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The Iranian Yearbook of Phenomenology

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What Can They Know?

The Political Status of Children and the Phenomenology of Childhood Experience

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Abstract

While children around the world are afforded a certain number of political protections, they are—without exception, in every country—not considered full persons under the law. One of the main reasons for this stems from the argument that minors have lived shorter lives than adults and simply have not had enough time—and have not passed through the necessary stages of social and political development—to gain adequate knowledge of the world so that they might act reliably and consistently in their own best interests. Thus, so goes the thinking, it would be detrimental to young people to grant them the same freedoms afforded to adults, for how could a child be free responsibly without having had the lived experience of the consequences of certain behaviors? It is thought, therefore, that children need only rights to protection.

Keywords: Children, political protections, Right, lived experience, adults.



By unpacking the phenomenological nature of experience and how it arises in different “modes”—as well as demonstrating how increased experience does not necessarily (or even usually) result in a change of behavior for *adults*—I will argue two things: first, children can and do experience everything adults experience; and second, the philosophical basis for our desire to use experience as a test for political equality rests on the impossible Liberal concept of “autonomy,” a quality no human being, at any age, possesses and as such should not be used as a marker of one’s ability to be responsibly free under the law. I will then offer an Husserlian-informed anarchic phenomenological communitarian argument for how young people can be free in a society without losing their political protections. I will argue that adults, too, need and deserve protection, and that all of us can only be protected in a society that recognizes interdependency rather than autonomy.

If most of us, in any society, claim to care about equality under the law and the just treatment of others, we must take seriously the possibility that we are wrong about our assessment of young people’s inability to be effective, full members of our political communities—and thus wrong about our refusal to grant children full freedom.

Hastily, carelessly, we dismiss the child. We treat indifferently the multiplicity of his life. Since he has no vote, why go to the trouble to gain his good opinion of you? Weak, little, poor, dependent—a citizen-to-be only. Only a child, a future person, but not yet, not today.

—Janusz Korczak, *The Child’s Right to Respect*

In America [1] it is common to hear people say that they “hate kids” even in an era of political correctness when to declare that one hates, say, women, people of color, or members of the LGBTQA community would be completely unacceptable. Currently, there is little scholarship conducted, and there are virtually no university courses taught, on the topic of the rights of children. Compare this to the amount of scholarship that exists, and is encouraged, concerning sexism, racism, ableism, and LGBTQA discrimination. All of this, then, despite the fact that minors make up roughly 27% of the world’s population, despite all of us having once been children, despite our professed concern, love, and care for children. All of this is because children are, perhaps, the last group of oppressed human beings that we fail to recognize as oppressed.[2]



What is noteworthy about the oppression of young people compared to the oppression of other groups is how governments tend to position themselves in relation to the issue. Rather than denying children specific rights, the U.S. government, for instance, remains agnostic on most issues, preferring to give parents and guardians the legal right to decide what their children can and cannot do. Actual state and federal restrictions against children in terms of day-to-day actions are relatively few. Among the most significant rights that the federal government denies are:

The right to vote and hold office.

The right to private property (e.g., personal items such as toys can be taken away by an adult for any reason at all).

The right to work (in most cases).

The right to take drugs and alcohol.

The right to consent to or deny medical care (in most cases).

The right to enter into legal contracts.

To be more specific about how we might characterize this lack of rights (apart from such formal legal restrictions), it is staggering to consider what children cannot do autonomously in most nations given the absence of such rights as:

The right to choose one's education—where, when, with whom, and how to learn.

The right to read, watch and listen to what one likes.

The right to choose where one lives and the right to leave one's home (unless there is proof of abuse or evidence of severe poverty that interferes with one's health).

The right to freedom of expression (clothing, speech, music, art).

The right to have sovereignty over one's body (that is, children can be physically punished and are denied sexual autonomy).

The right to choose what one eats and drinks and the right to choose when to eat (a parent can set rules regarding when a child is allowed to access the food in their homes, how much food can be consumed, and what foods can be consumed).

The right to sleep when one likes (enforced bedtimes, naptimes).

The right to choose one's friends and the right to choose when to see those friends.

The right to choose one's recreational activities (engaging in sports, dancing, music, video games, etc.)

The right to go outside without permission (unless a child is held captive in their homes for extended periods of time).

The right to move about one's own house freely (a parent can restrict a child's access to certain parts of the home as punishment with no upper limit being stated).

The right to travel alone within their town/cities or abroad (curfews for unattended minors exist in many cities in the U.S. and elsewhere).

How any particular child experiences these limitations depends largely on their[3] guardians and communities. Some enjoy a great deal of independence, others do not. But even in cases where one has generous parents or guardians, the fact remains that the child never truly has actual freedom. A benevolent—even *loving*—dictator is still a dictator. Of course, most parents and guardians do not deny young people equal rights under the law because they hate children; they do it because they believe it is in the best interest of the child and believe that when a child disagrees with the particular rules they as the parents/legal guardians have set in place it is because the child simply does not know what is truly in their own best self-interest.

While children *are* afforded a certain number of political protections in most countries (protection against sexual abuse and severe types of physical abuse, for example), they are—without exception, in every country—not considered to be full legal persons deserving of equal rights under the law. There are two main arguments usually given for this discrimination: first, the brains of young persons are not fully developed and thus children are unable to think rationally; and second, children lack the adequate life experience to understand the consequences of their actions.

The most seemingly robust evidence supporting the first argument is neuroscientific research concerning the appearance and functioning of the frontal lobes (the part of our brain thought to be responsible for critical thinking) in which the findings suggest that the frontal lobes do not fully mature until the age of twenty-five.[4] While there are several convincing arguments against the science of cognitive developmental psychology in general, it would take more space than I have here to discuss them adequately. Instead, I will focus on the underlying philosophical assumptions that lay the foundation for such

research: namely, the idea that such physical structures of the brain are indicative of the presence of *logos* itself.

