

## Poverty and the Political Powerlessness of Children<sup>1</sup>

Gottfried Schweiger and Mar Cabezas<sup>2</sup>

**Abstract:** Children are affected by poverty more often than adults, and growing up in poverty has severe and long-lasting negative consequences for a child's well-being. However, children are also in a very weak position, both to escape poverty on their own and to publicly and politically enforce their claims to a better life. Accordingly, children living in poverty are victims of two intersecting forms of powerlessness: they are children and they are poor. In this article, we analyze this particular type of powerlessness from a children's rights perspective and argue that, in order to effectively restore justice to children in poverty, the State has to implement a comprehensive children's rights regime. We argue that the State is obliged to consider children's best interests in all its policies – even those that are not directly related to children – in order to compensate for the lack of political agency during childhood. This demand reflects the particular social and political status of children, namely: that they are dependent on others for their well-being, that childhood is a phase of particular vulnerability and that (young) children lack certain competencies that are needed to enforce their claims.

**Keywords:** Child Poverty – Children's Rights – Political Status – Vulnerability- Capabilities

### INTRODUCTION

Children face different types of discrimination due to different causes: they can be victims of sexism, xenophobia, etc. Needless to say, in many cases different types of powerlessness overlap in some areas. Despite the importance of these other forms of social injustices – and despite the vulnerability associated with them –, this article focuses on two main aspects of children's powerlessness that affect the effective realization of their rights, namely the powerlessness in relation to the nature of childhood and the powerlessness related to living in poverty or being at risk of social exclusion.

Without dismissing the global nature of child poverty, its prevalence in affluent societies should not be forgotten. The intersecting economic and sovereign debt crises of the last years have particularly favored an increase of child poverty in the European Union and the USA, where, as it is well-known, around 20 per cent of the children live in poor households (UNICEF Innocenti Research Centre, 2012).

Beyond these figures, the main aim of this article is to discuss how the State, as the main agent of justice for children, could protect children's rights and in particular the rights of children living in poverty. Our analysis is not restricted to any particular country, but the measure we will defend, a so-called “preferential

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<sup>2</sup> Center for Ethics and Poverty Research. University of Salzburg. Austria.

option for (poor) children”, is more likely to be brought to reality in affluent states that already count with a well-established welfare system.

Likewise, as a preliminary clarification, we would like to point out that, although childhood is a fuzzy and to a large extent socially constructed concept that refers to human beings from zero to 18 years old, we will focus especially on young children and preadolescents and the states’ obligations to ensure children’s rights, using the capability approach as a normative framework. Therefore, this article does not discuss specific policies, but rather aims to offer criteria on how states should construct these policies to avoid the injustices generated by the double powerlessness suffered by children in poverty.

#### CHILDREN’S RIGHTS AND THE CAPABILITY APPROACH

In this section, our aim is to argue in favor of the role of the capability approach as a fruitful normative framework for children’s rights if it is adapted in a way that reflects the particular nature of childhood. In this sense, we want to make two points: (1) each and every child is entitled to rights that protect their well-being and well-becoming and (2) the core of these rights can be expressed through central functionings or capabilities that depend on the maturity of the child.

The normative core of children’s rights is slightly different from that of adults due to the lack of children’s full competencies concerning autonomy. While human rights stress that each and every person is free and entitled to rights that protect their freedom, it is clear and also recognized in most children’s rights conventions that children are not as autonomous as adults (Stoecklin & Bonvin, 2014). This is certainly true for younger children who obviously lack the competencies to make decisions for themselves or to execute them to the same extent as adults. They are heavily dependent on adults to survive, to develop in healthy ways and to flourish. Accordingly, younger children are not granted some of the most basic human rights, such as moving freely, working or marrying. In contrast, we grant adults, in particular parents, the right to make a wide set of decisions for children and to shape their lives in many different ways.

In this regard, a children’s rights agenda cannot put much normative weight on the current freedom of (young) children, but should also look for other normative concepts from which it can derive certain rights, as we will defend in what follows.

In the most influential formulation of children’s rights, the UN Convention (UN, 1989), this normative background is provided by the concept of children’s best interests, which needs to be taken into consideration in every decision that is made for children. To our understanding, this best interest can be interpreted as the child’s well-being and well-becoming, both understood not merely as subjective but objective concepts (Graf & Schweiger, 2015; Bagattini & Macleod, 2014). It is evident that both the dimension of the actual well-being of children and the dimension of their development into adulthood –their well-becoming– are equally important. Children are developing beings and childhood is the most influential

and crucial phase of development in life. It would be inappropriate to deny that children are special in this regard and different from adults. We can all grow-up only once and distortions or damages in combination with the impact of the experiences we make during this crucial phase can often not be repaired in later life – at the very least, it requires a high amount of avoidable material and personal costs to do so. The experiences made during childhood certainly shape our life as well as the options available to us as adults.

