

Children's Well-Being: Indicators and Research 9

Alexander Bagattini  
Colin Macleod *Editors*

# The Nature of Children's Well-Being

Theory and Practice

 Springer

# The Nature of Children's Well-Being

# Children's Well-Being: Indicators and Research Series

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## Volume 9

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Editors

# The Nature of Children's Well-Being

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# Contents

## Part I Children’s Well-Being and Autonomy

<b>1</b>	<b>Children, Adults, Autonomy and Well-Being</b> .....	<b>3</b>
	David Archard	
<b>2</b>	<b>Autonomy and Children’s Well-Being</b> .....	<b>15</b>
	Paul Bou-Habib and Serena Olsaretti	
<b>3</b>	<b>The ‘Intrinsic Goods of Childhood’ and the Just Society</b> .....	<b>35</b>
	Anca Gheaus	
<b>4</b>	<b>Agency, Authority and the Vulnerability of Children</b> .....	<b>53</b>
	Colin Macleod	
<b>5</b>	<b>Enhancing the Capacity for Autonomy: What Parents Owe Their Children to Make Their Lives Go Well</b> .....	<b>65</b>
	Monika Betzler	
<b>6</b>	<b>Utilitarianism, Welfare, Children</b> .....	<b>85</b>
	Anthony Skelton	

## Part II Children’s Well-Being and Authority

<b>7</b>	<b>Paternalism in Education and the Future</b> .....	<b>107</b>
	Dieter Birnbacher	
<b>8</b>	<b>Anti-perfectionist Childrearing</b> .....	<b>123</b>
	Matthew Clayton	
<b>9</b>	<b>Respecting Children and Children’s Dignity</b> .....	<b>141</b>
	Holger Baumann and Barbara Bleisch	
<b>10</b>	<b>Who Decides?</b> .....	<b>157</b>
	James G. Dwyer	

### **Part III Children's Well-Being and Policy**

<b>11</b>	<b>The Concept of Best Interests in Clinical Practice</b> .....	179
	Jürg C. Streuli	
<b>12</b>	<b>Children's Well-Being and the Family-Dilemma</b> .....	191
	Alexander Bagattini	
<b>13</b>	<b>Child Welfare and Child Protection: Medicalization and Scandalization as the New Norms in Dealing with Violence Against Children</b> .....	209
	Heiner Fangerau, Arno Görgen, and Maria Griemert	
<b>14</b>	<b>Children's Rights, Well-Being, and Sexual Agency</b> .....	227
	Samantha Brennan and Jennifer Epp	
<b>15</b>	<b>The Grounds and Limits of Parents' Cultural Prerogatives: The Case of Circumcision</b> .....	247
	Jurgen De Wispelaere and Daniel Weinstock	

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# Introduction

The concept of children's well-being or welfare is frequently invoked in public debate in a wide variety of legal, political, medical, educational and familial contexts. There is broad consensus that the well-being of children matters greatly and that it deserves special promotion and protection. Yet the very concept of child well-being is also highly contested. People often disagree about what child well-being consists in, how it is to be promoted and about its importance in relation to other goods and moral values.

Disputes about the nature of children's well-being arise in part because there are many different disciplinary perspectives from which to approach the concept. In medicine, for example, we sometimes find a narrow health-related concept of the well-being of children. Medicine, as an empirical science, tends to emphasize a conception of well-being grounded in basic physiological and psychological attributes. Well-being is treated as proper biological functioning as exhibited in the absence of disease or impairments of normal capacities. By contrast, the social sciences often focus on objective economic factors (e.g., levels of poverty), educational factors (e.g., test scores) and social factors (e.g., family structure and divorce rates) in the analysis of children's well-being. Some traditional religious communities worry that the focus on material dimensions of well-being comes at the expense of proper recognition of the spiritual well-being of children. And so on.

These diverse perspectives are not necessarily inconsistent. But a narrow focus on one perspective or one facet of well-being can generate controversies or puzzles. For example, if the well-being of children is treated primarily as a physical and psychological phenomenon, social factors that influence well-being such as family-structures or peer-pressure are easily overlooked. This in turn can result in the over medicalization of problems in which medical treatment comes to dominate efforts to promote well-being. We can see this illustrated in the alarming propensity of viewing hyperactivity in children solely as medical condition that can be remedied by prescribing powerful drugs such as Ritalin. In other cases, the concerns that some parents have for the spiritual well-being of children sometimes leads them to neglect or jeopardize their children's health. These familiar

examples remind us that one general challenge in developing a satisfactory account of well-being is to determine how different facets of well-being should be integrated in a balanced and comprehensive outlook that can help guide practical decisions affecting children.

This book is intended to contribute to the project of illuminating different facets of the well-being of children and their relevance to the proper treatment of children. The specific issues addressed by the contributors are diverse as are the disciplinary perspectives and methods they employ. Together the chapters do not yield a single unified theory of the well-being of children. However, the essays are animated by a common assumption that focused attention on the character of the well-being of children is needed for at least two reasons. First, this is an understudied topic in philosophy and related academic disciplines. Second, simplistic or impoverished accounts of well-being still wield influence in various political and policy settings. The resolution of practical controversies concerning the treatment of children can be enhanced by developing more nuanced views about the nature and sources of children's well-being. Given, complexity and importance of addressing the nature of the well-being of children, there is surprisingly little academic literature that confronts the topic directly and systematically. Most philosophical treatments of well-being dwell on the well-being of adults.