Science does not conduct its business in a sociological vacuum. There must be a particular set of ideological assumptions about both the nature of consciousness and the qualities believed to be essential for rational thought in order to approach developmental psychology in the particular ways that researchers do. Liberal political theory—the political theory that comes to the West through modernity and the enlightenment (and includes such figures as Hobbes, Locke, and Rousseau) in which the political subject is considered to be selfish, isolated, rational, and equal to all other human individuals whether through natural rights or civil liberties—maintains that we only form unions based on social contracts of mutual self-interest and that rights are the fundamental ways in which we protect ourselves and interact with each other in the institutions of the state (including the marketplace). Given that we are isolated and living together only contractually, rights are given to individuals, not groups, and rights of non-interference are considered to be of the utmost importance. Rationality is the fundamental human quality that allows for Liberal politics to “work”—if we are rational, we are able to govern ourselves safely without the need for a sovereign, and thus democracy becomes possible. The concept of autonomy becomes inextricably tied to the concept of rationality here, as it is the isolated rights-bearing individual who is making decisions for their own best self-interest, capable of acting alone safely and effectively. Accordingly, if children by their very nature are not yet fully rational/autonomous then it follows that they are not capable of being rights-bearers. Children are, at best, both ontologically and politically *futural* persons, “not-yet-persons,” “persons-to-be,” and as such are not oppressed in the way that women and adult black slaves have been in the past.[5]

But what if there is something lacking in our definition of not only rationality but personhood itself? What if rational thought does not take place “in here”—in our brains—but rather “out there” in the world, among others? How then would we understand the capabilities of the child? I will use Anarchic Phenomenological Communitarianism (APC) [6] as a basis for critiquing the Liberal approach to human ontology and politics, offering a radically different way of

conceptualizing both rationality and freedom—not only for young people but for us all.

As we see in the term itself, anarchic phenomenological communitarianism combines three principles. We use phenomenology as the philosophical foundation for our ontological, ethical, and political claims. This specific approach is based on the interpretation of Husserlian phenomenology by my fellow contributor to this book (and husband), H. Peter Steeves. Steeves maintains that humans (indeed, all beings) are fundamentally co-constituted by Others in the world ontologically, biologically, socially, and in terms of the very structure of their consciousness.[7] Given our intersubjective nature, it can be shown that rationality is also co-constituted rather than a quality inherent to isolated and autonomous selves. One of the main purposes of rationality is to think together to understand our responsibilities to one another and to decide upon the most ethical course of action in any given context. Goods are also intersubjective and shared rather than private and isolated, and phenomenology discloses how Goods are given to us publicly as things in the world. As with physical objects—on which I have a perspective from *here* but you have a perspective on from *there*—so, too, are Good fundamentally public. There is no such thing as an isolated Good any more than there is an isolated self to pursue such a Good. To experience or act on a Good is necessary to take up the Good of others and of the community. Phenomenology thus entails fundamental communitarianism. Furthermore, when we undertake a phenomenological analysis of “the political” we see that the institutions of a state are always working with a false conception of what the communal Good is. If we allow the fundamental work of being a human being to be done by institutions then we are abandoning not only our moral duties to each other but we are also working with a false conception of what it is to be a self—one not necessarily co-constituted with Others. Consequently, anarchy is demanded by phenomenologically-based communitarianism.

“Dependency” is a bad word in Liberalism in that it seems to mean that we lack the power to live “on our own terms” (as long as we do not interfere with the right of others to live on their own terms). Why are we so afraid of dependency? From the perspective of APC, the notion that anyone is fully “autonomous” is a Liberal fiction. Not only are we vitally dependent on other humans, but we are also

dependent on animals for a variety of things, on plants for food, on the Earth itself for our being, etc. In no sense are we fully isolated from the world or each other. Thus, the fact that young children cannot survive “on their own” is simply a more visible and obvious example of how none of us can truly survive autonomously. Dependency is our permanent condition; the only difference lies in what specific ways and how much we are tied to specific Others—a condition of degree, not kind.

One goal of rationality, then, should not be defined as acting “in my own best self-interest” but rather “thinking together in ways that promote communal flourishing.” There is something to be said for the fact that if I tell you, “Don’t continue walking that direction because you’ll fall off the cliff” but you then ignore me without even investigating my warning, we might say you are acting irrationally. But similarly, if you say to me, “Look, let me pursue my concept of the good and I’ll let you pursue yours.” then in a sense, you are making the same mistake as walking off the cliff. In both cases you have failed to take into account the publicity of the world, denying that your experience necessarily includes the presentation of everyone else’s experience. In the latter case (though, in reality, this holds for both cases), there is a denial that the Good is an infinite thing that can only come to be known meaningfully by making the rounds in the community, seeing how the good appears to all of us, and trying to come to an understanding of the Good (and the world) that does justice to our different experiences. The world’s publicity is a fundamental aspect of its being. To think otherwise is, according to Steeves, to be engaged in a “phenomenological contradiction.”—i.e., to claim that “there’s your world/good and there’s my world/good and they are fundamentally separate from each other” is phenomenologically contradictory as it fails to realize that in order to be conscious of anything at all, that consciousness inherently is tied to other consciousnesses. In order for me to have a perspective on a world/good, the very idea of “my perspective” is indebted to there being a common *thing itself* in the world and that your perspective is necessarily presently absent (apperceived) in my perspective.[8] In this way, to say “This Good is mine and only I can see it and interact with it” is similar to someone claiming they can hear voices and see people no one else can see. What *logos* means is, in part, that we are engaging with the publicity of the world and that the things in the

world appear “to us.” Someone who believes in the Liberal self is akin to the madman who has invisible friends.

The very idea of “rights” as a way to conceptualize freedom, then, makes no sense because rights-based language necessitates the idea that isolated, autonomous decision-making is possible. Rights-based politics assumes a Liberal self. To ignore the child’s perspective in our decision-making—whether “privately,” as in making decisions about daily activities, or “publicly,” as in making political, legal decisions—is not only nonsensically prejudicial and unfair. It is also contradictory since it would mean suppressing the publicity of the world.

