. If a society wants its children to enjoy that right, there is a reciprocal obligation on its members to make that possible—especially when there is no conceivable risk to themselves. Some recent controversies illustrate this:

- Should organ donation for transplant should be based on an opt-out

system? Our government has been reluctant to back the opt-out approach to organ donation, or to give strong leadership in that direction, so those who might claim a right to health care by organ transplant are often denied that right.

- In response to public anger over the organ retention issue and the Redfern report, a Bill on tissue and organ retention is now going through Parliament that is draconian in its provisions and is predicted to seriously damage research and the training of the next generation of pathologists, with unpredictable effects on the quality of health care.^{14 15}
- Parents refuse immunisation on the grounds of perceived risk, however minimal, while their child enjoys the benefits of herd immunity conferred by the immunisation of other children.^{16 17}
- Children have difficulty in finding places to play or in going out, because of traffic speed, the use of small local roads as rat runs, and their parents' well-founded anxieties about pedestrian road accidents. But speed cameras and 20 mph limits produce a massive reaction from the powerful motoring lobby and the media.¹⁸
- Data protection legislation protects the privacy of individuals at the price of making epidemiological research and public health increasingly difficult (though policy makers and civil liberties lobbies may have misinterpreted the public mood on this issue).^{19 20}

LISTENING IS GOOD, ACTION IS BETTER

Article 12 says: “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child”. Consultation with children and young people is important,²¹ but becomes insulting if there is no commitment to respond to what they say. Children are very aware of their environment and surroundings and are quick to realise that what adults say is not necessarily supported by what they do. Professor Ann Oakley wrote in 1996 a stinging commentary on the gap between rhetoric and reality.²² She refers to:

“... the hollowness of the rhetoric of that politically correct term—the Health Promoting School. There is not very much about most of these

Box 2: Examples of educational objectives from *Talking rights; taking responsibility*

- To help young people make the distinction between wants and needs
- To realise that every child has rights and they must respect each other's rights as much as their own
- To understand that rights bring responsibilities
- Seeing things in common with peers who they perceive as different in terms of gender, race, ethnicity, and social class
- To understand the concept of stereotyping
- Learning to solve conflicts responsibly

schools that is perceived by children as promoting their health. By the time children go to school they have picked up the major health education messages about a good diet, but the diet provided at school is often far from good. Playtime and the playground emerge as uncomfortable and dangerous for many children, particularly for younger children and for girls, who reported negative experiences of playground dominated by boys practicing their infant masculinity. Contrary to adults' beliefs, Playtime is not the best thing about school for one in two children and for one in three bullying is the worst. The problem is that national educational policy is not based on what children value, but on a particular view about what they ought to have and become".

An interesting example of wide consultation with children in accordance with Article 12 is the report *Sort it out*.²³ Their responses in priority order are summarised in box 1.

The Mayor of London in 2004 responded in detail to the points made by children in the consultation.²⁴ While much of what he said is aspirational, he also made a commitment to bring about changes.

HOW CAN THE CONVENTION BE IMPLEMENTED?

If we want a society in which the rights of every individual are respected, perhaps the place to start is with the next generation. Children will naturally assume the attitudes of their parents and of adult society in general unless efforts are made to capitalise on their real interest in these issues. Recent partnerships between educators and children's rights experts offer encouraging examples of what could be achieved. A programme for Key Stages 3 and 4 entitled *Talking rights; taking responsibility*²⁵ refers to the recommendation of the Advisory Group on Citizenship that "young people should

understand their legal rights and responsibilities [author's italics] with particular reference to the UNCRC". The programme provides teachers with materials to develop these ideas (see examples in box 2). The "Child to Child" scheme is an approach to health promotion and community development led by children and "aims to encourage children to play an active role ... for development of themselves, their families and their communities". The evaluation confirmed valuable benefits but also stressed the need for a considerable investment of time, leadership, and professional expertise to achieve these.²⁶ There are no quick fixes in promoting citizenship and responsibility.

HOPE FOR THE FUTURE

The UN Convention on the Rights of the Child has had a major impact in many parts of the world. It provides a gold standard and stimulus that will encourage countries at all stages of development to improve the lives of children. But the concept of rights brings with it a number of challenges as well as some very obvious benefits. Will our society acknowledge and act on the reciprocal relationship between rights and responsibilities? We need a less strident and more thoughtful media approach to the kind of moral dilemmas outlined above, and strong, principled leadership from government, the professions, and all those who want a more fair and just society.

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