Although there are, of course, commonalities between the well-being of adults and children, there are also theoretical and practically interesting differences. The essays in the volume both build upon and, in some ways, depart from general philosophical work on well-being. First, although some general dimensions of children's well-being are relatively uncontroversial, there are philosophical disagreements about the meaning and character of well-being at both the abstract and concrete level. The utilitarian tradition analyses well-being as consisting in happiness but is divided as to whether happiness should be interpreted hedonistically or whether it consists in some form of preference satisfaction. Aristotelian views, by contrast, view happiness as only one, perhaps rather small, dimension of a broader conception of eudaimonia. On these views, well-being is best seen a type of flourishing comprised of various intrinsic goods that are realized through the development and exercise of distinctively human capacities. For the most part, such expressly philosophical views have been developed with little or no attention to special features of the well-being of children. Yet children's happiness might have quite different sources and character than the happiness of adults. For instance, since children often do not understand what they want, desire satisfaction theories of happiness do not tell us much about children's happiness. Similarly, eudaimonic flourishing as a child may be quite different from flourishing as an adult. After all, at least some of the rational and affective capacities of adults that figure prominently in Aristotelian accounts of eudaimonia are not fully present in children. So in addition to determining how to address substantive philosophical disputes about the nature of well-being in general, work needs to be done on how to extend or adapt theories of adult well-being to children.

Second, interpretation of the well-being of children is complicated by the special relationships of intimacy, authority and care that obtain between adults, especially

parents, and children. In most states, parents enjoy a great deal of latitude in deciding what the well-being of their children consists in and how best to promote it. Parents, for example, have wide discretion to shape their children's religious, moral and political convictions and they are permitted to make many medical, educational, dietary and lifestyle decisions (e.g., about access to media, participation in sports or music) that directly affect the well-being of children. Parental authority is often grounded in the assumption that children lack sufficient autonomy to track their interests reliably. Parents are called upon to identify and advance the well-being of their children until such time that the children become competent, independent and responsible agents. Yet parental authority over children can be exercised in ways that jeopardizes children's well-being. So parental authority to make and implement judgements about what promotes the well-being of their children is not absolute. It is always, to some important degree, limited by basic considerations of health, safety and education that are not grounded in parental judgements. Moreover, children, even before they fully mature, are not merely passive subjects. They are active and developing agents. This means facets of the independent agency they display as children are arguably relevant to the interpretation of their well-being. The well-being of children may be partly constituted by or grounded in the preferences they have and the choices they make. We may gain insight in children's well-being by being attentive to their opinions. Similarly, even when we doubt the soundness of children's judgement about their own well-being, respecting (some of) their less than ideal views, can have valuable developmental benefits and display respect for them as independent persons.

These observations give rise to practical and theoretical puzzles about how well-being should be understood in relation to parental views and what the appropriate response to potential threats to well-being is in light of the special importance of family relationships between parents and children. For example, physicians and social workers sometimes seek to protect children from their parents. Yet parents often view interventions into the private life of the family as meddling and destructive. In such disputes, both sides appeal to the well-being of children to justify their actions. How should such conflicts be adjudicated? How are the choices and preferences of children relevant to tracking their interests? In the face of a plurality of interpretations of child well-being, what conception of well-being should a just state employ to craft effective laws and public policies that bear upon the treatment of children? Credible answers to these and related questions depend on identifying and assessing the significance of distinct dimensions of children's well-being.

The essays in this collection contribute to that project in various ways. The book has three major parts with the essays in each part loosely organized about a common general theme. The first part focuses on issues concerning the relation between children's well-being and autonomy or agency. The second part deals with child well-being insofar as the limits of parental authority are concerned. The third part has a more applied orientation and addresses a variety of public policy controversies involving the interpretation of children's well-being.

In much literature, the concept of the child is typically defined by a purported lack of autonomy on the side of the child (Schapiro 1999) that is grounded in the cognitive, emotional and moral immaturity of children. This view emphasizes the capacities that adults normally have but that children lack: reasoning powers, time-oriented perspectives, emotional control, self-knowledge and a stable self-image (Noggle 2002). This leads some authors to view childhood as “predicament” from which children need to be helped to escape. What is valuable in a child’s life is identified mainly as those activities and experiences that are instrumentally valuable in facilitating the emergence of a rational, autonomous agent (Schapiro 1999). The predicament view provides an easy basis for justifying paternalistic action against children. Children are considered to be “incompetents” (Buchanan and Brock 1990) that are incapable of reliably identifying and securing their own interests. Their well-being can only be secured through the close guidance and supervision of adults. Moreover, the orientation of paternalistic concern for children is primarily centred around preparing them for adult life and the opportunities for well-being adulthood presents. Yet, as the papers in the first part of the book demonstrate, childhood may have significance beyond its role in preparing children for adulthood. Grappling with emerging autonomy of children may be more complicated and nuanced than is often assumed.

In “Children, Adults, Autonomy and Well-Being”, David Archard helps to set the stage for closer consideration of the autonomy of children and its significance by offering a subtle challenge to the widespread assumption that a sharp line can be drawn between the moral and political status of children and adults in virtue of their respective autonomy. (Adults are autonomous; children are not.) This commonly invoked “basic” view in turn underlies a liberal orthodoxy about paternalism: whereas the freedom of competent adults cannot be limited in the name of promoting their own good, promoting the well-being of children is the only consideration that matters in determining how to treat them. Archard argues that the basic view offers an unduly simplistic account of the manner in which the opinions of children matter to the justification of paternalism. Children’s own views about how they wish to be treated must be given weight that is sensitive both to the level of maturity and to the magnitude of the interest that is at stake when paternalism is contemplated. For Archard the point of consulting children is not solely to gather evidence about what their interests are. Instead, children’s views have some weight in limiting paternalism even when they do not track their well-being perfectly.

