

Children's Rights and Media Wrongs : Changing Perceptions of Children's Rights at the Turn of the Millenium

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The case for extending rights to children is as necessary and urgent at the beginning of a new millenium as it was ten years ago when the United Nations first implemented its Convention on the Rights of the Child. But in the subsequent decade, mass media representations of children and young people in the United Kingdom have radically redefined public perceptions of children and childhood. Children are no longer presented in media accounts as vulnerable and needing rights to protect them in their communities. On the contrary, media presentations of young people as essentially "evil" and out of control, have created a climate in which the dominant discourse suggests that it is communities which now need protection from children and young people. This changed perception of children and young people makes discussions of children's rights more problematic in the British setting.

The debate concerning children's right to participate in decision making - including political decision making has proved contentious. Much of the discussion about children's rights has been philosophical and conceptual in character, concerned to establish a case for children's rights (Worsfeld, 1974; Watson, 1980; Hoyles and Evans, 1989; Franklin, 1995 and Freeman, 1983 and 1988), to construct elaborate schemes of classification for rights (Hart, 1992; Wald, 1979; Rogers, and Wrightsman, 1978), to argue the case for extending children's political rights (Harris 1983; Holt, 1975; Franklin, 1986), to develop a political economy of ageism (Franklin and Franklin, 1990) or to dismiss children's claims to rights (Scarre, 1980). More recently, there has been a growing literature discussing institutions and procedures which have been proposed and implemented to secure rights for children (Flekkoy, 1991;

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Franklin, 1995, Franklin and Franklin, 1996; Newell and Rosenbawm, 1990 and Verhellen, 1999). This article examines the continuing debate concerning children's rights to participate; a debate which centres on significant and difficult questions concerning children's abilities and competencies as decision makers. Expressed broadly, the question which must be addressed is 'Should children have the right to make decisions which affect their lives?'

But I also wish to argue that in Britain, the prospects for achieving rights for children and young people have suffered a substantive decline in the spheres of ideology, policy and practice. This decline reflects radical and substantive changes in public perceptions of children and childhood during the 1990s which, in turn, have been shaped by a growing media preoccupation with children and the tendency for news media to report children and young people in ways which are increasingly negative and hostile (Muncie, 1999; West, 1999). Consequently, discussions of children's rights must now be conducted in a politically less congenial climate. At the beginning of the 1990s the Children Act 1989 made provision for protection and participation rights for children but, by the end of the decade, the public mood and government policy has become increasingly authoritarian suggesting the imposition of curfews for children and young people as well as proposing the introduction of electronic tagging and the establishment of prisons for young offenders the equivalent of the American "boot camps". Policies such as the Children Act 1989, designed to protect children in their communities, have been replaced by policies designed to protect communities from children. With hindsight, the decade of the 1990s will be judged to be a watershed for children and their rights.

I. The Debate About Children's Rights: "Common sense", Prejudice or a Considered Argument?

What seems indisputable, despite the good intentions of the United Nations Convention on the Rights of the Child, is that children in all societies are still denied rights to make decisions about their affairs which

as adults we take for granted; indeed we consider the possession of such rights to be essential to a democratic way of life. This denial of rights straddles both the public realm of children's involvement in education and the care arrangements of the state and the private realm of the family. The latter is significant since conventions cannot enforce rights in the family. It is impossible to police what goes on behind closed doors. Children's lack of decision making rights may include relatively unimportant matters such as decisions about which television programmes to watch, at what time to go to bed, or what clothes to wear, to significant concerns such as the right to privacy, rights of assembly and the right to a voice in deciding educational curriculum at school and the right to vote.

