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Hilde Bojer *

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Are you fond of children, Alyosha? I know that you are, and so you will understand why it is I want to talk of them at present. (Fyodor Dostoyevsky: The Brothers Karamazov)

Distributional policies should be grounded on norms of just distribution. In the case of children we then need a theory of justice where children are subjects in their own right, not appendages to their parents. In the following, it is my starting point and fundamental assumption that it is both possible and right to treat children as human beings and independent subjects of a theory of justice. I shall not justify this assumption here, but endeavour to show in part 4 of this paper that it follows from the Rawlsian social contract.

Economic theory indicates two sets of reasons for government intervention in the economy: reasons of efficiency and reasons of distributional justice. Children may be considered as an economic resource, namely future labour power. To the extent that resources spent on children increase produc-

tion in the future, allocation to children may be analysed as a problem of efficient allocation. But in this paper, I shall concentrate on provision of goods to children from the point of view of justice.

Children are unable to act for themselves. I mention this truism because theories of distributional justice often concern the power to make decisions, not just passive consumption, as witness the concept of consumer sovereignty. Where children are concerned, the question is not the consumer sovereignty of the child, but who should act for the child: the parents or the government.

Families with children are, of course, important targets of public policy. Many kinds of government consumption are directed at children: schooling, child care, parts of the health service. Transfers are also given, as child benefit or tax allowances as the case may be. Single parents often receive various forms of additional support, in money or in kind. Schooling is compulsory in most countries, and often free of charge. Some or all of these measures directed

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towards children and their parents are under continuous debate. Both in UK and in Norway, child benefit is universal and paid in cash, usually to the mother. It is often argued that the child benefit should be either abolished, or targeted or taxed, since it is paid to many well to do families that do not need the money. Special provisions for single parents have also been under attack lately.

To me, the participants in these debates often seem confused as to whom they see as the recipients of these various distributional measures: is it the child or the parents? Or is it the family as a whole, regardless of which members, exactly, benefit? It is, of course, the case that, since children grow up as members of households, measures directed at children will usually affect the parents as well. In particular, transfers meant for children will affect not only the distribution of income between children and adults, but the internal distribution of income between adults: between adults with children and adults without children, between men and women (mothers and fathers) and between generations. Distributional policies aimed at children will, in common with other distributional policies, also have intended or unintended side effects on behaviour: effects on fertility, natality, abortions, on marriage and divorce, and on labour force participation.

All these various effects will count when assessing the benefits of a particular measure, say universal child benefit or subsidised day care. I shall isolate one particular concern only: the concern for justice, and of justice to children.

One may argue that, because parents and children share their income, it is meaningless to distinguish between justice to children and justice to their parents. My argument is that the distinction between parents and children is useful because the benefits of a certain

measure or transfer may be different if the child is seen as the target than when parents are seen as the target.

Most advanced societies make some sort of special provision for poor families with children. But it is not obvious that justice requires any redistribution at all in favour of parents as parents, whatever their resources. One may well argue that in modern society, having a child is a voluntary decision. In the words of Eric Rakowski (1993:153): "If the cultivation of expensive tastes, or silly gambles, or any other intentional action cannot give rise to redistributional claims, how can procreation?"

One may or may not agree with the view of just distribution implied by the above. The point I want to make, is that the actions of the parents are irrelevant from the point of view of justice to children. The children have made no choice, nor have they been careless or improvident. In spite of the Bible, it is in stark contradiction to my sense of justice that the children should suffer for the sins of their fathers or, indeed, their mothers. In justice to the children, they ought not to grow up under conditions that disadvantage them. Either society should contrive to find means of providing for them in such a way that the parents' standard of living is unaffected, or provision must be made so that the parents can give their children a reasonable standard of living, even if this is also, and unjustly, to their own advantage.

But some well known contemporary philosophers of justice have incredibly little to say about children. The word "child" does not occur at all in the index of Rawls' Theory of Justice. Nozick (1974) writes seven pages about the rights of animals, but none about the rights of children. Our own profession, economics, tends to treat children as commodities acquired by parents for their own satisfaction. Several egalitarian theorists,

e.g. Dworkin (1981) and Rakowski (1993), are concerned with redistribution in favour of children. But their concern with children stems, not from children as subjects in themselves, but from resources in childhood as laying the groundwork for future equality of opportunity for adults.