In their paper “Autonomy and Children’s Well-Being” Paul Bou-Habib and Serena Olsaretti argue for greater recognition of and respect for the distinctive autonomy of children. In their view children have a specific form of autonomy that is different from the autonomy of adults, yet it differs only in degree. Even quite young children have sufficient cognitive capacities to understand, adopt and remain committed projects and activities that they value. Securing the well-being of children, on their view, is intricately bound up in responding to the autonomy that children already display. This does not mean that children’s preferences are always an authoritative guide to how they may be treated but on their

account of “child-sensitive autonomy”, children’s reasons pose more forceful constraints on paternalism than is usually recognized. En route to developing this position, Bou-Habib and Olsaretti discuss and critique influential interpretations of the relevance of autonomy to children. They argue that many accounts of the significance of autonomy in children wrongly treat it solely as an end-state to be achieved by proper education and upbringing. Such views unduly circumscribe the capacities and authority of children in many domains to pursue their own well-being in their own way. Bou-Habib and Olsaretti also challenge Matthew Clayton’s view that limits of acceptable parenting practices are set by a standard of retrospective consent. Although they are sympathetic to Clayton’s opposition to the comprehensive enrollment of children into the projects of their parents, Bou-Habib and Olsaretti insist that Clayton does not adequately acknowledge the significance of children’s own autonomy.

The idea that children’s distinct conceptions of their own well-being need to be more fully acknowledged and respected is allied with a somewhat different theme that there are intrinsic goods of childhood. The basic suggestion is children have some special opportunities for well-being and flourishing and that value and significance of these opportunities cannot be reduced to their instrumental contribution to successful development of children into mature adults. This theme is explored in different ways in chapters by Anca Gheaus and Colin Macleod.

In her essay “The Intrinsic Goods of Childhood and the Just Society” Anca Gheaus defends the claim that there are such intrinsic goods of childhood and childhood itself has special value in virtue of the access to these goods that it affords. For example, childhood presents opportunities for carefree, spontaneous play that is fuelled by boundless imagination. Gheaus argues that proper appreciation of the value of such goods gives us reason to abandon the “predicament” view of childhood. Gheaus’s proposal draws some recent research of the developmental psychologist Alison Gopnik that characterizes childhood not in terms of the absence of rationality. Rather the distinguishing feature of childhood lies in children’s remarkable capacities of curiosity and their ability to learn and change in the light of new experience (Gopnik 2010). Although Gheaus acknowledges that children have more ready access to the goods of childhood, she argues adults can experience and appreciate these goods too. Indeed for Gheaus our conception of the elements of a successful adult life and the character of a just society should be revised so as to valorize and facilitate the pursuit of childhood goods by adults. On her view, at least some of the goods of childhood can and should be accessed by adults.

Although Colin Macleod also argues for the recognition of intrinsic goods of childhood, he explores the idea from a different angle. In “Agency, Authority and the Vulnerability of Children”, Macleod considers how the difference between the vulnerability of adults and children is largely grounded in features of their respective agency. Adults are usually considered less vulnerable than children and this is largely because they are mature agents who have fully developed cognitive capacities in virtue they can manage important aspects of their own well-being. Children, by contrast, are juvenile agents to whom the rights to manage their own well-being are

not assigned because they lack the powers of mature agency. Given our concern to reduce the vulnerability of children, one might think that we should expedite, to the greatest degree possible, the development of mature agency in children. Macleod, however, resists this suggestion because he thinks that the very absence of some features of mature agency gives children access to important sources of well-being. Macleod sees children's innocence and their capacities for imaginative play as especially valuable. Securing children access to these goods gives us a reason not to rush the development of mature agency, and this in turn affects our understanding of the rights we assign to children. Unlike Gheaus, Macleod does not think mature agents can readily access the goods of childhood. In his view, childhood has special value because it affords children more or less unique access to the goods grounded in the exercise of juvenile agency.

Monika Betzler allows that there are intrinsic goods of childhood but in her paper, "Enhancing the Capacity for Children's Autonomy: What Parents Owe Their Children to Make Their Lives Go Well", she focuses on the significance of autonomy acquisition for children's well-being. For Betzler, one of the most important duties of parents is to promote and even enforce their children in becoming autonomous persons. Betzler's basic idea is that children need to be engaged in and come to value their own projects so as to become autonomous persons. Valuing projects manifests what a person finds important, and thus satisfies an authenticity condition of autonomy. Parents have a duty to encourage their children to adopt and value significant projects. Projects are defined as norm-governed, complex action-types that are related to identity-commitments on the side of the child. By learning to pursue and value projects, children are, according to Betzler, supposed to acquire strong value-commitments that are necessary for long-term life-plans and autonomous decision-making.