But one might counter, even if we wanted to include very young children’s perspective, infants do not possess language and cannot express themselves. How could an infant use the right to vote, the right to own property, etc.? Wouldn’t at least some children—the very young—still be necessarily excluded from decision-making?

First, note that this concern is not proof that the idea of a child having rights is nonsense. Rather, we might claim that rights-based politics is fundamentally insufficient for securing true freedoms for people in general precisely because it cannot be utilized by all members of our moral communities.[9] This has always been the problem of animal rights, for instance. If non-human animals lack the kind of rationality, we do then there is of course no way an animal could vote, hold political office, manage the property, etc. But the answer to this problem is not then to deny animals moral standing in society but to realize that precisely *because* animals and infants (and plants, as I also believe them to be moral members of our community) could never vote or otherwise meaningfully participate in our Liberal way of doing politics, then rights themselves have no business being a part of our political and moral practices. Politics in Liberal societies are set up to deny certain people commensurate freedoms *de facto*, which clashes with the most fundamental principles of democracy. This is a crucial point and so I wish to reiterate: our way of doing politics must accommodate all those who have moral-political standing in the sense that everyone can participate meaningfully and equally [10]—anything less is tyranny. Because a human infant cannot make use of rights, a rights-based society is a form of tyranny.

Infants, animals, and plants can and do communicate to us in all sorts of ways without human language. The key in being able to

understand what they “say” is to engage in a compassionate life with them, paying attention to how our actions affect them and how we might ensure our mutual flourishing. I can tell when a baby is in need of comfort by its body language and cries; I can tell a plant needs sunlight or water by the drop of its leaves, and I can tell a dog wishes to play by the wag of its tail and hopeful look on their face. In this way, all of us can be included in decision-making.

Freedom is also not fundamentally about rights. If we are not isolated but instead intersubjective, then it makes no sense to think of freedom as an individual, isolated, self-interested condition. When freedom applies “to us” rather than “to me” what that means is that we share the same freedom in a community. *Freedom* is simply another word for *the shared Good*. What does it mean for a group to be “free together” as we who support APC wish to be? Ultimately, freedom is not something that someone else can give or deny you in anarchism; it is the fundamental state of being in a true community. In some sense, because politics is so tied to the idea of how to provide people with freedom, we might claim that if *politics* is necessary for society then we have already lost the possibility of the true community (and thus true ethics) as it means we need rights as protections from one another (i.e., the so-called “negative rights,” championed by those on the right side of the political spectrum) or rights to be taken care of by one another (the so-called “positive rights” championed by those on the left side of the political spectrum). Rights mediate relationships in a Liberal state and actually keep us apart rather than bring us together. Negative rights are a kind of “shield” we wield to keep one another at a distance in the event someone violates the social contract and its rules of non-interference. Positive rights are a way to make demands of strangers in case we go hungry, homeless, or sick. In either case, rights mediate and only manifest themselves within institutions. They do the work we should be doing on our own for each other. Just as we do not need legal or political rights in a true friendship, we do not need rights in a true community. As Aristotle understood: the limits of politics are the limits of friendship.

Until APC becomes a reality, there are still ways in which we can support child liberation within the rights-based Liberal paradigm. There is an unspoken belief that freedom is a kind of vulnerability—that having rights under the law to do as we see fit ushers in the possibility of making decisions that will lead to deleterious

consequences for ourselves. The liberation of young people in society does not mean leaving young people alone to make their own decisions. We do not have to fear that treating young people as actual people will leave them more vulnerable to harm than they currently are because freedom, in a communitarian sense, is always about freedom *with* others, not *from* others. No one should make decisions in isolation because there is literally no possible action one could take in the world that would have implications in isolation—that would not, that is, involve the world. My actions necessarily affect others and as such, I am responsible to others for my actions. I don't disappear from my niece's life simply because she is now free to participate in decisions that affect her, nor do my loved ones disappear from my life when I am trying to think of my best course of action as an adult. I need the input of those around me to make moral decisions, and this does not mean that I lack the ability to choose for myself. It simply means that I understand that what is good or bad for me, on an ontological level, is fundamentally tied to the good or bad of others.

To be sure, communal decision-making does not require us to take everyone's perspective into an "equal" account. There is no "equality" in perspective or ethics because "equality" as a concept is too abstract to be meaningful. I do not need to think I am "equal" to you in any way for the both of us to flourish and receive fair treatment so long as we care for one another. Like "rights," "equality" is a concept that gets between us and tries to do the work we should be doing for each other as persons. In fact, "equality," so often conflated with "sameness," might lead to unfairness. For example, my education is going to affect me the most experientially which means I need to be taken seriously when I have concerns, questions, or fears regarding what kind of education I am to be given. While it is true that children cannot always see what's "best" for them, we must investigate further what this means phenomenologically. If my young niece, Charlotte, refused to learn how to read but then expected me or others to do all the work for her that is necessary to navigate successfully in a literate society, that would simply not be fair to us. She is responsible for helping herself achieve her goals, and if she is capable of reading and wants to do tasks that require reading, then a responsibility exists for her to learn. However, if she can successfully navigate her world without reading and without burdening others, why

then should we force her to learn—especially at some particular and arbitrary age?

A child may also have anxiety or fears surrounding learning a particular task. Through respectful, loving communication we can better understand why a child might resist doing something adults want them to do. The younger people are included in conversations regarding issues that involve them the better we will understand the reality of a particular situation. To deny young people a political, ethical voice is to deny all of us a true understanding—and to deny us of the experience of true democracy and community.

It is true that within a Liberal state there will inevitably be *some* vulnerability if children are granted equal rights since we do not value communal decision-making and there is no way to enforce all decisions be made this way. As an adult, if I wish to smoke I can; no one can stop me because I am free to ignore the perspectives of others so long as I am not smoking in someone else's space and thus interfering with their health. If a child has the right to, say, sexual freedoms, people worry that children will be vulnerable to sexual manipulation by adults. But do children not face this danger already? Do rights really make them safer? Does silencing them make them safer? How can a society in which adults possess more political, economic, social, and sexual rights than children ever protect children from being harmed by adults compared to a society in which adults lack such institutional power over young people?

