

Children's Oppression, Rights, and Liberation

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The legal, political, scientific and media discourse prevalent in previous generations promoted the idea that race and gender are biologically determinate categories with biologically determined attributes, characteristics, and social roles. Historically, many anthropologists and psychologists believed they had found physical evidence that non-white people had an inferior capacity for reason and rationality. These supposed differences fit into an imperialist ideology of a 'white man's burden' that justified the systematic oppression of indigenous peoples through-out the world. Black people were said to be intellectually and morally inferior to white people and as a result, unable to take care of themselves without the supervision of their white slave owners. The myth of a biological basis for male domination over women has persisted for even longer. Both those who defended the historical relegation of women to second class citizen status under the law and the contemporary anti-feminist backlash have relied on a belief (often backed by superficially scientific-looking evidence of the inferior female mental capacities) that men are more capable, at least on average, of fulfilling a variety of important social roles than are women. Anti-Suffragette propaganda held that women's minds were not suitable for politics or public life. These supposed mental differences were said to causally explain why women were excluded from politics. This reasoning was also used to normatively justify female exclusion from politics as a necessary consequence of having to protect women in general and from the burdens of public responsibility in particular.

In addition to the paternalistic justifications for white dominance over black people and male dominance over women—arguments that fit the pattern of "group A must have legal power over group B for the best interests and protection of group B"—the white chauvinist and male chauvinist ideologies also employed a somewhat different normative justification: an appeal to the good of society, where the subordination of black people and women was said to be necessary for society to function. Defenders of slavery for instance claimed that the institution of slavery was necessary for a functioning society and economy. Similarly, the subordination of women to their husbands was widely held to be necessary for the stability and wellbeing of the family, and hence, society at large. In both instances, the biological differences between subordinate and dominant demographic groups was said to both causally explain the social relations of domination and subordination, while also providing a normative justification for why those social relations were good, natural, and desirable.

Today, the subordination of children to adults in general and their parents in particular is similarly seen as being both caused and justified by children's inferior mental faculties. Both the paternalism argument (children must be subordinate for their own good) and the social necessity argument (children must be subordinate for the good of society) are advanced to support the legal disabilities of children. The parallels with "scientific racism" and sexist neurological theories should be obvious: we are frequently told that children and adolescents are mentally inferior due to their underdeveloped brains, and this inferiority renders them incapable of behaving rationally or responsibly; in the past, precisely the same claims were advanced against women and black people.

Many people will instinctively reply that the racists and male chauvinists of nineteenth century were wrong about black people and women, whereas our scientifically superior contemporary society is right about children and adolescents. There are good reasons however not to leap to this conclusion.

A chief way the black civil rights movement and women's rights movement responded to racist and sexist stereotypes was not to deny that there are discernable differences between races and

genders that might (mistakenly) be called upon to justify social hierarchies, but that social hierarchies themselves produced these differences. In *The Mismeasure of Man*, Stephen J. Gould argues that measurable “intelligence” does not casually explain the inferior social status of racial minority groups, rather the inferior social status of racial minority groups contributes to their relatively worse average performance on “intelligence” tests: the characteristics that racists appealed to in order to causally explain the conditions of white dominance could themselves be causally explained by the fact of living under white dominance. In *Guns, Germs, and Steel: The Fates of Human Societies*, Jared Diamond argued that Eurasians have been politically dominant over the rest of the world’s population not because of some biological, cultural, intellectual or moral superiority, but because of their geographic advantages; resources like horses, metals, and sufficiently large populations to develop disease resistance structurally advantaged them against populations who lacked those resources.

Similar explanations have also been advanced for gender differences and hierarchies. The cultural materialist anthropologist Marvin Harris argued that patriarchal, male dominant family arrangements arose when agricultural societies developed livestock driven iron plows: men were better equipped for this type of more efficient farming that became economically dominant, and so their social dominance followed from their control of the most efficient means of production. In *The Dialectic of Sex* (1970), Shulamith Firestone offers a different explanation where she argues that while the physical differences between male and female roles in reproduction explain how male dominance developed—the feminine character traits cited as reasons why male dominance should persist are themselves products of female oppression.