Most of the essays in the first part of the volume consider how recognition and facilitation of children's autonomy or agency affects our understanding of their well-being. But the happiness of children is surely a component of well-being and it is instructive to consider how it might be understood independently of concerns about autonomy. This is challenge taken up by Anthony Skelton in his "Utilitarianism, Welfare, Children". As the title suggests, Skelton's paper draws on a broadly utilitarian perspective insofar it analyses well-being in terms of happiness. His main goal in his contribution is to overcome the general neglect of children's well-being in utilitarian ethics. Skelton reviews influential contemporary accounts of welfare in the literature and reveals its limited applicability of many views to children. He criticizes subjectivist desire accounts as ill suited to young children and objective list accounts as too exclusive. To remedy these problems, he introduces a hybrid account of well-being that embraces both subjective and objective criteria of well-being. For Skelton children's well-being should be defined by a child's subjective happiness as well by specific objective features of a child's well-being such as health. Despite its expressly utilitarian orientation, there are commonalities between Skelton's view about the characteristics of a good childhood and those endorsed by other authors in the part who do not analyze the issues from a utilitarian perspective.

Whether or to what degree the utilitarian account offered by Skelton complements the other proposals is an interesting issue.

The second part of the book picks up questions concerning the relation between children's well-being and the authority of adults to make decisions on their behalf. A standard view assigns almost complete authority to adults, and especially parents, to make judgements about children's well-being. Some degree of paternalism towards children is legitimate but there has been increasing recognition that determining the character and extent of adult authority over children is no simple matter. In his essay, "Paternalism in Education and The Future", Dieter Birnbacher addresses a puzzle about paternalism that arises in the context of education. The main question of the paper concerns the extent to which paternalism should be allowed in education. Drawing upon a line of argument due to the nineteenth-century philosopher Friedrich Schleiermacher, Birnbacher explores a special temporal dimension of paternalistic acts in education. Education is supposed to serve the long-term interests of children. However, as Schleiermacher pointed out, the realization of the expected future positive effects of paternalistic action is sometimes highly unreliable. Uncertainty about how or the degree to which educational paternalism will serve the (relatively distant) future interests of children creates an obstacle to justifying paternalism. We often have less confidence about how paternalistic intervention now will serve the interests of a person many years later. Indeed for Schleiermacher there are strict limits to the justifiability of paternalism in education. Although Birnbacher partly endorses Schleiermacher's view, he proposes a number of "tendency rules" that can help us distinguish between forms of educational paternalism that are likely to promote future interests and those that are unlikely to do so. The temporal puzzle can thereby be resolved to a reasonable degree.

Parents are widely thought to have authority not only to act paternalistically toward their children but also to secure their children's adherence to controversial conceptions of the good that they endorse but which may not be essential for securing their children's well-being. Matthew Clayton rejects this latter form of parental authority and has famously criticized the practice of what he calls "comprehensive enrollment" (Clayton 2006). Parents do not have the right to enroll their children in controversial conceptions of the good because children have a right to develop their independent worldview. In his paper, "Anti-Perfectionist Child-Rearing", Clayton defends his view against criticisms that it unduly circumscribes parental prerogatives to promote the well-being of their children. He concedes that his view does limit the manner in which parents may promote their children's well-being but he argues that these limits are justified by the considerations that parallel those that justify perfectionism by the state directed at its citizens. Just as the exercise of the state's power over citizens must satisfy criteria of political legitimacy, the exercise of parental power over children must be legitimate. However, according to Clayton the anti-perfectionist child-rearing that legitimacy requires does not gravely limit the well-being of children and is not as austere as it might seem to critics.



In their combined paper “Respecting Children and Children’s Dignity”, Barbara Bleisch and Holger Baumann proceed from the assumption that children are not fully autonomous agents. However, they argue that understanding children’s well-being as well as what it means to respect children can be deepened through consideration of a concept of dignity. As the authors show, the concept of human dignity has remained surprisingly absent from philosophical discussions about the ethics of childhood. Drawing upon personhood accounts of human dignity, Bleisch and Baumann suggest that respecting a child’s dignity involves acknowledging and appreciating the activities through which she develops and maintains an evaluative perspective of her own. Most traditional accounts of human agency highlight the concept of autonomy. On the assumption that children lack autonomy, paternalistic action against children seems easy to justify. Bleisch and Baumann’s account of children’s dignity does not ground dignity in autonomy but it does entail restrictions on the exercise of authority of adults over children. The proper exercise of authority over children is guided and limited by a concern to nurture and respect the activities through which a distinctive evaluative standpoint is formed. So respect for the dignity of children provides a constraint on paternalism towards them that does not depend on autonomy.

Parents are often assumed to have a kind of natural authority over children that is only limited or lost in extreme cases in which the exercise of authority by parents seriously jeopardizes the well-being of children. But in his essay, “Who Decides?”, James Dwyer challenges the idea the parents enjoy ultimate authority over the lives of children. He argues that ultimate authority to determine who has custody of children and who may control important aspects of children’s lives ultimately belongs to the state. On Dwyer’s view, the state may delegate the authority to raise children to parents or other adults but there need be not general presumption that parents are the best custodians of children’s well-being. Whether or to what degree parents should be assigned authority over children should depend on consideration by state authorities of the evidence on what arrangements are most conducive to the interests of children.