That being said, sexual rights for children, according to feminist Kate Millet, cannot come before political and economic rights for children, and so we must understand how freedom is achieved by connecting multiple freedoms (or rights in a Liberal state) together. I believe children would be kept far safer than they are now if children could be allowed to say “no” to anyone who touches them in ways they dislike (including a parent) if they knew the law would back them up on their “no” to sexual assault or physical assault of any kind (including corporal punishment) if they knew they were not economically, emotionally, and socially dependent on the adult who wishes to harm them.

This is not to say that any law could protect children from harm completely. The abuse of children is a *cultural* problem first and foremost, not a legal one. If laws actually protected people and created a safe society, we would not see the continued systemic sexual

and physical abuse of children and women in every society that exists today. Why are women in my supposedly “free” country continually under threat of sexual and physical violence even with the law on our side? Rape is illegal and carries with it substantial repercussions for the person who commits the crime yet rape is common. Children are also protected under the law from sexual abuse and yet they, too, suffer from it—perhaps more than adult women and men. So, what’s the problem here? The problem is not that the law permits such acts; it does not. The problem is that our *culture* does. So long as cultures perceive women and children like things to be owned rather than persons to be respected, we will have rape and molestation in our societies, which means that my freedom to be sexual as an adult does not leave me more or less vulnerable to abuse compared to children because it is the patriarchy itself that creates the threat of abuse for all of us.

This is not to claim, however, that laws cannot help to change cultural attitudes. In Sweden, spanking, smacking, and other forms of corporal punishment of children by adult caregivers became illegal in 1979. But the Swedish people did not stop spanking their children out of fear of the law. The consequences of spanking were not particularly harsh. Rather, it was how the law worked in tandem with an incredibly effective public campaign, educating Swedish people about the negative effects of spanking. In this way, the culture shifted, and the law then became not the leader of that shift but simply one way in which the *culture* said “no” to corporal punishment. There is reason to believe that the same success could be achieved with problems related to sexual abuse.

This leads us to ask: who gets to decide what “protection” entails? If I am constantly deciding for you “for your own good” but you never have the ability to weigh in on what is being done to you (or I only listen to you if your opinion happens to coincide with mine), how is this helpful to you? Do we adults feel protected by others when we are denied the ability to participate in decisions that affect us? It is not my intention as a child liberationist to demonize parents or caretakers. Most adults deny children equal rights out of a genuine sense that this means they are protecting children from real, serious dangers. Instead, I believe that we adults fail to acknowledge adequately that we can be wrong about young people and wrong about our assumptions about them. “Protection” is often a code word for

“oppression” as history readily teaches us. Women, after all, never really felt *protected* by men when men declared women to be too irrational to vote. Women would harm themselves and others if they had such a right, men thought, and even when these men genuinely loved their wives and believed they were doing what was right for them, such “protection” was never more than a form of violence. Hatred is not the only reason for oppression and the only source of violence. This is crucial to understand. Love, when misguided, can be equally dangerous.

Within a Liberal state, if we grant young people equal freedoms the most fundamental right would likely be the right to vote. One common argument against allowing children to vote is that, at worst, they will be too easily persuaded by bribes, and, at best, they will have no idea what they are voting about. Yet voting in most countries does not require a test to measure how aware one is of the platforms, issues, and candidates for which one is voting. As an adult American citizen, I have the freedom to walk into a voting booth and fill out my ballot at random, with the result being that my ballot is then given exact equal weight to ballots that were filled out by thoughtful people who considered carefully each issue and candidate. To take issue with having uninformed citizens make important decisions is not really a criticism of child-voting, it is a criticism of democracy. Having competency tests for voting historically has been linked to racism. Such tests have always harmed minorities, which is why I would not trust my government to make any such test fair and thus do not advocate for testing. But then we are left with ignorance. The moral of the story is that voting, as a political process, *cannot be made fair*. Either we demand that people have some competency and then struggle over who decides what competency means and whether or not that system is corrupt, or we must allow people to vote however they wish and risk our political process being controlled by an ignorant majority. Neither outcome seems like it is pursuing our Common Good. Neither is good for true democracy. My point is that if we give young children the right to vote, our system will not be worse off—it will simply continue to have the same problems it does today with only adults voting. Pandering to voters in order to gain their support is the norm, not the exception, and single-issue voting—voting for a candidate based on their agreement with me on a single issue to the exclusion of all other issues—is also common. Many

adults have not demonstrated that they vote in a thoughtful manner and yet it is not much else we can do in a Liberal society but let them vote. Why, then, should children as a group be treated any differently?

Some also fear that extending the vote to children—especially younger children—would simply be an extra vote for their parents as the child would be too influenced by their parents to be able to think for themselves. This would make the democratic playing field unfair to those who do not have children. Again, though, this doesn't point to a problem with children voting so much as it points to a problem with voting in general. First, isolated decision-making is impossible according to phenomenology because what it means to be a person is to be intersubjective. We are always going to be influenced by others. Second, the assumption that “outside” influence is inherently bad is strange. Are we assuming that influence destroys *rationality*? Third, what typically happens is that as they get older, both teenagers and adults replace the influence of their parents with the influence of their peers. How is this better than looking to one's parents for guidance? Fourth, we should be wary if a person's political perspective denies the perspectives of others in a meaningful way because voting always affects society at large, thus I *should* be mindful of how my vote will affect others as well as how others perceive the moral value of my vote. Which is to say, I should think about how they would wish me to vote. Lastly, a culture that promotes critical thinking as a fundamental part of education would have fewer worries about children *and* adults making poor voting decisions. Denying children, the right to vote only makes children unable to vote as poorly as adults if we fail to make broader changes concerning how we think politically.