This denial of rights is a matter of fact. What remains a subject for debate is whether such exclusion is justifiable. But those who wish to exclude children from decision making have rarely bothered to argue a case. Too frequently their case has merely been built around irrational and ill thought through prejudice, disguised as 'common sense'. Where reasoned argument has supplanted 'common sense' the case has two related strands. First, it is alleged that children are not rational and seem incapable of making reasoned and informed decisions. From this it follows that it makes little sense to give children rights since they are incapable of exercising them. Second, children lack the wisdom which results from experience and consequently they are likely to make mistakes. By denying children the right to make decisions for themselves, society is merely attempting to protect them from their own incompetence. Adults seem to believe that children cannot make decisions. English novelist DH Lawrence, for example, in a rare essay on education claimed, 'We've got to educate our children. Which means, we've got to decide for them; day after day, year after year, we've got to go on deciding for our children. It's not the slightest use asking little Jimmy "What would you like dear?" because little Jimmy doesn't know. And if he thinks he knows, it's only because as a rule he's got some fatal little idea into his head'. What are we to make of these arguments?

Child libertarians raise at least eight objections. First, it does not follow

that children should not make decisions simply because they might make the wrong ones. It is important not to confuse the right to do something with doing the right thing. We deserve the right to do the wrong thing. Indeed we often accept that adults have the right to engage in activities which may even be harmful for them; smoking is an obvious example. Second, it is important to avoid using double standards. Adults are not skilled decision makers. They certainly make mistakes and, on occasion, these can have wide ranging and regrettable consequences. A brief scan of history reveals a catalogue of blunders and the extent of human fallibility; wars, famines, the burning of witches, nuclear weapons, apartheid. To deny children the right to make mistakes would deprive them of a right which adults have exercised extensively. It would be hypocritical.

Third, mistakes should not be judged as wholly negative but understood as experiences from which we learn. Why not allow children, like adults, the opportunity to learn from their mistakes and grow in knowledge and experience as a consequence? If children were allowed greater responsibility for their actions, it is reasonable to assume that their ability to make decisions would improve. Competence in decision making, as in much else, often reflects others expectations and assessments of our performance.

Fourth, children do reveal a competence for rational thought and do make informed choices, from decisions about which television programmes to watch or which football teams to support, to more important issues such as developing strategies for handling a bully at school or an abusing parent at home. Children who have been sexually abused have to make a very complex assessment of the consequences on their family of disclosing that abuse.

Fifth, age limits on rights are incoherent because children assume adult responsibilities at different ages in different arenas of activity. A child reaches the age of criminal responsibility at ten, is (hetero) sexually adult at sixteen, but not politically adult until eighteen. Because these age limits vary between societies, across history and across cultures, arguments about rights based upon age express a relativism which can render them quite arbitrary. The tragic absurdity of these varying understandings of 'adult-

hood' was brought home forcefully by the death of a seventeen year old soldier in the Gulf war; old enough to be a soldier but too young to be a voter.

Sixth, the argument about age related rights regresses ultimately to an argument about competence. To suggest that children should be excluded from participating in decision making simply because they are children is not an argument but mere tautology. The real, underlying concern is that children might lack the abilities necessary to exercise their rights. But, if the argument is really about competence and not age, then it is not children who should be excluded but the incompetent. Such a position risks excluding many adults, as well as children, and would lead to unacceptably elitist conclusions. It is interesting, if predictable, that the exclusion of children has rarely raised the issue of elitism. But who would decide who is competent to participate? What could serve as criteria of competence? How could we test for competence? Would we be obliged to accept Schrag's requirement that decision makers "must pass a fitness test to qualify" (Schrag, 1975:452)?

Seventh, the exclusion of children from decision making is unfair because those excluded - ie those under 18 - can do nothing to change the conditions which exclude them. If the grounds for exclusion were stupidity or lack of education or information, then the stupid might endeavour to become wise and uneducated people might become motivated to read and learn. But young people, even if misguided enough to wish it, cannot prematurely grow old. Exclusion on the ground of age is consequently unfair since children can do nothing to alter the conditions of exclusion.