The third part of the book focuses shifts to the interpretation of children’s well-being in various applied contexts in which political and policy controversies arise. As a number of papers in this part indicate, a major issue in the field is the well-being of children in the medical realm. In his paper, “The Concept of Best Interests in Clinical Practice”, Jürg Streuli asks about the necessary content for a meaningful and consistent concept of best interests for use in clinical practice. He proposes a complex “constitutional matrix” that invites us to consider three kinds of discourses about children’s interests and the perspectives of four stakeholders on those interests. According to Streuli, the classical analysis of best interests by Buchanan and Brock in terms of maximizing children’s interests (Buchanan and Brock 1989) or the isolated consideration of the harm principle, as proposed by Diekema (2011), provide little practical guidance in complex clinical settings. An augmentation of the concept of “best interests” suitable for clinical practice requires a perspective

that is sensitive to different ideologies, can determine what optimal care in a particular context is and can identify thresholds of harm. These three discourses should be informed and shaped by the views of different stakeholders: parents, clinical experts, children and future persons. So Streuli rejects a simple best interests standard as a normative principle in clinical settings. Instead he favours a more multi-faceted approach that integrates and balances different perspectives on children's well-being.

In his paper "Children's Well-Being and the Family-Dilemma", Alexander Bagattini analyses a possible dilemma for physicians when they treat children as their patients: on the one hand, they have to protect children's interests and a corresponding duty to report cases where children have been maltreated. On the other hand, they have to respect parental interests in privacy of the family and parental autonomy. These duties can conflict when the physician suspects that parents have abused their child. The family-dilemma arises in legal systems that implement what David Archard calls the liberal standard: in the default case parents enjoy parental autonomy and privacy of the family. Interferences with parental autonomy are legitimate only in cases where a physician has a justified suspicion of maltreatment. This brings about the peculiar situation for the physician in which she has to decide if her evidence justifies a report to a responsible institution. Bagattini points out that the occurrence of the family-dilemma threatens the protection of vital children's interests. He shows how the values of parental autonomy and familial privacy need to be refined in order to escape the family dilemma. In the investigation of abuse, Bagattini favours shifting the burden from physicians to parents. On this approach, a physician's reasonable suspicion that a child has been abused by a parent would trigger the requirement the parent establish that he or she was not responsible for abuse.

In their combined paper, "Child Welfare and Child Protection: Medicalization and Media-Scandalization as the New Norms in Dealing with Violence Against Children", Heiner Fangerau, Maria Griemert and Arno Görden analyse and explore the social and political forces that influence societal norms of child protection. Their analysis gives special emphasis to the interplay of two discourses. On the one hand, various developments in medical science permitted the diagnosis of harms faced by children and introduced a vocabulary through which harms to children could be categorized and catalogued. On the other hand, discourse in the media emphasizing dramatic incidents of abuse drew public attention to the well-being of children and mobilized political support for changes to legal norms. Unlike the other papers in the volume, this essay is not expressly normative but it provides an interesting account of the evolution of norms of child protection via the interaction between medical discourse and the discourse of media-scandalization.

Samantha Brennan and Jennifer Epp observe that consideration of the sexuality of children often generates anxiety about the dangers of sexual activity for children. Children are vulnerable to harmful sexual exploitation by adults. And to the degree that they are not viewed as potential victims and are seen as engaged in voluntary

sexual activity, popular discourse usually focuses on the risks for children of such activity – e.g., unwanted pregnancy or sexually transmitted diseases. Brennan and Epp acknowledge that these are legitimate concerns but in their essay, “Children’s Rights, Well-Being and Sexual Agency”, they argue that there has been insufficient recognition of the possibility that some forms of sexual activity may be important elements of the well-being of children. Brennan and Epp review prevailing attitudes to children’s sexuality in the literature and identify ways in which it has failed to grapple adequately with children as emerging sexual agents. In some respects, their analysis is provisional: they seek to prepare the ground for more sustained and reflective investigation of this controversial topic. However, they do insist that children, even before they are fully autonomous, can meaningfully consent to some kinds of lower risk sexual activity (with other children). Moreover, they endorse “sex positive” programs of sex education that teach children not only about the risks of sexual activity but also its potential contribution to well-being.

Finally, in “The Grounds and Limit of Parents’ Cultural Prerogatives: The Case of Circumcision”, Jurgen De Wispelaere and Daniel Weinstock discuss the degree to which parents should be permitted to require children to participate in religious or cultural rituals to which children cannot consent. Their analysis focuses on controversies surrounding the legitimacy of circumcision that is not medically necessary but that is viewed, by some parents, as having great religious or cultural significance. De Wispelaere and Weinstock offer a qualified defense of the permissibility of circumcision that is safely performed and does not impair normal sexual functioning. Their rationale is located in the way in which permitting circumcision can contribute to the well-being of parents and children by facilitating intimate relationships that are grounded in joint participation in cultural traditions. This does not mean that all cultural or religious practices that facilitate “intimacy goods” are permissible. Protecting children from excessive harm remains a paramount concern. However, De Wispelaere and Weinstock maintain that the risks of circumcision fall below the threshold of serious harm. So, in this case, there is not a troubling trade-off between realizing intimacy goods and protecting the basic well-being of children.

We think that the papers in this volume reveal the richness of the topic of the well-being of children. Of course, we hope that they have yielded some substantive insights about the components of children’s well-being as well as their rights and moral claims in relation to adults. However, the essays in this volume are not the final word on the subject. Instead, they are an invitation for further exploration that we hope others will take up.