There is also the deeper issue of democratic participation. As voting is an activity that happens rarely it is not the heart and soul of democracy even in Liberalism. In order for proposals to become issues or bills that are voted on by the public, there must be a call for new legislation—and who comes up with these new proposals? If children are not allowed to weigh in on proposing social change, then their voting on measures created by adults will fail the test of being truly fair and just.

We might further note that in Liberalism, individuality is taken extremely seriously—or so Liberals would have us believe. Rights pertain to individuals, not groups, and there is a strong sense that one

should be judged based on one's own abilities and not another's. Yet age-based restrictions are precisely based on a perceived average and thus do not respect the individuals involved. That is, ten-year-olds are denied the right to take a driving test because it is believed that ten-year-olds across the board would fail. But how do we know all ten-year-olds would? Why make an age-based law if there are already actual tests of competency to ensure that one is capable of handling the right to drive? Simply because you may not be able to do something well does not mean that I also cannot, regardless of what arbitrary quality you and I might share. Perhaps the majority of ninety-year-olds cannot pass a driving exam, but the law doesn't summarily dismiss all ninety-year-olds from being allowed to take the test and see how it goes. Regardless, for the law to judge me based on the performance of others makes no sense from both a Liberal and an APC perspective.

Judging individuals eliminates general worries about absurdities under the law. When discussing youth liberation, I am often met with an incredulous response that goes something like this: "What do you mean to say? Those newborns should have the right to vote?! That two-year-olds should be allowed to drive a car?!" It is curious to me why this should be seen as radical or nonsensical as all I am suggesting is that we allow anyone who has the desire and *ability* to vote or drive should be able to prove their competency. But an appeal to apparent absurdity is common when Liberals first hear about child liberation.

Let us admit that categories are always a kind of stereotyping, an ideological shorthand to make evaluating people easier. But we only need to do this if we are unable to take the time to get to know an individual. My argument here is not that all children are wise—of course, there are children who are bad at certain kinds of decision-making, who cannot be trusted with certain responsibilities or information or experiences—but this is not a child problem, this is a *person* problem. That is, age is not the deciding factor in the question of whether or not a specific individual is capable of doing X or Y. What makes me bad at math, for instance, has nothing to do with my age. What makes me bad at eating healthy most of the time is also not a function of my age (I have always been bad at both math and healthy eating). Neither are these problems centered in my gender, my ethnicity, or anything else that is externally visible.

In politics and ethics, it is crucial that we grant or deny people freedoms on a case-by-case basis. This is the only democratic way of organizing a society. That we not only fail to do this but literally *cannot* do this in a Liberal nation-state should give us pause. If the worry is that it is simply too difficult to treat everyone as individuals under the law (which I do not think is the case), then what we really mean to say is that we do not take true democracy seriously. There is no such thing as “approximate” or “close enough” democracy—either everyone is treated fairly or we do not live in a democratic society. This means that these criticisms regarding how we treat young people are not going to lead us simply to call for more legal rights for children, but instead should cause us to question the structure of our society itself more deeply.

Another common argument against youth liberation is the idea that there is a significant difference between the struggle for child liberation and the struggle for female, black, and gay liberation—and thus the restriction of rights for youths is not commensurate with other oppressions because children will eventually become adults and thus enjoy equal rights under the law. Why should we be concerned about children being denied rights now—so goes the thinking—if what it means to be a child is to be on the path toward gaining the necessary experience to become responsible rights-bearing adults? What this belief fails to address is the fact that children’s lives are important to them *right now*. Children are not adults-to-be or persons-to-come; they are already full persons ontologically. What concerns a child now are not the same concerns they will face when they are older. Future rights mean nothing to children *as* children. We would never think to say to women that if they just wait a while and get sexual reassignment surgery, they can all eventually become men and thus enjoy a full set of rights. We would never think to say to people of color that if they just wait a while and get some skin bleaching treatments in the future, they can all eventually become white enough to enjoy a full set of rights. It is an act of violence to silence others in our community or degrade and devalue their voices based on their group identity; it is doubly offensive to tell them that the only solution is not to value them for who they are now but to try to change them into something we already value.

Now that we have established the underlying assumptions about the nature of autonomous rationality for political and ethical decision-

making, and we have seen some of the most common complaints about children being extended rights that come from such assumptions, we can turn to the second most common argument against giving children equal treatment under the law: the child's lack of experience. The thinking here is straightforward: if children have not had enough time to gain adequate knowledge of the world to act reliably and consistently in their own best interests it would be detrimental to young people to grant them the same freedoms afforded to adults—for how could a child be free *responsibly* without having had the lived experience of understanding the consequences of certain behaviors? By unpacking the phenomenological nature of experience as well as how it arises in different “modes” we will see a few ways in which this concern is unfounded.

Experience is often reified into a kind of “thing” that, when taken in aggregate, adds up to a stored repository of wisdom. Gaining enough experience to act with prudence necessitates a lot of time, and children, we believe, only know what it is like to be a child whereas we adults have the power of knowing *both* our past and present perspectives. But how much do we really know about our past lives as children? If you added up all the memories you have of your life from 2019 how many hours out of the 8,760 that composed that calendar year would you be able to recall? Now consider the sum total memory of your life when you were, say, six years old. An adult claiming to have a clear and true perspective on their childhood due to the number of accumulated experiences is not really being serious about what they actually remember.

Additionally, we might phenomenologically say that we adults do not know what it is like to be three, or ten, or twelve years old precisely because we are not three, ten, or twelve years old now. The immediacy of an experience compared to the sedimented interpretations of a memory fundamentally alter our being-in-the-world. Compare the experience of burning your finger on a hot stove with the memory of having burned your finger on a hot stove. The first experience hurts, the second one doesn't. Or at least we must admit that the second one hurts in a fundamentally different way. In many ways, then, the experience of being three years old “hurts” is filled with joy, is exhilarating, is filled with fear, etc. in a way that *remembering* what it was like to be three is not. Consequently, when

we remember being three, we do not have access to the most important aspects of the experience of our three-year-old self.