Finally, denying participation rights to everyone under 18 assumes a homogeneity among children which the diversity of their intellectual and emotional needs, skills, competencies and achievements undermines. Consigning all children to the category of 'non-adults' denies that different children possess different competencies and thereby should enjoy distinctive rights entitlements when they are able to exercise them. The age range from 0 to 18 encompasses individuals' most rapid and extensive period of physical, emotional and intellectual growth and embraces an enormous range of skills,

competencies, needs and rights. This is why the period between birth and adulthood is usually divided into four phases; infancy, childhood, adolescence and early adulthood with different rights and responsibilities being appropriate for different age groups. A 16-year-old person is likely to have more in common with a 19-year-old than a 3-year-old but, according to conventional accounts, the 16 and 3 year old are equally children. This negative definition of children as 'non adults' is simplistic, obscures the inherent diversity of childhood and, by asserting a uniformity of needs and rights for those under 18, undermines some children's claims to rights. Some rights claims can be caricatured as self evidently absurd; -'What, votes for two year olds?'

In summary, the argument for the exclusion of children from decision making, on the grounds that they are not rational and lack experience, has been strongly contested by child libertarians who suggest it is little more than ill thought through prejudice dressed up as 'common sense'. Since the early 1990s, media reporting of children has strengthened this common-sense view that children are undeserving of further rights to participation.

II. Media Reporting of Children and Changing Perceptions of Childhood

It's interesting to note that in Britain cruelty to children became a criminal offence in 1889, some sixty years after similar legislation outlawed cruelty to animals. The British love of animals is legendary, but it is less clear what this implies about the British attitude towards children! Luckily, during the 1980's, children's rights seemed suddenly to come of age in five respects.

Intellectually, the discussion of children's rights achieved respectability. The idea that children could claim rights entitlements became a legitimate notion informing government policy as well as the practice of welfare professionals. Politically, children's rights became contested territory for the major political parties with the Labour Party's manifesto for the 1992

election containing proposals for a Minister for Children and a Children's Commissioner, while the Liberal Democrats advocated lowering the age of suffrage to 16. Legally, the notion of the 'best interests of the child' to be decided by adults has increasingly been supplemented by the principle that where appropriate the wishes of the child should inform legal decisions. In the UK, the Children Act 1989 offers an illustrative exemplar of legislation acknowledging and conceding children's competence as autonomous decision-makers. Institutionally, the development of organisations such as the Children's Legal Centre (an advocacy organisation with a telephone help line) and the appointment of Children's Rights Officers (a local ombudsworkeer) in more than twenty local authorities, attest to society's growing commitment to children's rights. Internationally, the United Nations Convention on the Rights of the Child has established internationally recognised and agreed minimum rights for children.

But while these developments seemed to signal great promise for reform, there has recently been a reaction against children's rights. Throughout the 1990s, children in Britain have become the focus of a media orchestrated moral panic which has triggered increasingly authoritarian policy responses from politicians in all political parties. The media have played a central role in constructing and articulating a revised image of children and young people. Three features of press coverage have been significant.

First, since 1990, news media reporting of children has become focused overwhelmingly on crime and juvenile offending to the almost total exclusion of other aspects of children's lives. In press reports children have become one-dimensional; young offenders, muggers, ram raiders, drug abusers, rapists and even murderers. The predominant media image of children and young people is one which alleges they are beyond the control of the police, the courts, the criminal justice system and the communities in which they live.

Second, children rather than adolescents have been central to press reports. While newspapers have perennially suggested that young people pose a challenge, if not a threat, to society's basic values and stability (Pearson, 1983), recent press reports have featured ever younger children.

The message is clear. There are not only more offenders, but they are younger. Finally, tabloid reporting has generalised the alleged “evil” they believe is evident in some children to embrace all children.