Such an orientation towards children's well-being and well-becoming needs to be defined more specifically, otherwise it is impossible to derive particular rights from it. According to the capability approach of Martha Nussbaum in its traditional form that was developed for adults, such a definition can be expressed through a list of central human capabilities (Nussbaum, 2011). While we agree that such a list is of importance, we believe that we need to make some amendments and changes.

On the one hand, we need to acknowledge the need to start with functionings for children, meaning actually realized capabilities, and not merely capabilities (Dixon & Nussbaum, 2012). A capability is an opportunity or freedom to do or be something. If I have the capability to eat and live healthy, this means that, if I wish to, I could consciously buy healthy food, but if for whatever reasons I do not wish to live healthy, I simply do not. For young children this freedom is not plausible as a matter of justice. Firstly, they depend on the eating habits of their parents. Secondly, we cannot give young children the opportunity to decide if they wish to live healthy, because they are usually not competent enough to make that decision. In consequence, we are looking for what is necessary to make sure that young children actually are healthy, using the dimension of well-becoming to provide them with what they need to live healthily as children and in later life, so that they do not develop chronic illnesses or lack vaccines that could protect them from future harm (Cabezas, Graf, & Schweiger, 2014).

That being said, and paradoxically, implementing functionings during the first years of life would increase the child's chances, over her development, to express her views and needs, to participate in the processes that affect directly her life, and, eventually, to give the child an active role regarding the implementation of their rights back. In this sense, although the capability approach is mainly a theory built around the concept of freedom, and given the fact that it was mainly designed for adult agents of rights –as many traditional theories of justice do, choosing capabilities instead of functionings when it comes to young children would turn out to be negligent and an instance of injustice–.

In fact, children are also in the process of developing the necessary competencies to make autonomous decisions, so that when they have these competencies, if they are mature enough, we should also enable them to make decisions for themselves –at least to a certain extent, depending on their level of maturity (Archard & Skivenes, 2009)–.

This means that we should allow them to have capabilities, which is the first important change we need to make: children's rights are to be expressed in the form of functionings as long as children are not competent enough to make autonomous decisions. Only if they are mature should they be given capabilities.

On the other hand, we need to provide concrete criteria in order to identify the functionings/capabilities that matter for children's well-being and well-becoming in a way that they could and should be transformed into children's rights.

We suggest four such criteria in what follows:

1. The chosen functionings/capabilities should reflect the best available empirical knowledge about children's lives and development, in particular their physical, mental and social needs. This also means that the functionings/capabilities may change and can be redefined if new knowledge is available. Today, for instance, we have information on how children develop and on how their development is shaped by their environment, as well as on the various inter-connections between childhood and adulthood, like the influence of growing up poor on the bodily, cognitive and emotional development.

2. Secondly, the chosen functionings/capabilities must be, at least partly, amenable to influence by society. This means that it can be guaranteed that children are actually granted these rights.

3. Closely connected to this second criterion, the chosen functionings/capabilities should be objectively determinable and not merely subjective, at least to some degree. This means that they should not primarily depend on the assessments, experiences and evaluations of the subjects in question. This is important because children's rights should also guide the behavior of institutions and the design of policies, which requires the well-being of different children to be comparable and the ways in which it can be influenced and changed to be objectively comprehensible.

4. The chosen functionings/capabilities should incorporate a developmental perspective. Such "evolving functionings/capabilities" reflect the "process character" of the child's development (Ballet, Biggeri, & Comim, 2011).

A list of central functionings/capabilities that is selected according to these criteria does not aim for completeness, but will have to be constantly discussed, refined and revised. Furthermore, the implementation of children's rights according to these central functionings/capabilities in a concrete social context will always have to take other aspects into consideration as well. Such other aspects include the level of economic development, cultural traditions –only if they do not violate any child's rights– and the justified and feasible rights of other parties. Nonetheless, children's rights provide the State and other important agents concerned with the well-being and well-becoming of children with a guide and a first concept of justice for children. These rights should never be violated and children's central functionings/capabilities should be granted to each and every child for the very fact that they ensure and describe their well-being and well-becoming. To put it differently: children should possess all of the rights needed to ensure that they can actually execute those functionings/capabilities. In this sense, the capability approach, when adapted to children, can become a very successful framework to translate human rights into less abstracts measures of social justice.