Much like the experience of physical pain, our ability to recall what it felt like to be a child, in general, is difficult because the things that were important to us back then are often not important to us now. What seemed to be a devastating loss as a child—say, of a broken toy—seems unimportant to us as an adult. As a result, we denigrate those youthful feelings of sorrow and become suspicious: if we could feel so *irrationally* sad about such a minor issue what else did we overreact to or misunderstand back then? Using our status as “one-who-has-been-previously-a-child” we then judge those who are presently-young, often our own children, as being unreliable narrators and judges of their own experience. We feel that being older and wiser, we are better able to gauge with accuracy the meaning and importance of past experiences as we have had the time to reflect on those past events. Additionally, we have had a greater number of similar experiences to compare and learn from as opposed to young people. But this way of understanding consciousness and experience is not phenomenologically accurate. We, adults, do not have *more* perspective on the past but simply a *different* perspective. One might also see a parallel here with Thomas Kuhn’s claim that a scientific paradigm that comes later in culture than another scientific paradigm is not *better*. Instead, the new paradigm just allows us to know *different* things (rather than *more* things). Knowledge is not cumulative from paradigm to paradigm. History is not “going someplace.” There is no *progress*. We just have the truths, the tools, the belief system, and the worldview at any given point in history that allows us to do the things that that particular paradigm marks as important. In this way, we might think of Kuhnian scientific paradigms as akin to historical ages marking the life of the human. Within the “adult paradigm,” we do not know everything we knew in the “child paradigm” plus more. We just know different things: we know how to be an adult. We no longer know how to be a child or what it is like to be a child. Progress is an illusion.[11]

My claim is not that we understand fully our experiences in the “now” or at any moment in time. The phenomenological analysis of conscious experience always exposes the fundamental *absence* that exists in all experiences. I can never understand an experience in totality and thus declare with absolute certainty that my understanding

of an experience is the final, true, and right understanding. This echoes what Nietzsche and other Western Continental philosophers have stated about the project of history and knowledge in general: that unlike the project of the Enlightenment that assumes that we can understand the entire world given sufficient science and technology, *logos* has its fundamental limitations that result in the fact that no single approach can contain all possible perspectives or experiences of the world. To “enlighten” ourselves—that is, to cast light on one aspect of reality and come to know it—we must necessarily cast other parts of reality into shadow. Thus, we obtain not “more” knowledge of the world but rather gain only different *kinds* of knowledge of the world. In Husserlian terminology, what is present passes into absence, passes into presence, passes into absence, etc. Things present themselves as manifolds of presence and absence, always with some profile still in reserve. The world’s unfolding is an infinite task.[12]

Given this, it is of course true that children can be mistaken about their interpretations of an experience, but the threat of misunderstanding experience is always present because we *never* have full access to all possible perspectives. A child does not have to know everything about X or have every claim about X that he makes be true in order to say both that he is having an experience of X and, on a deep phenomenological level, *knows* X. Just as adults do not and cannot know everything but should still be taken seriously, so, too, should young people be respected even if they lack complete knowledge of themselves and their world. Phenomenologists often speak of “the sedimentation of experience.” That is, we have initial experiences of something, we come to have more experiences of that thing, little by little or expectations and assumptions become set until there comes a point at which our experience is so sedimented that we believe we are well acquainted enough with the thing that we no longer need to think consciously about it. Heidegger would say an object is “ready-at-hand” only after the sedimentation of experience.[13] Husserl would say that active identity synthesis has become a form of passive synthesis.[14]

What can be easily overlooked in this analysis is that, although sedimentation as a metaphor involves progress (involves having more and more experiences of something), the new layers of sediment metaphorically and literally “cover over” the past, making it

impossible to see what has come before. In this way our current experience is indebted to the past and in some sense has “grown” from it, but the process of sedimentation means that the past as it was present to us in the past is gone forever. Consequently, you cannot remember what it’s like to be three years old. You can experience what it’s like to be, for example, a 30-year-old trying to remember what it’s like to be a three-year-old, but the difference is so great that it is akin to feeling the burn of the stove versus reflecting without pain on having touched a stove long ago.

Certainly, there are kinds of tasks that require repetitive practice to master such as learning how to play an instrument, dance ballet, or grasp the fundamentals of higher-order mathematics. Practice leads to a kind of habituation that allows for certain skills and knowledge to be “ready-at-hand,” and for some tasks this habituation is crucial for the successful execution or comprehension of a given study or practice. Children, having been alive for less time and thus necessarily having less practice, will always be behind older people who dedicate considerable time to mastering these kinds of abilities. But when it comes to being moral and political agents, repetitive experience of this nature is not always necessary or even preferable. Habituation to the status quo politically, ethically, and culturally can lead us to stop thinking critically about the worthiness of a particular way of doing things. Habitual thinking can make us passive in our acceptance of “the way things are,” especially in a political and social sense.

Moreover, the kind of skill that matters politically is a *moral* skill, which is perhaps more easily achieved than the Western philosophical canon would admit. Aristotle suggests that children need moral heroes and models so that they might structure their own actions accordingly. But we must acknowledge that infants and very young children regularly can and do identify and meet the needs and desires of others. I think, for instance, of my niece Charlotte, who, when she was two years old, comforted my sister the day our father died. My sister received the phone call that our father had passed away, and Charlotte immediately went about finding ways to help by giving Maryse, my sister, a favorite stuffed animal, allowing her to rest rather than make lunch or entertain her, and telling her father when he arrived home how they needed to take care of chores so that my sister could be left to grieve. In the following months, Charlotte would ask Maryse if she still felt sad about our father, which indicated that she

understood without much work that death is permanent and grief long-lasting (even when the person goes about their normal daily routine). Maryse told me later how she felt Charlotte was the person who helped the most of anyone with her grief during that time. How could this be when Charlotte had never experienced the death of a loved one before and as such lacked that specific experience of grief herself and helping those who grieve?