Now we may feel that children ought not to be subjects of theories of justice. No child can in any reasonable sense deserve either riches or poverty. Children just are there, and a sensible society provides for their food and care, simply because they are children, and a society that does not provide for its children, will not survive. Perhaps philosophers and economists regard the provision for children as such a self evident matter of importance that it is not worth mentioning. But any distribution of economic goods must necessarily have implications for the provision for children. Since providing for children is a task of overriding importance for any society that wishes to survive, it must be worth our while to investigate whether the just provision for children can be deduced from, or at least is compatible with, common notions and theories of justice. Also, every adult, without any exception whatsoever, has spent some of their time being a child (however much appearances may sometimes seem to indicate the contrary). A theory which claims to apply to normal human beings, must necessarily take childhood into account. It seems odd to me to have theories of justice that apply to only part of the human life-cycle.

Theories of justice may, presumably, in common with other theories, be given wider applications than their creators intended. I shall discuss three theories of distributional

justice: remuneration according to productivity, utilitarianism/welfare theory and Rawls' version of the social contract, and investigate which implications, if any, they have for children.

It is useful to distinguish between several aspects of children and distributional justice. There is distribution between children, on the one hand, and distribution between children and adults on the other hand. The second has again two different aspects: distribution over the life-cycle and distribution between generations. This last question I shall ignore, and limit myself to discussing distribution over the life-cycle and distribution between children.

Rewards according to productivity

A basic, and to many self-evident, principle of justice is reward according to productivity or contribution to production. As David Hume puts it: "Every man ought ... to enjoy the fruits of his own labour."¹ Nozick (1974)² is explicitly in favour of the same principle. He proposes the slogan: "From each according to what he chooses to do, to each according to what he makes for himself [...]and what others choose to do for him and choose to give him [...]"(p.160). The same principle underlies the Marxian concept of exploitation: the exploited are robbed of the fruits of their labour. Only the productive are capable of being exploited.

It goes (almost) without saying that no form of remuneration according to productivity or contribution to production can determine the just distributive shares of children. To the extent that the principle has implications for children at all, the implication must be that children should enjoy a

1. Essays of Commerce

2. See chapter 7: **Distributive Justice**, in particular the paragraphs *Patterning* and *Terms of Co-operation and the Difference Principle*.

standard of living according to the productive contributions of their parents. I am unable to see any justice in this.

On the face of it, the principle of remuneration according to productivity also excludes income for the old, the sick and the disabled. But these are contingencies that adults can provide against by insurance, saving or other forms of voluntary co-operation. It is consistent, though ruthless, to insist that an adult deserves an old age pension only to the extent that she has saved up for it while productive.

But no one can save up for her childhood. Indeed, I feel it should be a puzzle for liberalists that for the first part of your life you cannot make important choices, and you exercise no rights. Since the choices made on your behalf during childhood to a large extent condition your ability to make choices and exercise rights as an adult, I feel that logically, liberalists should be more concerned than they seem to be about the rights of children. Extreme liberalists, like Nozick, regards any distributional policy as incompatible with the rights of the individual. But he does not at all discuss the problems of rights and liberty within the family. When Nozick claims that the family is a voluntary association³, he must have forgotten about the children.

Those who are born disabled, are also without rights in a system of remuneration according to productivity. But such people are, after all, and unlike children, a minority.

Hillel Steiner (1994) uses the principle of people owning the fruits of their own labour to establish that children (minors) are owned by their parents, being the product of the labour of these parents⁴. This is consistent with his arguing that children have no rights.

His theory is in fundamental contradiction to the basic premise of the present article, namely that children are human beings with independent claims on just distributive shares.

Utilitarianism and welfare functions

By welfare function, I mean the Bergson-Samuelson welfare function. Utilitarianism in this connection is represented by the special case of an unweighted, additive welfare function.