#### THE DOUBLE POWERLESSNESS OF CHILDREN LIVING IN POVERTY

Children are powerless in at least four important ways: they are physically, socially, economically and politically powerless. Once again, it is important to note that these features have a developmental dimension, which means that as children grow-up and expand their repertoire of competencies, they become more and more powerful. The differences between children of different ages are therefore considerable and we cannot reflect them here properly. Likewise, these four types of powerlessness reflect aspects of both the nature of childhood and the way institutions approach and see them. That is, these four traits are, to varying degrees, the result of the role that a given conceptualization of childhood gives children as citizens based on some of their features.

1. The physical powerlessness of children lies in their increased vulnerability and their lack of completely developed physical and mental competencies. Especially young children are unable to protect themselves against external harm, like being hit by an adult or being left alone in the cold and rain. There are two reasons for that: the first is their physical and psychological immaturity, the second their lack of experiences and knowledge. This limits the ability to make decisions that take the main available options into account, simply because this counterfactual exercise is often too abstract, especially during the first years of life. They depend on the care of adults to grow-up, to develop healthily and to flourish.

2. The social powerlessness of children lies in their comparatively low social status in relation to adults. Furthermore, cultural and social habits render children incompetent and in need to be controlled. As we previously said, paternalism towards children may be justified and is needed in many situations. In fact, treating young children in non-paternalistic ways would often result in negligence. However, this also implies an asymmetrical scenario where children are not treated as equal citizens.

3. The economic powerlessness of children lies in their lack of economic rights and competencies. In contrast to adults, they do not own private properties, and they are denied the right to work and manage their own financial status. This makes them once again especially dependent and vulnerable to the adult's context they interact with – an interaction they have not chosen. Even if they have some form of income from sporadic jobs, a grant, a subsidy or a family heritage, their savings will always be administrated by an adult. Likewise, they depend on the economic power that their caregivers may have, which has certain consequences on their well-being and their options in life.

4. The roots of children's political powerlessness are even more diverse. They lack the right to vote and cannot be elected as political representatives. Similarly, they do not claim their own rights and therefore their recognition and visibility as worthy citizens depends on other adults and public institutions' will. Additionally, children do not gather or organize in visible pressure groups or lobbies in the same ways adult civil society does. In combination with the previously men-

tioned lack of the right to vote, this turns their opinions, desires, problems and needs into unheard claims. While a group of discriminate adults can eventually gather, organize and create social nets to support each other in the process of leaving an abusive situation behind or in gaining recognition, children depend on citizens with more power to change whatever unfair situation they may find themselves in.

At same time, as a vicious circle, the still present collective imaginary on childhood and children as passive social agents and citizens is at the base of many instances of children's powerlessness in the public arena, which does not contribute to any kind of breakage or solution to these types of powerlessness, especially the social and political ones.

The implementation of a framework that is able to represent children as valid agents and participants in the processes affecting their own life, despite the fact that children are the most vulnerable members of private family and social networks, will therefore depend on the social and political will and, as a result, will have to deal with two obstacles. Firstly, it would have to overcome the conceptualization of children as passive beings. Being a developing person does not mean that the child is passive, lack opinions or has no interests for her own life. Secondly, it would have to make an effort to adapt processes and channels of communication to make them more in line with the features and skills that that group of citizens (young children, pre-adolescences, and adolescences) possesses so that they could effectively participate and contribute to the measures and debates affecting their own well-being.

Needless to say, these four types of powerlessness affect children *qua* children and they increase their vulnerability to suffer from instances of injustice (Mullin, 2013): they are placed in an asymmetric interpersonal dynamic where they can easily be harmed. A very obvious example of this interconnection between powerlessness and vulnerability is the case of child sexual abuse. Physical powerlessness combined with certain circumstances may easily turn into vulnerability, resulting in exploitation and sexual abuse. While sexual exploitation of children is not necessarily always connected to poverty, it is often the result of a history of domestic neglect and violence, which leads to cases of running away and leaving the household –and sometimes, children are even sold by their own families–. In such cases, prostitution is a way out to survive for them (ECPAT International, 2014). Here, the combination of their lack of autonomy and their physical, social and economic powerlessness results in extreme forms of vulnerability.