The purpose of these arguments is not to show that it is impossible to explain the status of subordinated demographic groups in reference to their biological differences. Rather, it is to demonstrate that there are social structural or material explanations that can also account for the social hierarchy and the perceived differences between demographic groups. Given two possible explanations—one sociological, the other biological—where the variables are impossible to control for (we cannot take a child and put him or her in some other experimental social arrangement, nor can we put an adult in a social position identical to a child in our society)—there is no way for us to determine how much of children’s childishness is the result of their innate attributes and how much is the result of their social position.

What does it really mean when we say that a child’s brain is “still developing”? This is often construed to suggest that the changes that go on in a child’s brain over time are teleological in nature—they begin at a low level of development and lead to the end point of a superior adult level of development, so we only give people adult rights and responsibilities once they have fully reached that superior level. This narrative however has minimal scientific support. The reality is that there is no fixed adult level of brain development where brains plateau—rather brains continue to change over the course of someone’s lifetime. Myelin levels in the brain, often cited as ‘proof’ that the teenage brain is still developing, not only continue to increase through teenage years, but well into middle age, at which point they decline.

Psychologist Robert Epstein surveyed the literature on adolescent neurology studies and concluded that they were misrepresented in the popular press in several ways: the changes observed continue to take place through our lives, and research has thus far only shown correlations between behavior and neurology, but has not demonstrated causality, and it is well known that experience can alter brain anatomy, and studies are often simply misrepresented and overstated. Epstein notes that while all of our behavior, thoughts and feelings are in some way reflected

physically in our brains, it does not follow that something particular about our brains is the cause of those actions or emotional states. According to Epstein, environments, studying, diet, exercise, stress, and many other activities alter the brain—so if adolescents have problems, pointing to brain differences does not show that their brains caused the problems as the problems could cause the brain differences. There are also numerous differences between child and adult mental capacities where children actually have superior mental abilities. Visual acuity peaks at the onset of puberty, and incidental memory abilities peak near twelve years old before declining, so young people actually have an organic advantage in learning new things. Intelligence researchers J.C. Raven and David Wechsler using different intelligence tests found that “raw intelligence” scores peak between age thirteen and fifteen and decline through life. Needless to say these differences between child and adult mental capacities have not been prominent in political and media discourse about children’s capacities and rights.

The focus on the difference between adults and children ignores what is at stake from a social justice perspective in according children equal rights. Even to the extent that there are significant natural differences in capacity between most adults and most children, these differences do not necessarily justify all or most of the social structures that privilege adults against children. Just as biological differences between men and women do not determine the specific socio-economic (and, historically, legal) advantages of men over women (such as coverture), the biological differences between adults and children do not determine the form that children’s legal status takes with regard to adults. Even if we were to grant for the sake of argument that, implausibly, all people under the age of eighteen have inferior mental capabilities to all those over eighteen, this is hardly an argument for assigning civil rights only to those with superior mental capabilities over eighteen. Reasonable people rightly recognize that those allegedly (or even demonstrably) more rational and intelligent should not enjoy greater rights than those with lesser capacities for rationality and intelligence—we do not see legal caste hierarchies arranged by IQ points or brain size as legitimate or just ways of organizing a society.

Despite the considerable variability in the roles children have occupied in society, people continue the mistake of thinking children’s status is something inherent to children, rather than a condition imposed on them by the state and society. For instance, in *Schall v. Martin*, the Supreme Court permitted pretrial detention of children for longer periods than permitted for adults, under the theory that such detention was not punitive, but merely regulatory, in part because children have fewer liberty interests than adults—they are always in some sort of custody.