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**Part I**  
**Children's Well-Being and Autonomy**

# Chapter 1

## Children, Adults, Autonomy and Well-Being

David Archard

### 1.1 Introduction

Here is a simple and brief summary of a view that should nevertheless be readily recognisable. I will entitle it the ‘basic view’. Children and adults enjoy a different moral and political status. The well-being, or interests, of both adults and children matter. Indeed, they matter equally to the extent that we should not think that age makes any difference to how we weight the interests of an individual adult and an individual child. In the famous words attributed to Jeremy Bentham by John Stuart Mill, ‘Everybody to count for one and nobody to count for more than one’ (Mill 1969: 257). All human beings are equal and are so in respect of their shared humanity. Nevertheless, there is this difference between adults and children. Adults can and should be permitted to make choices as to how they lead their lives. By contrast, children cannot and should not be permitted to make such choices. Thus adults have fundamental liberty rights, whereas children, if they do have any rights, only have basic welfare rights.

This view is of course crudely stated. Much has been written, especially in recent years, on the moral and political status of children (Archard and Macleod 2002: Part 1). The sharply drawn contrast between adulthood and childhood has been challenged. Proper acknowledgement of what is specific and peculiar to childhood, and what follows morally as a result, has been demanded. The extent to which children lack any rights or any acknowledged capacity to make decisions has also been critically discussed. Nevertheless, the ‘basic view’ exercises considerable influence. It does so not just within the domain of philosophy, but also in law and social policy. Children and adults, on this ‘basic view’, are very different from one another, and

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this fact should make a big and real difference to how they are treated socially, legally and politically. Since it serves well to illustrate some of the issues I will be treating, consider the case of biomedicine. Adults cannot be subjected to any medical procedure or to participation in any medical research without their informed consent. Children, by contrast, have no such status. When it comes to the question of whether or not children should undergo a medical procedure what matters is what is in their best interests.

In what follows I shall not attempt any fresh review of the ‘basic view’. Rather I shall explore what it implies for how, in the context of the distinction between adults and children, we think about the relationship between autonomy and welfare, and in particular, in consequence, for how we evaluate paternalism.

## 1.2 The Nature and Value of Autonomy

Let me start then by outlining another familiar view, one about the nature and value of adult autonomy. Adult human beings are autonomous or self-governing creatures. This capacity for self-rule marks humans out from other animals and is of great value. It merits the ascription to adult human beings of a certain moral status, one that is possessed equally. What further follows is that adults should be permitted, subject to certain qualifications, to make their own decisions about matters affecting only their own interests. Although it is acknowledged that adults differ in their abilities to make independent choices, and to make sensible or prudent choices, nevertheless inasmuch as all adults do have a basic capacity to choose how to lead their own lives they should be allowed the freedom to do so.

Let me now spell out what this view claims in a little more detail, and say something about how I shall understand autonomy. The ideal of autonomy here being appealed to is often attributed to Kant. Or at least Kant is cited as a key source of this ideal. However, Kantians, such as Onora O’Neill, are quick to distinguish a properly Kantian ideal of moral autonomy – the capacity of human beings to regulate their decisions in conformity with the moral law vouchsafed to them by their possession of reason – from that of personal autonomy – which is a general capacity to think about and subsequently act upon one’s own desires and beliefs (O’Neill 2002). In what follows it is the ideal of personal autonomy that is in question.

Some feminists have criticised what they regard as the individualist or atomist presuppositions of the ideal of personal autonomy. To that end they have favoured what is termed ‘relational autonomy’ and stressed the importance of an individual’s social and personal relations (Nedelsky 1989; Mackenzie and Stoljar 2000). It is unclear whether the criticism is that such relations are important as a necessary context for the acquisition and exercise of personal autonomy, or whether it is that autonomy just is to have and live within those relations. In what follows I ignore such controversy and endorse no particular view of what autonomy is or requires.

Personal autonomy is a capacity whose value lies in its exercise. The capacity is roughly one of being able in the right kind of way to think about and to revise one’s

beliefs and desires. What matters, then, is that humans are able to exercise that capacity in the leading of their lives. 'By exercising such a capacity, persons define their nature, give meaning and coherence to their lives, and take responsibility for the kind of person they are' (Dworkin 1988: 20). Of the capacity in question much more can be said, and there has been extensive discussion of what exactly it involves. It suffices to indicate here that, broadly, there are two kinds of capacity, one having to do with the ability of the individual to choose independently of others, and one having to do with the ability of the individual to choose in the light of what are genuinely her own desires and beliefs.

Why exactly is autonomy valuable and just how valuable is it? Ascribing moral and political significance to the capacity of humans to make their own choices is a product of modernity and of the Enlightenment. At bottom the idea is that individuals owe nothing to others simply in virtue of their inherited or acquired social position, and that for each of us no course of life is indicated in advance as required or pre-determined. We can be, and should strive to be, the authors of our own lives.

It is contentious just how valuable autonomy is and, again, much has been written on the subject. Let me roughly sketch three possible ways in which the value of autonomy might be expressed. On the first, which we might call a transcendental valuation, the exercise of autonomy is essential or necessary if anything else is to be of value in a life. Autonomy is a precondition of individual well-being. We have reason to enhance and to develop everybody's autonomy just insofar as doing so thereby necessarily serves to increase their overall well-being (Haworth 1984). On this view a non-autonomous life will always be worse than one led autonomously. Expressed in another and very influential manner an endorsement constraint operates upon the value of any life. This holds that, 'No life goes better by being led from the outside according to values the person does not endorse' (Kymlicka 1990: 203). This amounts to the first view inasmuch as such endorsement must be autonomous if the constraint is to be credible.