One might think that children are not more vulnerable than any other discriminated group. However, childhood is a crucial phase as it is the moment where we are provided with the basic tools to lead our life. Likewise, the instances of damage during this developmental phase will filter future experiences jeopardizing so many of the person's chances. The first years of life modulate indeed how the child perceives herself, how she interacts with the others, and what she thinks she deserves and can achieve. In this sense, the experiences lived during childhood acquire a normative role.

In cases where children grow-up and live in disadvantaged circumstances, i.e. when they and their parents are poor and socially excluded, this powerlessness is increased and intensified by a second type of powerlessness, which we want to call “deprivation induced powerlessness”. This form of powerlessness has two dimensions: firstly, the inability of children to escape their poverty and to shield themselves from the negative effects of poverty; secondly, the inability of their parents or other care-givers to protect them from poverty. Poor parents cannot adequately substitute the powerlessness of their children in the aforementioned four dimensions. Under ‘normal’ circumstances, the parents or other guardians are expected to care for their children in a way that their rights are respected and realized. However, under conditions of deprivation, like income poverty, unemployment, lack of education or low social status, parents are themselves powerless, which leads to a lack of the agency that is necessary to provide children with the measures needed for their wellbeing and well-becoming.

This “deprivation induced powerlessness” is particularly problematic in light of the increasing knowledge about the negative consequences of growing up and living in poverty. It leads to a deprivation in different central functions/capabilities, such as being healthy, educated, included, sheltered or well nourished (Eamon, 2001; Evans & Kim, 2013; Ferguson, Bovaird, & Mueller, 2007). These effects of poverty start very early on and are transmitted through different social channels. Child poverty is hence a violation of the rights of these children and must be regarded as unjust (Schweiger & Graf, 2015). On the one hand, children can neither be held responsible for being poor nor do they have the competencies or abilities to escape poverty on their own. On the other hand, child poverty is a structural problem that is produced and perpetuated through the social and economic system. Because of their powerlessness, they are trapped in their deprived situation and have to live with the consequences and reduced life chances.

#### THE STATES’ DUTIES TOWARD CHILDREN’S RIGHTS

In this section we argue that the powerlessness of children in general and the double powerlessness of children living in poverty demands comprehensive measures from the State, especially in regard to children’s ability to protect their rights and to claim what they believe they are entitled to. One measure that seems particularly feasible and reasonable is to make sure that the State implements what can be called a “preferential option for (poor) children”. Acting upon that, the State would have to consider children’s rights and, accordingly, their well-being and well-becoming in all of its policies, even in those that are not directly concerned with children but are likely to have influence in them in some ways.

However, what we propose is not a measure of positive discrimination, as it was used for approaching the problem of gender biases. The lack of power in childhood is not only related to social values as it appears to be in the case of gender discrimination, but also to the very nature of childhood as a developmental phase. Especially when it comes to young children, they do not primarily lack au-

tonomy because society denies them to be autonomous – even though children are victims of many different forms of oppression –, but because they are developing those skills. In this sense, our proposal cannot be limited to a temporary measure until the situation is rebalanced, but it has to be committed to protect the basic needs and rights of a group of especially vulnerable citizens.

The State is certainly not the only “agent of justice” (O’Neill, 2001) that has an obligation to protect children’s rights, but it is a particular important one, especially for children growing up and living in poverty. The *UN Convention on the Rights of the Child* (1989) recognizes this obligation: “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation” (Art. 4).

The State’s obligation is grounded in at least four reasons:

1. The State is powerful and has many resources that it can use to improve the situation of children and to protect their rights. It can set up institutions like the education, welfare and health system, and it can authorize laws that protect children. The State is also a ‘second-level agent of justice’, meaning that it can hold responsible other important agents like parents, care-givers, social welfare institutions or companies by enforcing their obligations towards children and by sanctioning the violation of children’s rights. It is worth noting that this power of the state may be significantly reduced in cases of developing countries, where transnational institutions like the World Bank or the UN are often more powerful.

2. The State is neutral and has to protect all children equally, while parents have good reasons to be biased. The family is certainly important, but not only are the resources of most families limited in regard to what they can achieve for their children, let alone other children, but the close attachment between parents and their own children also makes them less likely to intervene for other children’s rights when their realization will reduce the chances of their own children.