Do children really have fewer liberty interests as an inherent result of their childhood, or has the state already deprived them of their liberty under its ‘regulations?’ It would seem that the *Schall* Court did not find any pre-trial punishment of children because children are generally treated in a way that would be recognized as punitive if applied to an adult. In this case, the status of a child’s liberty is the result of a child’s legal status, not a child’s biology.

It is dangerous from the viewpoint of someone concerned with wrongly depriving others of liberty to assume that children’s apparent capacities necessarily exclude them from possessing rights, when their effective capabilities are constrained by the way they are treated in society. If a child were capable of exercising equal rights competently, how would we be able to recognize it in a society that deprives them of any opportunity to do so? If we cannot tell whether or not children are capable of exercising rights in a society that enables them to do so, because we are only familiar with children in the context of a society, which prevents them from exercising equal rights, then the assumption that children are naturally incapable of having rights is unjustified.

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There are additional reasons to be suspicious of the common impulse to accept research that seems to confirm adult assumptions about children. Dismissing out of hand the possibility that children could exercise greater control over their lives is attractive, easy, and convenient. It is convenient because it is easier for adults to deal with children if children have few state-enforceable rights that can be mobilized against adults when adults attempt to control their lives against their wishes. Many adults also tend to just really like the idea that children are child-like and profoundly unadult-like: that they are cute, innocent, irresponsible, and dependent without the possibility of autonomy. Educator and child rights' advocate John Holt writes:

When one person sees and deals with another not as a unique person but as an example of a type, whether Celebrity, Black, Sex Symbol, Great Genius, Artist, Saint, or whatever, he diminishes that person and makes it hard for any natural relationship to grow between them. This is what we do to children when we see them as Cute, Adorable, Innocent. For the real child before us we substitute some idea of Childhood that we have in our minds and deal with that. Often, when we label someone in this way, we invest him with magical properties, sometimes bad, sometimes good .. Men often do this to women they consider beautiful .. Having turned the child into an ideal abstraction, many parents and teachers tend to look at him much as Rocket Control in Houston looks at a moon shot. They have a trajectory (life) all mapped out for this child, and they are constantly monitoring him to see whether he is on the path or whether he needs a little boost from this rocket (psychologist) here or a sideways push from that rocket (learning specialist) there .. They have their own precise notions of what a child should be. They tend to slip very easily into condescending sentimentality as I have described.

Holt's observation reveals what we in some ways already know, that adults judge children according to what plans and expectations the powerful adults in their lives, their parents and teachers, have for them. If children are not under parental control, following a parent-defined path rather than their own desires, adults judge them to be out of control. If it is often thought that if children are left to their own devices they will make a mess of their lives, this is in part because parents, teachers and other adults presume to define what is valuable in their children's lives and what would constitute making a mess of them. The widespread liberal belief that the state should remain neutral between differing conceptions of the good is inconsistently dropped when it comes to dealings with children—most adults imagine instead that there is either an objectively appropriate way for children to behave, learn, and grow up, or that each parent's subjective and arbitrary preferences for their children's conduct should be given force despite also thinking that even a democratically elected state should not impose its beliefs of how to live one's life on its citizenry.

When children deviate from adult expectations, from the idealized abstracted version of what a child is, it can cause cognitive dissonance: the problem is felt to be with the child and not with the idea of what a child should be and how children should act. To find an example of this we need look no further than the way adults react with horror to children's use of foul language when the same language used by an adult would leave them unfazed. Just as children's apparent capabilities and behaviors are limited by societal constraints, societal views of children and the

impressions they make on adults are similarly informed by the social conventions that affect how adults think about children. This is all the more reason to be skeptical of our own intuitions about what children are capable of. Recent research strongly suggests that older adults actually prefer reading articles that seem to confirm inferior traits in young people. One way this could be explained is that people in a position of privilege find it affirming and convenient when they receive information that seems to confirm that their privilege is natural and not arbitrary.

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