The criterion for judging what is right and just is in both cases the same one, namely the preferences of each individual. What is good for the individual, and only that which is good for the individual, is good for society. The welfare of society is derived from the individual preferences in a suitable manner, in utilitarianism by adding the individual utility functions. But only the individual herself has the right to decide on her own needs; no agency has the right to reverse the judgements of the individual.

In order for this theory to have any content at all, the individual in question must, as far as I can see, be adult and sane. Children may well possess preferences in the sense of having decided ideas of what they want. These preferences may even be consistent and in this sense rational, but they cannot define what is the good of the child. The concept of consumer sovereignty becomes meaningless when applied to children. It is a fundamental result in economic welfare theory that transfers to the individual should be given in cash. Transfers in kind upset efficiency in consumption. This follows immediately from the assumption that every individual knows what is good for her, and acts accordingly.

3. Nozick (1974:167).

4. Chapter 7(b), *Persons and Bodies*, 237-248.

But nobody would of course for a moment entertain the idea of transfers in cash paid direct to children. Even the most hard boiled liberalist finds it reasonable to act paternalistically towards his own child.

Here, we must be careful to distinguish between the consumer sovereignty of the children themselves and the consumer sovereignty exercised by parents on the children's behalf. The assumption is sometimes made in economic analysis that parents know the needs of their children and act on this knowledge. But this assumption is qualitatively different from basing the analysis on the principle that, in Harsanyi's (1982) words "...in deciding what is good and what is bad for a given individual, the ultimate criterion can only be his own wants and preferences." Harsanyi's principle may be applied to any and every sane adult, without exception, but not to every family. We *know* that there exist parents that either do not know, or do not act upon, the good of their children. Therefore, the parents' opinion of what constitutes the children's good, cannot be the definition of what constitutes the children's good.

We may conclude after empirical investigation that the majority of parents act for the good of their children. But in order to carry out such an investigation, we have to know the children's needs, and these must be decided upon independently of the preferences of both children and parents.

Nor may we reasonably deduce the needs of the child from the preferences of the adult, by imagining an adult looking back and from the advantage point of adult preferences decide what she wishes had been done for her as a child. Adult preferences are at least to some extent formed by upbringing, and may therefore not be used as independent

criteria for how this upbringing should be.

Utility theory can, by assumption, give no answer to what is good for the individual during childhood. A criterion for deciding what is good for the child must be obtained from outside utility theory itself. Defining the good of the child implies, among other things, choosing who is the right person to define this good.

Now economic utility theory is too useful as a tool in the analysis of resource allocation for it to be discarded completely when analysing allocation to children. For many purposes it may be useful to calculate as if the needs of children might be measured by suitable utility functions. But these utility functions are decided upon by the right authorities, not by the child herself.

A curious instance of the way the very convenience of utility theory may lead astray a whole profession is found in the economic theory of equivalent adult scales and cost of children. For years, economists have contrived to get away with the assumption that the utility of a family with children equals the utility of the parents only.⁵ This assumption may perhaps hold good for explaining actual behaviour, but is hardly tenable in analysis of income distribution.

Rawls' theory of social justice

The social contract

John Rawls bases his theory of justice on the social contract. His derivation of the social contract is best presented in his own words:

The aim of the contract doctrine is precisely to account for the strictness of justice by supposing that its principles arise from an agreement among free and independent persons in an original position of equality and hence reflect

5. See Nelson (1993) for a review and discussion.

the integrity and equal sovereignty of the rational persons who are the contractees.[...][T]he contract doctrine assumes that the rational individuals who belong to society must choose together, in one joint act, what is to count among them as just and unjust. They are to decide among themselves once and for all what is to be their conception of justice. This decision is thought of as being made in a suitably defined initial situation one of the significant features of which is that no one knows his position in society, nor even his place in the distribution of natural talents and abilities. The principles of justice to which all are forever bound are chosen in the absence of this sort of specific information. A veil of ignorance prevents anyone from being advantaged or disadvantaged by the contingencies of social class or fortune; and hence the bargaining problems which arise in everyday life from the possession of this knowledge do not affect the choice of principles. On the contract doctrine, then, the theory of justice, and indeed ethics itself, is part of the general theory of rational choice,.. (Rawls 1973b:321)