On a second view the exercise of autonomy is instrumentally valuable. Insofar as individuals choose autonomously they choose well and what is for their own good. This is because individuals know better than others what makes their life go well. Mill appeared to endorse this view when he claimed in *On Liberty* that, respecting their own interests, the 'ordinary man or woman has means of knowledge immeasurably surpassing those that can be possessed by anyone else' (Mill 1989: Chapter 3, Paragraph 4). Nevertheless, it is implausible to think that each and every exercise of autonomy by each and every 'ordinary' person is always for the best. To that extent autonomy only has contingent value.

On the third view autonomy is intrinsically valuable. Choice has value independently of the value of what is chosen (Dworkin 1972: 76). Autonomy is a part of what makes life go well. A life led autonomously goes better in consequence of being led autonomously. However, it goes well in other regards as well. This leaves open the possibility that in some overall estimation of a life the value of autonomy might be balanced against other considerations. A non-autonomous life might not be worse than one led autonomously – if those other considerations are of such value as to outweigh the loss of autonomy. Now, of course, it is consistent with this



third view to regard autonomy as being of such value that no outweighing of this kind is possible. However valuable those elements of a life, apart from autonomy, might be, they can never, even in aggregate, amount to more than autonomy. There are, thus, stronger and weaker versions of the third view.

I note that talk of weighing in this context is congenial to a consequentialist account of value. Non-consequentialist approaches might balk at such talk and view the honouring of personal autonomy as a side-constraint upon any treatment of individuals. Again, I sidestep such issues. I want only to allow that autonomy may be viewed either as so important that we ought always to strive to be autonomous or such that it would be all right sometimes to be non-autonomous. I will talk later of weighing autonomy against other considerations in the estimation of a life because it is a useful way of representing the problem of how to evaluate autonomy in the overall context of the life well led. Moreover, such talk fits with the concerns of this volume.

J.S. Mill's work, especially his *On Liberty*, is an important source of the ideal of personal autonomy. Mill himself never uses the phrase 'personal autonomy'. His ideal of 'individuality' is nevertheless a close approximation. Now, Mill is notoriously ambiguous as to why he thinks autonomy is valuable. As noted, he seems to endorse an instrumental valuation of autonomy. However, he also entitles the third chapter of his essay, 'Of Individuality, as *One* of the Elements of Well-Being' (emphasis added), suggesting that he subscribes to a version of the third view. In his explication of the harm principle in the 'Introductory' chapter – that the 'sole' purpose for which the freedom of any individual might be limited is to prevent harm to others – Mill writes that a person's 'own good, either physical or moral, is not a sufficient warrant' for any interference with her liberty (Mill 1989: Chapter 1, Paragraph 8). This suggests that he believes that the prevention of harms a person might cause herself can never be of such weight as to trump the exercise of her own choices, however imprudent these might be. Mill, thus, might subscribe to a strong version of the third view adumbrated above, or to some version of the first or second views.

### 1.3 The Liberal Orthodoxy

This is not the place systematically to evaluate any of these views. However, what I will term the 'liberal orthodoxy' holds with Mill that individuals should be permitted to make decisions concerning their own good and that a limitation of a person's freedom is never justified, whatever the gains to that person in terms of harms thereby avoided or good thereby promoted. The orthodoxy rests ultimately upon a strong valuation of personal autonomy. In recent years there has been a growth of scepticism about the orthodoxy (Arneson 2005; De Marneffe 2006, 2010; Grille 2009; Conly 2013). The sceptics doubt that there are never sufficient reasons to supplant an individual's autonomous choice of her own good. I shall not assess the arguments. I shall make three comments.

First, I note that the orthodoxy and associated strong valuation of autonomy draw strength from a conflation of two ways in which we can understand the exercise of autonomy. These are ‘occurrent’ and ‘global’ (Young 1980). An occurrent exercise of autonomy is one in respect of some particular decision; autonomy is exercised globally in respect of a life. Now, it makes much more sense to think that an autonomous life is the more valuable for being autonomous than it does to think that each and every autonomous choice is all things considered better for the individual. A life that is autonomous may be *on the whole* better for being autonomous; it is less clear that a life that is *wholly* autonomous – autonomous in respect of every choice made – is always better than one in which some decisions are non-autonomous.

Similarly, it is fair to comment that the endorsement constraint makes evident sense in respect of some choices – the example of freely endorsed religious worship is frequently cited – but not of all. And that the constraint may derive much of its plausibility from the generalisation of those cases in which it works best across a lifetime (Wall 1998).

Second, an ascription to individuals of a right or authority or warranted freedom to make decisions about self-regarding matters, those that affect the interests of the individual alone, makes most sense when autonomy is construed as instrumentally valuable. Inasmuch as individuals know better than others what is in their own interests it makes little or no moral sense to deny them the right to act in what they autonomously decide is best for themselves.

Of course it will be said that adults but not children have such a right or authority precisely because adults but not children are able to know what is in their interests. However, the problem addressed in this piece is the warrant for the basic view that sharply distinguishes between adult and children. Thus, third, in the context of the present discussion the orthodoxy – anti-paternalism and the ascribed authority of individuals to make self-regarding choices – is yoked to the basic view. An absolute and clear distinction between the moral and political status of adults and children informs the scope of the orthodoxy. Put as simply as possible, an adult’s own good is never a sufficient warrant for a limitation of her freedom, whereas in respect of children the child’s best interest is the only consideration in the making of decisions that determine what shall be done to or for her. Adults should always be allowed to make self-regarding decisions, children never.