Adverse media reporting began with coverage of the urban riots on the Meadowell estate in Tyneside in the north east of England in 1991 and promptly moved onto reports of “super criminals” such as “Rat Boy” – the “one boy crime wave” who earned his nickname by evading arrest by hiding and living in a ventilation shaft. The daily newspaper The Star carried a story about a similar 11-year-old offender, which seemed to capture the growing press and public concern. “We’ve gone too soft” the newspaper claimed. “Children are supposed to be little innocents not crooks in short trousers. But much of Britain is now facing a truly frightening explosion of kiddie crime...too many kids are turning into hardened hoods almost as soon as they’ve climbed out of their prams” (Star 30 November 1992).

The press was keen to show that young children were out of control in schools as well as the community. The Express headline “Expelled By School At The Age Of Four” told of a boy expelled after 13 just days for hitting other children; his father confessed that “he can be wicked just like any other kid”. But the Express was quick to point out that such precocious exclusion was not a record. One child had been “kicked out on day one and was in police custody later that day” (Daily Express 23 October 1993). But it was the death of headteacher Philip Lawrence, who was murdered while protecting a student from bullying and his widow Frances Lawrence’s passionate plea to offer young people lessons in citizenship, which really brought home what “dangerous” places schools have become (The Times 21 October 1996).

In this highly charged climate, two other incidents which might otherwise have passed unnoticed, enjoyed considerable press prominence. The day after Frances Lawrence article in The Times, the closure of the Ridings and Manton schools prompted by allegation by the teachers that the children were “out of control”, fed the growing public frenzy about policies to contain and control children (Lumley, 1998). A headline in the Sun

newspaper discussing the Ridings school announced "Sex Attack on Sobbing Miss Shuts Hell School"(Sun 1 November 1996). The Sun story explained that "a woman teacher was sexually assaulted by a boy of 14" and how the "shameful attack happened as thugs already banned from the school rampaged through the classrooms reducing teachers to tears". According to a Panorama programme (a prime time BBC current affairs programme), the school's difficulties reflected the insensitive joining of what had previously been two separate schools, the poor condition of the fabric of school buildings, the low morale of staff and the alleged mismanagement by the LEA, more than the uncontrollability of the students. But in press accounts it is not only teaching staff who are at risk from children. The Daily Mail's front-page headline "Rule of Terror at Rape Girl's School", offered readers details of a gang rape of a nine year old girl by five young boys. Children at the school were "running amok, attacking fellow pupils and swearing at adults"(Daily Mail 9 May 1997).

This barrage of adverse media coverage of children which has been sustained throughout the 1990s, has undoubtedly challenged prevailing assumptions about childhood and childhood innocence. But it was the reporting of the death of James Bulger and the trial of Jon Venables and Bobby Thompson, which marked a clear watershed in public perceptions of childhood innocence. Newspaper headlines undoubtedly reflected the widespread sense of public shock triggered by the murder of a young child (a infant aged 2 years) by two other young children (boys aged 10 at the time of the incident). But the response of too many newspaper editors and journalists was unduly simplistic, sociologically nave and morally reprehensible. Ignoring any mitigating circumstances which might have helped to explain the two boys behaviour, newspapers preferred to denounced Thompson and Venables as 'evil'.

The demonising of Thompson and Venables in the British press was so extensive that one commentator described it as 'the kind of outbreak of moral condemnation reserved for the enemy in times of war' (King, 1995:2). But journalists moved beyond their attacks on the two boys to suggest a new definition of childhood which should apply to all children; the innocent

angels were now squarely replaced with little devils. The Mail dismissed as “sentimental” and “relatively modern” the “view that children are born innocent” (Mail 25 November 1993). The Times in full editorial flight announced its opposition to “the belief prevalent since the Victorian era, that childhood is a time of innocence”. It declared with an unwarranted uncertainty that “childhood has a darker side which past societies perhaps understood better than our own” (The Times 25 November 1993). The Sunday Times posed the issue directly. If childhood “is supposed to be the age of innocence...how could these ten year olds turn into killers?” (28 November 1993). The government’s policy response was the punitive “back to basics” captured in Prime Minister John Major’s regrettable injunction that “we must learn to blame a little more and forgive a little less” (Franklin and Petley, 1996).