As soon as we are born, we experience what it means to be cared for as well as to care (just as we experience neglect and harm as soon as we are born). *Living is experiencing*. When we engage in relationships, we necessarily experience morality as it is the foundation upon which relationality is built. If what it is to be a person is to be one's roles and relationships, then a child—who is a set of roles and relationships—is necessarily a moral being. Children, then, have the experience to be moral persons, and when they fail it is not usually because they are unaware that their actions harm but rather, as is all too common with adults, they simply do not care at that moment to do the right thing.

Of course, it is not only the ethics of mourning that children are able to understand. Do I understand the nature of war better than all six-year-olds? As a 37-year-old American who has never served in the military, I have never had to deal with airstrikes, severe food shortages, or passing dead bodies in the streets on the way to school or work. I have never had to defend myself personally against a foreign enemy, yet many children around the world have and do face such challenges. True, I have read about war, seen videos and photographs, and have discussed the war with others, but how could it be said that I know *better* the meaning of death and violence simply by virtue of my age compared to a young child who has had direct experience of such?

A favorite teacher of mine in college often asked us, “Does researcher X have ten years of varied, rich experience, or is it merely one year of experience repeated ten times?” An adult could lead a “sheltered” life with only a narrow experience of the world; a child could lead a life full of many different kinds of challenges and situations. Whether a person—of any age—reflects deeply on the experiences they have varies from person to person. A person can be married for thirty years and still lack wisdom about what it means to be in a romantic relationship, and that is because in order for us to gain knowledge or wisdom from experience we must take the time to

reflect thoughtfully on our experience. *The reflection that leads to true wisdom is not automatic.* You and I could both ride a rollercoaster and I could wear earplugs, a blindfold, and take a Xanax before getting on whereas you pay close attention to every sensual aspect of the experience and then take the time to consider the meaning of riding a rollercoaster phenomenologically.[15] At the end of the ride we both “had the experience of being on a rollercoaster,” but simply being there doesn’t automatically result in wisdom gained.

Furthermore, we do not allow children to make certain decisions in the first place which means they lack experience they *could* potentially have simply because we don’t allow them enough responsibility to have those experiences. How then could we know what children are truly capable of understanding and doing? We put children in a “catch-22”—that is, we put them in an impossible position in which they are prevented from gaining the experience they need to perform capably precisely because we forbid them the opportunities to experience, study, and reflect. The fault in failing to become responsible is thus not theirs, then, but our own.

Anthropology can help us here. A common belief in Western cultures is that very young children are incapable of effectively carrying out everyday tasks that maintain family and social life, yet children as young as five years old in non-Western countries hold real jobs that pay a wage, look after infants and sick family members, use sharp and dangerous tools, and perform chores that are complex (such as killing, dressing, and cooking an animal). All of these tasks require physical learning and skill as well as critical thinking and moral intelligence.[16] Thus it is often ignorance, not wisdom, that guides Western adults’ thinking regarding the capabilities of young people.

Our assumptions about young people also lead us to commit the sin of “forgetting the misses and remembering the hits.” When a child does something unexpectedly mature, we often dismiss it as accidental (“kids say the darnedest things!”) and never attribute those insights to their age, but when a child does something foolish, we believe that behavior is a result of being young. However, if adults do “immature” things what is our excuse? This is similar to how we treat and perceive women and people of color. If a woman is crying it is because she is a woman; if a man cries it is because there is something objectively worth crying about. If a person of color is rude many white people attribute the behavior to their blackness, but rarely is a

white person's bad behavior attributed to the color of their skin. The Polish author and great ally to children, Janusz Korczak, put it best:

We play with children using marked cards; we pierce the child's weaknesses with the trump cards of adult virtues. As card sharks, we so shuffle the deck as to juxtapose the worst of their hands with the best of ours. What about our own careless and frivolous grown-ups, selfish gluttons, fools, idlers, rogues, brawlers, cheats, drunkards, and thieves? How much discord, cunning, envy, slander, and blackmail are there among us? Words which wound, deeds which shame? How many quiet family tragedies where children suffer—the first martyrs? And we dare blame and accuse?![17]

Most often we—adults and children alike—fail to do the right or sensible thing not because we are ignorant of what is right but rather because we have competing desires and interests. I struggle with eating with my good health in mind not because I'm unaware of the consequences of doing so. I don't procrastinate in writing essays because I am unaware that this is not in my best interest. I don't fail to treat others as they should be treated because I lack the knowledge of what it means to be a moral person. The ability to weigh carefully the immediate versus long-term risks and benefits of behavior is a challenge for all of us, and this is more often than not due to our personality, culture, habits, and stress than it is caused by our age. Children know that sugar is bad for them—how could they not? That's what they hear from adults since they are old enough to reach for a cookie. But just like adults, children tend to think that cookies taste good, so they like to eat them. The idea that the problem lies somewhere in the “undeveloped” structure of their brains rather than in their personality, culture, and desire makes little sense. After all, it is probably not going too far to say that there is not a single adult in the entire world who chooses to eat a Big Mac (or any kind of fast food) for its superior nutritional value.

Finally, there are many “modes” in which we experience the world, all of them informative and meaningful. These modal possibilities allow children to experience everything adults might experience, even such things as romantic love and desire. A child may not be in a romantic love relationship at the age of four yet can still experience romantic love in many ways. Children watch their parents fall in and out of love with each other or other partners, they observe a teenage couple kissing in the park, they play-act a romance with other

children, they feel passionately for their friends and develop crushes on their teachers, they see the Disney movie where the prince marries the Princess, they see the movie they aren't supposed to see where a marriage turns abusive and falls apart, etc. A child could also simply reflect on what it means to be married as a philosopher might, and come up with many true and useful insights. All of these experiences have the same intentional object: "romantic love." Phenomenologically, all of these noetic acts are sharing the same noema—the noema remains the same even as the noesis changes. The intentional object is "romantic love," and how we noetically access it—by means of imagination, memory, calculation, direct experience, etc.—doesn't affect the noema ontologically. The noema remains the same. Children, then, truly do experience and thus know romantic love. Their experience is often different from those made available to adults, but it is a valid experience nonetheless.