Rawls suggests that we may think of the participants in the original position, the parties to the social contract, as heads of families. For this reason, he has been criticised by feminists for presupposing the existence of the family, complete with head. Implicitly, so the criticism runs, Rawls assumes the social contract to be a contract between patriarchs. Therefore, the Rawlsian social contract is allegedly not useful for

discussing justice within the family, or the position of women and children in society.⁶

I disagree with this criticism. No part of Rawls' method, and none of his conclusions, depend on the parties to the social contract being heads of families, patriarchal or otherwise. As a matter of fact, this is a point clearly stated by Rawls himself:

It is not necessary to think of the parties as heads of families, although I shall generally follow this interpretation. What is essential, is that each person in the original position should care about the well-being of some of those in the next generation..(Rawls 1973a:128)

The veil of ignorance should, according to Rawls, be thick enough to hide from the contracting parties all specific facts regarding themselves and their position in society.

It is taken for granted, however, that they know the general facts about human society. "... Indeed, the parties are presumed to know whatever general facts affect the choice of principles of justice. (ibid. p. 137)"

I shall return below to the significance for children of this assumption of general knowledge.

Rational individuals will, in the original position, agree on two fundamental principles, according to Rawls:

Each person is to have an equal right to the most extensive basic liberty compatible with similar liberty for others.

Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all. (ibid. p. 60)

6. See e.g. O'Neill (1993:310-311), for a summary of this critique, with further references.

The second principle is Rawls' first version of what he calls the difference principle.

Rawls discusses principles for the distribution of "life-time prospects", a concept akin to life-time income. He does not explicitly discuss distribution over the life-cycle. For the purposes of the present paper, the point is therefore not Rawls' difference principle, but his method of arriving at it.

The more well-known second formulation of point a) in the difference principle above reads: "to the greatest benefit of the least advantaged (p. 82)", where the least advantaged is understood to be the least advantaged *group*, not individual. Now, children may well be considered to be the weakest group in society, the group most unconditionally dependent on the good will of others, and therefore a strong candidate for the position of the least advantaged group.

Childhood and distribution over the life-cycle

Following Rawls' method then, I ask the question: what emphasis would be given to the living conditions of children by a person in Rawls' original position where the choice is to be made by rational agents in enlightened self interest, and in the knowledge that the choice would determine their own childhood? I feel that the conditions of childhood would be considered as very important indeed. In particular, it is impossible to believe that rational agents would choose to spend their childhood without rights, and without a lawful claim on society for protection from abuse, neglect and starvation.

Well-being in childhood has two aspects. Firstly as being of importance in itself, every year of childhood weighing neither more nor less than every adult year. Secondly, the child being the father of the man, conditions during childhood to a great extent determine our opportunities as adults. Therefore, a year

of childhood could well weigh more than an adult year.

Rawls writes:

Furthermore, the principle of fair opportunity can be only imperfectly carried out, at least as long as the institution of the family exists. The extent to which natural capacities develop and reach fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try, and so be deserving in the ordinary sense is itself dependent upon happy family and social circumstances. (ibid. p. 74)

Now, the point is not to allocate as much as possible of society's resources to children. Indeed, it is not at all clear that an assumption of "the more the better" is applicable to children. The important thing is that social arrangements, including the distribution of material goods, should be so arranged as to create favourable conditions for childhood. This will hold, I feel, whatever conclusions one may reach about Rawls' difference principle, or whatever weight we give to equality in life-time income among adults. At the very least, all participants in the original situation would surely agree that their life-time income should be distributed over the life-cycle so as to ensure a reasonable minimum of comfort and happiness in childhood.

Without further elaboration, this single conclusion raises serious questions concerning the justice of social arrangements even in advanced welfare states such as the Nordic countries. Everywhere, the workplace and production of material wealth commands priority before the nurture and rearing of children. Economic incentives are certainly not geared towards making child care a materially rewarding profession. Parental leave is considered disruptive to the work place.