III. Policies for Policing the “New” children

Such anxieties have triggered populist policy responses from politicians in both major parties which stress the management and containment of young people; notwithstanding a plethora of research studies and official advice which illustrate the futility of such measures (Cavadino and Dignan, 1997). The 1991 Criminal Justice Act with its commitment to community alternatives to custodial offences and the three ‘D’s of diversion, decriminalisation and decarceration, was superseded by the Criminal Justice and Public Order Act 1994 which offered an increasingly punitive penal policy. The Act offered the new secure training order for 12-14 year olds, longer term detention and electronic tagging. At the 1993 Conservative Party conference, then Home Secretary Michael Howard promised “young lawbreakers will find punishments less soft. There will be “sin bins” for 12 to 14 year olds and longer sentences for 15 year olds. Punishments in the community for under 17 year olds will be made tougher” (Express 7 October 1993). Two years later a headline in The Times announced “Howard Plans ‘House of Pain’ Regimes For Young Offenders” (6 February 1995).

Measures to deal with children and young people who are "out of control" are also central to the New Labour government's policy agenda. In the run up to the 1997 general election, the party's intention to be "tough on crime and tough on the causes of crime" became a widely known soundbite underscoring the emphasis which the party placed on issues of youth crime and criminal justice.

In Government, New Labour and particularly Home Secretary Jack Straw, have sustained the considerable policy impetus signalled in opposition. In September 1997 Straw published a consultation document which announced the "biggest crack down on young criminals for 50 years". Launching the document, Straw claimed he was "trying to break the excuses culture that has developed, where a young offender seeks to excuse their behaviour. None of us should evade our responsibilities for our children. You have to get parents to accept their responsibilities. The earlier you get to these parents and children the better. That's why some of my proposals actually affect children below the age of criminal responsibility" (Guardian 26 September 1997). The proposed measures included: a commitment to fast track punishments; parenting orders which impose compulsory courses in good parenting for parents whose children are "out of control"; an insistence (no matter how unworkable) that parents become responsible for their children's behaviour; the instigation and testing of curfews on three estates in South Lanarkshire (Scotland); child safety orders for children under 10 who are at risk of becoming involved in crime; a "yellow card" system of final warnings to replace police cautions; and the abolition of *Doli Incapax* the legal presumption which, goes back to medieval times, that children and young people aged between 10 and 14 do not understand the difference between right and wrong and consequently are "incapable" of criminal intent. Many of these ideas enjoy policy currency in the USA and signal a growing "Americanisation" of British social policy as it impacts on children and young people. Stating the self evident, Straw announced that these measures were intended to be "extremely tough" (Guardian 22 September 1997): nothing less would satisfy a public opinion nurtured by the tabloid newspaper headlines of the '90s.

The Government published its Crime and Disorder Bill in December 1997. Announced as an alternative to the Conservative policy of "prison works", the new bill contained many of the measures signalled in the consultation document: measures which marked a new authoritarianism towards young people. Despite its policy thrust, Straw's rhetoric in announcing the new bill, employed the language of empowerment. "This is about implementing a zero tolerance strategy" he claimed, "It is giving power back to the people in law-abiding communities and undermining and disrupting the gangs, the drug dealers and the criminal families and those people whose sport is baiting their neighbours" (Guardian 4 December 1997). A by now predictable list of measures for controlling children and young people was served up for populist public approval. These included: anti social behaviour orders to tackle harassment by children over 10; parenting orders; child safety orders; curfews; abolition of Doli Incapax; final warnings for young offenders with reparations for victims; electronic tagging; fast track punishments and a shift away from a the welfare role of the youth justice system to emphasise the major aim which is to prevent children offending.

