

BABIES' RIGHTS

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The idea of babies having rights is seen by many as unnecessary or worrying. Babies, it is thought, need care but not rights, which belong to rational, moral persons. Rights are too formal. They could set babies into harmful opposition with their carers, such as if social workers cite “babies’ rights” as an excuse to remove babies from their loving parents. Yet there are at least two important reasons to take babies’ rights seriously - practical and theoretical.

One practical purpose of rights is to defend the vulnerable, and babies are the most vulnerable of all people. Many babies live in great danger: refugee families escaping from war, floods or famine; migrants in small boats on the Mediterranean parched with thirst and burned by sunlight and leaking engine fuel; babies born to young girls who live on the streets or who serve in rebel armies. Babies are over-represented among the poorest families everywhere: those who lack enough healthy food, who live in damp cold housing or in baking slums without clean water or rubbish collections.

Of all the age groups, babies are at the highest risk. Their small fragile bodies are most easily damaged, deformed or destroyed. For example, it is estimated that each year up to half a million young children become permanently blind for lack of vitamin A. Babies have least resistance to infections, which they can pick up from vermin and when they suck dirty objects or crawl on the ground. Although the global death rate of children aged under-5-years was halved during 1990-2015, an estimated 2.9 million neonatal deaths still occur each year (from birth up to one-month-old) and another 2.6 million babies are stillborn.

Most of these deaths could be prevented by better healthcare, but care is not enough. Babies also need rights, as powerful practical remedies for wrongs. The 1989 *United Nations Convention on the Rights of the Child* (UNCRC) not only clearly states children’s rights, but also sets a global system of governments ratifying the UNCRC. They thereby undertake to implement the rights, to report regularly to the UN on their progress, and to receive praising or critical reports from the UN. All countries except the USA have ratified the UNCRC, and many have active NGOs and other agencies that pressure their governments to honour children’s rights. This is a slow, rather weak political process, but it is better than nothing. Great changes have been achieved and awareness is gradually being raised.

The rights enshrined in the UNCRC involve babies. Babies’ rights to life, to a name and a nationality enable their government to recognise them as citizens with rights to state services and supports. Babies have provision rights to basic care necessary for their well-being, to healthcare, clean drinking water, nutritious food, and an “adequate standard of living”.

Babies share all the protection rights, including from: abuse and neglect; torture, “cruel, inhuman or degrading treatment”; invasion into their family life and their privacy. Privacy rights should, for example, stop governments from searching records about babies, held by charities and health services, to find immigrants and deport them. All children have equal rights against discrimination and exploitation, sexual abuse and the sale or traffic of children.

Yet do babies have the so-called participation or civil rights? Some would argue that as soon as they take part in cultural life and the arts—for instance, by being wrapped in a

shawl or hear a lullaby—and when they begin to take part in their religion by being welcomed into their church, mosque, synagogue or temple, then they are participating in social-civil life.. To belong to those or any other welcoming communities, the whole family needs to enjoy freedoms of expression and information, of thought, conscience and religion, of association and peaceful assembly, freedom from discrimination, with respect for the child’s cultural background. When rights are seriously denied, the whole family needs the civil right to due legal process.

UNCRC Article 12 states: “the child who is capable of forming his or her own views [has] 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.” Here, premature babies are developed and “mature” enough to form and express views about when they are hungry, tired, contented or afraid. Adults can care well for them only when they listen to babies’ views, clearly expressed through their cries and body language. Babies are healthier when their parents have rights to education and information, and when the state respects and supports the family in practical ways that are explained through the UNCRC, reflecting the complex range of babies’ basic needs.

The second important reason for taking babies’ rights seriously is theoretical. John Tobin contends that the UNCRC is under-theorised, so thinking about the profound questions that babies’ rights raise can help to bring clarity. Can newborn babies count as human beings with human rights? The UNCRC Preamble states that “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,” which raised the question: How can babies take part in this morality? Rights are partly justified in their ancient religious/spiritual origins that respect the sanctity or dignity of human beings. Two main modern ways to justify human rights are in how they respect 1) the person’s human interests or needs (babies can be included) and 2) the dignity and worth of the moral person, extended by philosophers to mean individuals who respect others and make rational choices. Some philosophers exclude all children, although many adults are disrespectful and irrational and many children are respectful and rational. And if rights only apply from 12, 16, or 18 years onwards, can they really be “human rights”? Yet do babies have the “inherent [inborn] dignity and worth of the human person”?

Babies appear to have inherent moral dignity or awareness long before they can be taught about it verbally. When babies from 3-months-old watched puppet-like shapes, some being helpful and others unhelpful, they showed attention and surprise that seemed to judge the goodness or badness of the puppets’ actions. By 6- to 10-months, Paul Bloom found, they showed a rudimentary sense of justice; babies reached for the helper puppet more often than the hinderer puppet.

From birth, they seem to be highly aware of the quality of human relationships. Emese Nagy found that if researchers looked at babies aged only two-hours-old with a rigid passive face, the babies became distressed, averted their gaze and eventually started crying, though they calmed down when the researcher started smiling. If this happened a second time, babies gazed at the researcher and tried to make contact for longer before getting upset, and they recovered more quickly when the researcher smiled again, as if they had learned from the first time and were trying to have more control over the contact. Christian Smith identified 30 human characteristics, including consciousness, deep feelings, volition or will, forming interests, attending to others subjectively and intensely, making and

communicating meanings, and love. Babies seem to begin to engage with these in their early weeks.

The lawyer Conor Gearty believes human rights are ever more important as “the ethical architecture necessary to decent everyday life” and “the only contemporary idea with true universal and progressive appeal” in the present “post-religious haze of market supremacy” when profit rules. Rights respect everyone’s dignity through structures of accountability, equity, an independent rule of law, and a framework for working towards greater justice between rich and poor individuals and states. So to respect babies’ rights and help them to learn to honour everyone’s equal rights are vital ways to promote peace and justice in the world.

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Cross references: Baby, Social Construction of; Children as Rights Holders and Duty Bearers; Infantilization; Moral Development, Cultural-Developmental Perspective; Participation, Protection and Provision Rights (Three Ps), UNCRC; United Nations Convention on the Rights of Children (UNCRC);

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