The essential burden of this piece is that the basic view gives us further reasons to be sceptical of the orthodoxy. Moreover, seeing more clearly how and why adults and children are regarded as separate sheds important light on the relation between autonomy and well-being in the cases of both categories of human being. It is important next to say more about the line that is drawn between them.

## 1.4 Drawing Lines

Of any capacity that is exercised it may be said that it is possessed, and exercised by those who do possess it, to different degrees. This is true of personal autonomy. Adult human beings are not autonomous to the same extent. Some can be more

independent than others of human influences upon them; just as some are able to identify more authentically with what are their own views and values. Why then should we attribute such importance to a capacity that is far from being equally possessed and displayed?

The answer given by many is that the capacity for autonomy has a 'significant threshold'. What matters is that we can sensibly view a class of persons as having such a capacity above that threshold. Further, nothing of moral import follows from the fact that those above the threshold differ in their possession and exercise of the capacity in question (Dworkin 1988: 31–2). Put in terms of the distinction between adults and children the thought is this. Adults have enough autonomy; children do not. The fact that adults have and display autonomy to varying degrees is not important; all that matters is that they have enough autonomy and children do not.

This claim is deeply problematic. The criticisms of it extend to any attempt to mark equality of status within one group by means of the possession of features that vary both across members of the group in question and within those outside the group. This is a version of what Richard Arneson terms the 'Singer problem', arising from the failure, in Singer's eyes, to mark a morally significant and defensible distinction between humans and non-humans (Arneson 1999). To understand the problem some simple notation may help in the first instance. Call 's' the feature in respect of which status is conferred and allow that individuals who are candidates for the ascription of that status vary in their possession of s. Call 't' the 'significant threshold' at which enough s is possessed for individuals to acquire the status in question. Then, those who fall below t – call them 'C' – have less of s than those who are above t – call them 'A'.

Let me now identify two problems. The first is the 'threshold problem' and is that of being able to identify and defend a non-arbitrary point at which possession of sufficient s justifiably marks the difference in status of C and A. The second problem is the 'gradation problem'. Members of A differ in their possession of s, just as members of A differ in their possession of s from members of C. Why, then, shouldn't status be accorded in a graded form both to those below t and those above it? In other words, why shouldn't status be proportionate to one's possession of s *wherever* an individual falls on the scale of s possessed?

Even if the threshold problem is addressed and resolved, the gradation problem remains for those above t. The problem is that members of A differ from members of C in their possession of s such that it is appropriate to mark that difference by the attribution of a different status. Nevertheless, members of A still differ amongst themselves in respect of just that feature, s, that marks them off from members of C. Why, then, shouldn't members of A be accorded more or less status depending upon their possessed degree of s?

Rendered back in the terms of adults, children and autonomy the problems are these. The threshold problem is why adults differ so significantly in their possession and exercise of personal autonomy from children that a certain status is accorded to the former but denied to the latter. The gradation problem is that of why adults who differ in their possession and exercise of autonomy shouldn't be granted a liberty to

choose autonomously that is the greater (or lesser) the more (or less) of the capacity to be autonomous they have.

Lest this discussion seem all too abstract let me couch the problems in the form of a familiar type of decision-making. Imagine a simple, risk-free medical procedure that is necessary to relieve an individual of a debilitating, painful and possibly life-threatening condition. The basic view combined with orthodox anti-paternalism yields the following ways in which to proceed. A child's expressed wish not to undergo the procedure is heard but not treated as morally equivalent to a refusal of consent since the child lacks the capacity for autonomous decision-making and is not granted a power of agreeing to or refusing a medical procedure. In the child's case the decision taken will be one that is in the child's best interests. In the case of an adult – one who is not judged incompetent to make a decision in virtue of some determinate mental failing and who is sufficiently informed about matters – refusal of the procedure is sufficient moral (and legal) reason not to proceed, indeed for doctors proceeding in the face of such a refusal to be guilty of assault. Adult incompetence can be defined, as does the 2005 English Mental Capacity Act, in the following way: 'a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself because of an impairment of, or disturbance in the functioning of, the mind or brain,' and that 'it does not matter whether the impairment or disturbance is permanent or temporary' (Mental Capacity Act 2005).

A capable adult's refusal of the simple life-saving treatment must be respected even if it is judged by reasonable persons to be grossly imprudent and to be clearly contrary to the adult's best interests. So long as the adult is above a certain 'significant threshold' of competence, the standing presumption being that all adults are above this threshold, then his refusal to have the medical procedure is determinative of what shall happen.

But why – in the terms of the gradation problem – should we not think that adults are capable of making autonomous decisions to varying degrees? Some are more influenced than others by what doctors or those close to them would wish. Some are less able critically to review their own beliefs and wishes about the procedure, to understand and appreciate the procedures and its outcomes. Some are less capable of revising their outlook after such inspection. In short, adults differ in their degrees of decision-making independence and authenticity. So why wouldn't we conclude that the refusal of a competent adult to an eminently sensible medical procedure does not have decisive weight? Why not instead think that it should be given *some* weight, but one that is proportionate to the degree of autonomy displayed? That refusal may be sufficient to discount the judgment that it is not in the individual's interests. But it need not be. For some individuals, those whose refusal to have the procedure manifests very little capacity for autonomous decision-making, it would be appropriate, and permitted, to go ahead with the medical procedure in the face of the refusal.

Before I show how the gradation problem is compounded by a complication in the basic view, let me first say something briefly about the 'threshold problem'.