

Putting Parental Duties in Their Place: What About Children's Rights?

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Charles Howell's essay addresses an important question at the core of the tension among familial values, children's interests, and the demands of justice. Howell asks: On what grounds can we say that parents have duties to their children, and what is the scope of these duties? Howell's purpose in addressing this two-part question is to demonstrate the indefeasibility of certain parental duties. His starting point is that these duties need a more secure justification than appeals to either legal rights or social norms provide, since both are contingent claims. Moral duties, by contrast, are not easily cast aside. Howell thus defends parental obligations as basic moral duties by building on the arguments of Immanuel Kant and Henry Sidgwick. This is a compelling way to frame claims about what parents owe to their children. Yet I am less certain about what Howell has to say about the scope of parental duties — namely, that they extend to the transmission of familial values. This part of Howell's argument, I suggest, is framed in terms of parental duties when it seems that a focus on children's rights would be more appropriate.

When it comes to meeting children's basic material and emotional needs, describing parental obligations in terms of moral duties makes good sense. Howell rightly rejects Jeffrey Blustein's alternative view that parents are relieved of these moral duties if other parties step in, which is illustrated well through the example of adoption that Howell enlists. When parents put a child up for adoption, their moral obligations are not terminated since parents remain responsible for ensuring that adoptive parents are fit to protect their child's interests. This obligation is morally basic because it would not disappear, as Howell notes, in the event that the state stopped evaluating the fitness of adoptive parents. Parents' obligations to meet children's basic needs — either through their own actions or by ensuring that others do so — are indefeasible. Howell advances this view by drawing on Sidgwick's and Kant's "procreationalism," as he terms it. This provides a strong justification for parental obligations because if duties arise from (voluntary) procreation, then parents cannot be let off the hook, morally speaking.

Yet when Howell turns to the scope of parents' moral obligations, I am less certain about what he has to say about extending parental duties to the transmission of values. To be sure, an important point motivates his arguments: that parents' obligations to children are not exhausted once children's basic needs are met. As Ian Shapiro and others have argued, parents are responsible for realizing children's best interests, which "have to do with the full development of human potential."¹ It follows that if parents have deeply held beliefs about what gives life meaning, then facilitating their child's full development entails sharing those values. I agree with Howell this far. But his argument about the scope of parental obligations on this front

strikes me as both too permissive and not expansive enough. I explain both of these reservations in turn.

First is a concern about the wide swath of beliefs that Howell's argument, as I understand it, not only permits but also obligates parents to pass on to their children. The examples he offers — love for baseball, music, math, and fishing — seem innocuous if not beneficial to children, barring fanatical pursuit of them. But Howell does not address potentially more troubling parental beliefs in much depth. Most notably missing from his account is concern for parental values that preclude the development of children's autonomy. He does indicate that the state may prevent parents from inculcating beliefs that conflict with the rights of others outside of the family and that lead to "demonstrable harm" to children, which he briefly describes in terms of physical needs. But what about the transmission of beliefs that disable children from making conscious and reflective decisions about their own lives?

The absence of concern for this problem is notable in what Howell has to say about *how* parental values should be transmitted. Howell objects to authoritarian methods only because they may prompt children to rebel, not because they also run the risk of working too well and effectively impeding children's consideration of alternative values. Harry Brighouse calls attention to how there are two dimensions to living well: that one's life must be good, and that it must be "endorsed from the inside."² Howell's analysis clearly expresses concern for the first aspect of living well but is largely silent about the second dimension. Perhaps Howell would prioritize children's contentment over their autonomy — and surely these developmental goals may conflict in many cases. But if this is Howell's position, it warrants an argument about why autonomy is a secondary concern. As it stands, it seems that Howell's framework is too permissive with respect to the types of parental values it obligates parents to transmit.