Three measures are worth examining in more detail: curfews, tagging and the opening of the first "boot camp". On 23 October 1997, an experimental curfew was imposed in three council estates in Lanarkshire for a period of 6 months. Under the conditions of the curfew, after 8pm teams of five police officers were to stop unsupervised (i.e. not accompanied by an adult) young children and "escort" them home if they are judged to be a danger to themselves or others. When the "experiment" was completed in April 1998, young people complained that it had strained relationships with their parents and prompted unjustifiable stigmatising of certain children. One child described the curfew as "ridiculous" while another suggested that people who supported the curfew were "idiots" (Guardian 17 April 1998).

The suggestion that local authorities can establish curfews for children under ten signals society's lack of regard for children's rights: we would not tolerate such a restriction on the activities of any other social group. But since 90% of all crimes are committed by males, for example, the suggestion that a curfew applied to men would almost totally eradicate

crime, enjoys at least a *prima facie* attractiveness. Certainly, it might be argued that a curfew on males would dramatically reduce incidences of the crime of rape. But imagine the outcry at the very suggestion and rightly so. To restrict the activities of an entire social grouping, simply because of the behaviour of some members of that social group, would be an horrendous abrogation of that group's rights which society should not countenance; except, of course, when that social group is children. And then the discussion of rights becomes alarmingly muted.

A second policy proposal favours the use of electronic tagging for children as young as 10 for periods of up to three months. Early in 1998, experimental schemes were established in Manchester and Norfolk. The motives impelling the policy are largely financial; a tagging order costs approximately 1,900 a year to operate compared to 23,000 a year for a custodial sentence. Prisons, moreover, are filled to bursting point. (Guardian 10 January 1998). That such "Big Brother" mechanism of social control are particularly unacceptable to young people, is evidenced in the findings of earlier experiments with tagging which revealed that 16 and 17 year-olds are twice as likely as older offenders to breach the tag. New technology arises in a related context as part of the government's efforts to constrain and control young people. Parents of persistent truants are to be provided with pagers and will be contacted by schools when children fail to attend; they will be paged and asked to telephone the school to explain their child's absence (Guardian 30 December 1997).

Finally, April 1998 witnessed the opening of the first "child jail" near the Kent village of Borstal (surely named with some sense of post-modern irony). The Medway Secure Trainee Centre, commissioned by the Conservative government, but welcomed and operationalised by the Labour government, employs 100 staff to supervise 40 "trainees" who will receive an mixture of education, care and discipline at a weekly cost of 2,500 for each trainee. Group 4 which runs the centre describes the regime as "brisk and busy"; a soundbite with some of the alliterative pretensions of its predecessor "short, sharp, shock". As well as from the high running costs, critics argue that there is a good deal of evidence to suggest that similar

previous institutions have not delivered results in terms of recidivism rates. They seem to feed some politicians' - as well as members of the public's - desire for punishment and retribution rather than any rational, research based, scheme for reducing crime and youth offending. Announcing the Centre's opening, the Director claimed, in words bound to endorse existing media representations of children and young people, that "these are not the worst offenders in the country. They have not murdered or raped anybody but they are the most persistent". By the time they arrive they "will probably have already each clocked up more than 50 burglaries and car thefts" (Guardian 15 April 1998). Whether described as "colleges of crime" or "child jails" such institutions are shaming for a country which is a signatory to the UN Convention of on the Rights of the Child; its inmates are aged 12 to 14 years.

IV. Childhood, Rights and the Media

At the beginning of the 1990s, in the wake of the Cleveland case which brought the issue of the sexual abuse of children squarely onto the public agenda, society was desperately seeking policies to protect children in the community; by the end of the 1990s that same society is implementing policies to protect the community from children. The change reflects a shifting public perception about the behaviour of children and young people and about the very nature of childhood. The news media's sensationalist, partisan and dramatic reporting of certain cases concerning children and young people, have been highly influential in encouraging this new public mood. If this reversal was merely bizarre it would not warrant comment; but it is damaging to the rights prospects of every British child and young person.

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