3. The State is also bound by the interests of children as future political agents. Even though children lack political agency as long as they are children, almost every child will eventually become an adult. As Elizabeth Anderson (Anderson, 2010) has argued, the State has an obligation to allow all children to grow-up in a way that they allows them to become political agents – an entitlement that is included in the children’s rights to well-becoming. Furthermore, adults who grew up under circumstances that violated their own rights have good reasons to hold the State and the political system responsible for that, and they may even demand retribution for gross negligence.

4. The State has an interest in realizing justice cost-effectively. This means that it uses its funds so that the best possible results are achieved for everyone. In the case of children, early interventions are cost-effective because the realization of children’s rights and their well-being and well-becoming significantly decreases costs in the future. Take the example of health: if a child’s right to health is pro-



tected and the child grows-up healthily, this decreases the likelihood of illnesses and health problems in later life. Being healthy is also a precondition for economic participation and performance.

#### CONCLUSION: REFLECTING THE RIGHTS OF (POOR) CHILDREN IN POLICY MAKING

How can the State live up to the expectations as an agent of justice for children? To phrase it differently: how can it implement and protect children's rights, especially those of disadvantaged children, effectively? We want to propose, as a suggestion for future debate, the idea of a preferential option for (poor) children. Such an option demands that the State considers children's rights in all of its policies, not only in those that are directly concerned with children, and that it does it in a way that treats children's well-being and well-becoming as priorities. This does not automatically imply that parental rights and the well-being of parents are not important or should simply be sacrificed for the greater good of their children. In this article we are agnostic towards the relationship between particular children's and parental rights and accordingly also to the question whether or not children's rights are best supported and protected if parents have more far reaching rights or whether these rights should be restricted. What seems important, however, is that the family, the child-parent relationship and the care that parents or other guardians invest, is of utmost importance for the children's well-being and well-becoming, and that the State has an interest in supporting parents and guardians in that respect to be good caregivers (Archard, 2010). Anne Alstott has called this the obligations of the State and the society towards parents that follows from their responsibility to provide constant care (Alstott, 2004).

The idea of such a preferential option for (poor) children would include five main lines of work:

a) The explicit acknowledgement of children's rights and their importance for all policy areas where children could eventually be involved in or where they could be affected by blindness to their needs. While policies are at first sight often directly aimed at adults, they may eventually expand to children's affairs. Such instances need to be regarded as an injustice and a terrible ethical myopia, since not every person affected by such measures is taken into consideration in the process.

b) The inclusion of children in political decision making by appointing deputies that speak for them, by the consultation of experts from various disciplines (health, social work, psychology etc.), but also by listening to children's voices and their own thoughts as soon as they are competent enough (Lansdown, 2001). Currently, we have enough means available to make children's voices audible. Ignoring the potential victims/beneficiaries, at least as a source of information, should be considered a non-justified bias. Children and adolescents affected by poverty count with a sense of justice, are able to actively participate in a dialogue about their own situation as well as are able to provide solutions and suggestions to improve an unfair given context (Pitillas and Gómez, 2014). In this sense, children

are therefore able to execute their rights when the proper channels of communication are provided.

c) The design and implementation of a nation-wide plan to protect all children's rights and to improve their situation, especially of disadvantaged children, as well as the proper funding of measures that are needed to do that. This plan can also acknowledge priority areas, like health and education, as well as priority target groups, such as homeless children or children of minorities. Again, ignoring that children in this particular situation suffer a multi-dimensional victimization would result in context-blind policies.

d) A proofing of all policies and laws regarding their impact on children, and in particular on poor children. This requires every newly designed and implemented policy to be checked on the effects it may have on children and on whether or not it may violate children's rights or contribute to their realization. This idea of a mandatory proofing process can be found in other areas like the health impact assessment (Kemmerling, 2013).

e) Finally, the training of all of the State's employees who are in contact with children in order to detect and report violations of children's rights. They should also be provided with the necessary means to act in their positions.

Poor children's vulnerability and powerlessness translate into a set of threats affecting different areas of their well-being and well-becoming that should not be ignored: children may be neglected in a material and emotional way, they may lack the attention they need to properly develop, and they may find their chances to flourish considerably reduced as a consequence of avoidable circumstances. For this reason, the suggested preferential option for (poor) children may at least try to accommodate for the lack of political agency children have, and also for the fact that poor children are in a position of double powerlessness and in particular need of the State to protect their rights. These criteria can finally help to filter and detect unnoticed injustices, just like they can help to scrutinize the moral validity of political proposals.

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