On the flip side, there is also a sense in which Howell's argument about parental obligations may not be expansive enough. One can see this by considering why parents have duties to their children and how duties, interests, and rights are related. Jeremy Waldron offers a helpful way to think about the relationship between these concepts: "the point of imposing [a] duty is our concern for the *rights-bearer's* point of view, not the point of view of the agent or duty-bearer who is constrained by the right."³ This statement importantly calls attention to how children's interests are paramount. Unless Howell would sanction parents' self-regarding reasons for transmitting their values to their children — which does not seem consistent with his focus on children's contentment — then children's interests belong at the fore. Howell argues at the start of his essay that interests do not provide a secure enough basis for parental duties since interests can conflict and be trumped by other pressing claims. But interests are the foundation for the strongest moral claim one could make — that of a right — and it thus seems relevant to focus on children's rights, from which parental duties are derivative.

This reframing does muddy the waters substantially because rights claims and duties are not connected in a simple one-to-one relationship. Again, Waldron is useful on this point and merits quoting at length:

We talk about rights when we think that some interest of an individual has sufficient moral importance to justify holding others to be under a duty to serve it. But if a given interest has that degree of importance, it is unlikely that it will justify the imposition of just one duty. Interests are complicated things...interests can be served or disserved, and we should not expect to find that only *one* of those ways is singled out and made the subject matter of a duty.⁴

Waldron's point helps illustrate why I worry that Howell's analysis is also too restrictive. If children's interests should be prioritized, and if they warrant the moral status of a right, then that right is unlikely to be realized by parents alone. As Waldron puts it, rights are not vindicated by holding just one party responsible but rather create "waves of duties."⁵ Children's interests implicate an array of actors and institutions outside of the family — and this is especially true in view of children's interest in (some would argue, right to) an upbringing that enables them to find a way of life that is meaningful to them "from the inside." This more expansive view of what it takes to realize children's interests makes it less clear why the transmission of parents' values is so singularly important in Howell's analysis. To be sure, in most cases parents are the central influence in the shaping of children's lives. But they need not be, and in many cases should not be, the only influence if children are to become autonomous adults. This is why most liberal theorists, for example, object to the wish of Amish parents to withdraw their children from school at age fourteen in the much discussed *Wisconsin v. Yoder* case.

In sum, accounting for children's interests entails a difficult balancing act. My comments have focused on one side of this balance that is less prominent in Howell's analysis: the need to put children's rights at the fore, especially their right to develop the capacity to lead a life that they can reflectively endorse. This right both limits the scope of parental authority but also creates duties that extend to parties beyond the family. Yet this is not to deny the importance of the other side of this balance, which Howell's analysis underscores. Children surely have an interest in being raised with a "secure sense of belonging in some community," and parents do have rights (albeit limited ones) to raise their children as they see fit.⁶ Howell's analysis emphasizes the moral weight of parents' duties to help their children lead good lives — a critical point that is sometimes lost in liberal theory that treats the family as merely an impediment to equality or to the realization of children's autonomy.

1. Ian Shapiro, *Democratic Justice* (New Haven, Conn.: Yale University Press, 1999), 90–91.

2. Harry Brighouse, "Civic Education and Liberal Legitimacy," *Ethics* 108, no. 4 (1998): 729–30. As Brighouse notes, the concept of living from the inside comes from Will Kymlicka; see Brighouse, n.18.

3. Jeremy Waldron, "Rights," in *A Companion to Contemporary Political Philosophy*, eds. Robert E. Goodin and Philip Pettit (Cambridge, Mass.: Basil Blackwell, 1993), 577.

4. Jeremy Waldron, "Rights in Conflict," in *Liberal Rights: Collected Papers 1981–1991* (Cambridge, U.K.: Cambridge University Press, 1993): 212.

5. *Ibid.*

6. Harry Brighouse, "What Rights (if Any) do Children Have?" in *The Moral and Political Status of Children*, eds. David Archard and Colin M. Macleod (Oxford: Oxford University Press, 2002), 49.