In determining on the place of children in the social contract, allocation to childhood would be decided upon in the knowledge that investment in childhood to some extent increases total life-time income. A further guideline, then, would be to ensure such allocation of resources to childhood as to maximise our opportunities as adults.

The most straightforward criterion for allocation over the life-cycle would seem to be the maximisation of total life-time welfare or wealth. But both these concepts are problematical within the Rawlsian framework. Rawls dismisses welfarism for a number of reasons that it is outside the scope of this article to discuss. For my purposes, it is enough to point out that the immediate welfare, in the sense of happiness or pleasure, of the child, as defined by the child herself, is no sure guide to the child's best long term interest. In particular, the concern for future prospects may demand sacrifice of immediate pleasure, as in the case of boring lessons or painful treatment of illness. How then to decide on the weight to be given to pain and boredom of the child relative to the satisfaction of adult utility?

Maximising life-time wealth, however, is not necessarily the choice of every rational adult. (Else, who would choose to become university teachers?)

Rawls discusses the distribution of something he calls "primary goods". These are goods that we can assume every rational human being wants to have, whatever her preferences. The concept of primary goods makes it possible to discuss the needs of children without knowledge of their adult preferences, and therefore without the circularity I pointed to in utility theory. For the concept of primary goods to be useful, we have, of course, to accept that there are certain fundamental needs and preferences arising out of human nature and common to

all (rational) human beings. Furthermore, we must accept that it is possible to know what these fundamental needs are.

But it is not necessary to assume that complete knowledge of fundamental human needs, and hence what is good for children, already exists. On the contrary, Rawlsian justice creates a challenging and, to social scientists, surely exciting project of research into the needs of children and the best possible conditions of childhood.

Meanwhile, much of what is good for children is known, and some general lines of a society which treats its children justly in the Rawlsian sense, can be drawn.

First of all, children need love and security, a certain minimum of access to material resources and opportunities to grow and develop. These are certainly primary goods.

Using a concept taken from economic theory, primary goods of children are also such as create the human capital of the adult. The concept primary goods as well as the concept human capital are related to Amartya Sen's concept of "capabilities", the good that he proposes as the goal for distributional policies. In my view, none of these concepts are all that precise, but we understand the kind of policy they prescribe for children. The right nutrition, preventive health care, education: these goods must be ensured for every child in the just society, in my interpretation of Rawls, independently of their parents' income. Nor could a just society ever deny any child a minimum access to primary goods, whatever the merits or demerits of the child's father or mother.

These are, of course, the kind of concerns that were and are central to the family policy of welfare states.

Distribution between children

Looking at conditions in childhood in isolation, the only reasonable and just social

arrangement for distribution between children seems to be absolute equality in well-being, suitably defined. Neither deserts nor incentives demanded by efficiency in production seem to prescribe distribution to children by other criteria than according to needs.

From the point of view of adult life-time prospects, however, there may be a trade-off between efficiency and equality. To obtain equality in life-time prospects, distribution between children must favour those who are most disadvantaged, whether genetically or because of poor homes. Such a distributional policy may, however, be very costly, in terms both of present and future production.

Further analysis of the trade-off between equality and efficiency must depend on what we judge the parties to the social contract would choose.

Something more may be said if we accept that the social contract would build on Rawls' difference principle. The difference principle accepts inequalities to the extent that they are to everyone's advantage. Favouring one child at the cost of another child can never, in the short run, be to the advantage of the disfavoured child, since children do not produce. But in the long run, children grow up and become producers. Rawls' difference principle ought then to allow favouring of the clever children, on the condition that the future gain is redistributed to the disfavoured.

The difference principle then, may seem to override the principle of distribution for equality of life-time prospects. I think Rawls' social contract indicates a pragmatic trade off leading to the following recommendation: The disadvantaged child should be favoured as long as this gives her better life-time prospects than the expected income from taxing the production gain from the brighter children. Working out the precise implications of this rule is a matter for future research.

A simple example may serve to clarify some aspects of the problem. Assume there are two children, Ola and Kari, with unequal talents. A given amount of resources, over and above what is required to provide for their immediate needs, is to be invested in their education. The distribution of this investment should optimise size and distribution of their future production.