Of course, there are limitations to each mode of experience—none of which can provide all possible ways of experiencing a thing or a situation in the world. For instance, watching films about Kung Fu is not going to allow me to do Kung Fu very well myself if I've never trained. But "direct" experience also fails to give us the full possibility of experiencing a thing. We can imagine many things that are not physically real (e.g., I can imagine being in love with a fictional character, or I can pretend to be someone other than myself who is in love). Thus, to denigrate observation, imagination, and play-acting as not really "real," as not really important for wisdom compared to "direct" experience is unfair. This is why art *works*—actors can convincingly portray any number of things and elicit real emotions from viewers, painting can show us new ways to see, and novels can show us how romantic love can fail or flourish. Fiction has a reality of its own, but it is a reality that we inhabit just as surely as we inhabit the material world. There is thus no topic that is necessarily off-limits to the experience and knowledge of a child even if it is the case that the phenomenological mode of imagination is more typically the default for children than "direct" experience.

As I mentioned at the beginning of this essay, the arguments I present here in favor of child liberation are incomplete. Much more needs to be said. But it is my hope that what I have presented encourages readers to think more deeply about the nature and capabilities of young people. If we claim to care about equality under

the law and the just treatment of others—if we simply claim to *care* about children—we must take seriously the possibility that we are wrong about our assessment of young people’s inability to be effective, complete members of our communities, and thus wrong about our refusal to grant children freedom. We need not be fully committed to the revolution that child liberation might ultimately require in order to make changes in how we treat children in our daily lives. We can choose to respect the young people in our own lives and strive to become less oppressive in our actions. We can listen, support, and take seriously the thoughts and perceptions of young people. We can give children the ability to take on meaningful responsibility in their families and communities, and we can allow them as much practice in decision-making as the current laws allow. We can, that is, take baby steps toward a better future. Realizing, of course, that a baby’s steps are just as important, just as real, and just as deserving of respect as is an adult’s.



Notes

- [1] As a citizen of the United States, I will often discuss how the U.S. approaches child rights but the majority of my claims will extend to other nations as well.
- [2] Readers might be hesitant to accept this claim in light of the existence of the UN Declaration of the Rights of the Child. However, the Declaration is not a legally enforceable document in the event a member country of the UN violates the Declaration. Furthermore, the United States is one of the three governments that has not officially ratified the document (the other two are Somalia and South Sudan) and there is no government-funded programming designed to realize the goals of the Declaration. Most importantly, it does not advocate for making minors full citizens under the law. Instead, it is principally concerned with rights to *protection* rather than the right to autonomy.
- [3] I am consciously using the plural “their” here and throughout this essay to support non-gendered language.
- [4] Giedd JN, Blumenthal J, Jeffries NO, Castellanos FX, Liu H, Zijdenbos A, Paus T, Evans AC, Rapoport JL (October 1999). “Brain development during childhood and adolescence: a longitudinal MRI study.” *Nature Neuroscience*. 2 (10): 861–3.
- [5] I would argue that people of color and women continue to be institutionally oppressed in the U.S. and many other countries, but that is a topic for another paper.
- [6] Anarchic Phenomenological Communitarianism was created by H. Peter Steeves. It is a theory worked out across his corpus, but one might begin where he began, conferring *Founding Community: A Phenomenological-Ethical Inquiry*. *Phaenomenologica* 143 (Dordrecht: Kluwer Publishing, 1998).
- [7] Steeves argues that this is the lesson of Husserl’s fifth *Cartesian Meditations*. Cf. *Meditations Cartesiennes: Introduction à la phénoménologie*. Gabrielle Peiffer and Emmanuel Levinas, trans. (Paris: Armand Collin, 1931).
- [8] Steeves’ *Founding Community* argues for this in more detail, even claiming that nonhuman perspectives are essential apperceptions that constitute our understanding of the world and the Good.

- [9] For me, everyone matters—animals, plants, and even the non-living. While this may seem radical and even nonsensical, it is in fact a very old way of thinking—one that can still be found in nearly every tribal society in the world.
- [10] To be sure, “equality” as a concept is problematic in the sense that it often implies that we are all ontologically the same and thus require exactly the same things in order to flourish. Rights are generic and are a kind of “one size fits all” attitude towards freedom, something APC does not find sufficient in bringing about true flourishing. If we are all radically unique in the ways in which our roles and relationships “overlap” to create our being there is no way to meaningfully compare one person to the next in the way Liberal conceptions of equality and rights demand. In APC, then, the personal, intimate act of *care* replaces the abstract and statistical “equality” as a means to ensure that everyone is able to flourish in society.
- [11] See, e.g., Thomas Khun, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1962).
- [12] This phrase comes from H. Peter Steeves. The idea is present in Husserl, Heidegger, Nietzsche, Derrida, et al.
- [13] Martin Heidegger, *Being and Time*, trans. John Macquarrie and Edward Robinson (Oxford: Blackwell, 1962). This is a theme that runs throughout the first section of *Being and Time*, but one might see, especially, pp, 87-89.
- [14] See the last sections of the second meditation of Edmund Husserl’s *The Cartesian Meditations (Meditations Cartésiennes: Introduction à la phénoménologie*. Gabrielle Peiffer and Emmanuel Levinas, trans. [Paris: Armand Collin, 1931]).
- [15] If you are into that sort of thing, you can find a phenomenological analysis of the experience of riding a rollercoaster in chapter 8 of H. Peter Steeves, *The Things Themselves: Phenomenology and a Return to the Everyday* (Albany, NY: SUNY Press, 2006).
- [16] For more information regarding cross-cultural studies of the lives of children see Barbara Rogoff. *The Cultural Nature of Human Development* (Oxford, UK: Oxford University Press, 2003).
- [17] Janusz Korczak. *When I am Little Again and The Child’s Right to Respect* (University Press of America, 1992).