Now, if redistribution between adults carries no cost, the rule for optimal distribution is straightforward: it should maximise future production, and then, if necessary, redistribute income to achieve whatever degree of equality is deemed desirable. But if there is a deadweight loss associated with redistribution, this must be taken into account. Assume the deadweight loss at the margin to be half an ECU for each ECU redistributed. Let the marginal future product of the last ECU invested be A and B for investment in Ola and Kari respectively, where A is smaller than B . Ola's future income will then be A for each ECU invested in himself, and at most $B/2$ if it is invested in Kari. The best result for Ola is for the ECU to be invested in Kari if $A < B/2$, but for the ECU to be invested in himself when $B/2 < A < B$.

Liberty

From his premises, Rawls deduces that the principle of greatest possible freedom has lexical priority before the principle of equality. The principle of greatest possible liberty is, of course, not directly applicable to children while they are children. It must be applied gradually, from the new-born baby who is entirely dependent, up to the adult with full rights and full duties. Such is the arrangement in all societies. But the principle of extensive liberty for the adult has implications both for the education of the child, and for the question of who has the right to decide for the child.

Amy Gutman (1980, 1982) has written two papers on children and education from the perspective of Rawlsian liberalism. There, she claims that choices made on behalf of children should limit their liberty as adults as little as possible. Liberty here means the greatest possible range of choices. From such a premise, it follows that education is important, both its length and its contents. It can, for instance, not be right to hinder children's access to knowledge.

Like many liberals, Rawls discusses freedom from governmental coercion. For children freedom from patriarchal (and, indeed, matriarchal) coercion in the family is just as important. From this point of view, governmental coercion (namely, of authoritarian parents) may be liberation from parental coercion. Gutman discusses just such governmental coercion, of parents of the Amish-sect in USA, who, according to Gutman, deny their children modern education.

This instance raises the question of belonging, which again is often forgotten by liberals as a fundamental human need. The liberty of choice must be weighed against the need of being loved, and of belonging to a culture and a family.

Who should decide for the children?

It seems that even when fair opportunity... is satisfied, the family will lead to unequal chances between individuals.. Is the family to be abolished, then? Taken by itself, and given a certain primacy, the idea of equal opportunity inclines in this direction. (Rawls 1973a:511)

Rawls' premises, both the rational choice and the principle of greatest possible liberty, clearly imply that parents ought not, in justice, to have unlimited power over their children. It is not compatible with children having rights of their own that they should be regarded as the

property of their parents. On the other hand, it is questionable whether governmental coercion of parents is for the good of the children, almost no matter how much damage the parents may do. Some people claim that, even where the parents are guilty of severe abuse, it is more damaging to children to be forcibly removed from their parents than to stay at home, because of the strong emotional attachment to parents. And children may also become subject to abuse in foster-families and governmental institutions.

Since it is unavoidable that someone must act on behalf of their children, there are pragmatic reasons why this in general should be the parents. But the power of parents does not stem from their having property rights in their children, but from the pragmatic principle that they will, on the average, act for the best of the child. And the government must have the right and the duty to intervene where parents manifestly do not act to their children's good, and where it is plausible that government intervention ameliorates the situation of the child.

Conclusion:

Children and egalitarian policies

Two of the theories of justice I have discussed have nothing to say about children. They do not necessarily imply that children have no independent place in a theory of justice. But in order to be applicable to children, the theories have to be supplemented by principles from outside themselves. Such principles may be deduced from Rawls' theory of the social contract. In this paper, I have only been able to indicate the general outlines of the social contract as extended to children. But I have also tried to show that Rawlsian principles for distribution to children open up fruitful fields for future research.

Independently of Rawls, many egalitarian

thinkers are in favour of equality of opportunity. There is disagreement as to what exactly is meant by equality of opportunity, and as to how it should be obtained. But whatever their words and concepts, equality of resources, equality of capabilities, equality of primary goods, a broad class of egalitarian theories are concerned with creating equal possibilities for human beings to shape their own lives within the community. The basis for such equality is laid in childhood. Therefore, distribution of resources to children must be central to any egalitarian policy.

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