

The Child as Democratic Citizen

By
ANDREW REHFELD

The United Nations Convention on the Rights of the Child (CRC) justifiably emphasizes welfare over participation rights of children for two reasons. First, children are by nature an at-risk population. Second, democratic citizenship rights require a minimal bundle of cognitive and emotional capacity—which may be called “political maturity”—that children, again by nature, lack. However, the CRC goes too far in prioritizing welfare over participation, again for two reasons. First, millions of children have their basic welfare needs met, and second, participation would be useful in cultivating the very political maturity that citizens need. In this article, the author argues that participatory institutions should be designed to further the interests of children, cultivate their political maturity, and mitigate the harm that giving power to the politically immature might cause. The author discusses three institutional designs that might achieve this result (fractional voting, national electoral constituencies, and political spending accounts) and discusses how federalism might also help to implement these designs.

Keywords: voting rights; representation; proxy voting; children; voting age; citizenship; institutional design

Children are a nuisance to most adults; they are a particular nuisance to the democratic theorist who wishes to exclude them from having a voice in the direction of the policy with as much vehemence as he wishes to include every adult (except, of course, felons, the insane, the mentally retarded, and aliens).

—Schrag (1975, 443)

NOTE: Preliminary versions of this article were presented at the Child as Citizen Conference, which the Harvard University Committee on Human Rights Studies and the Harvard School of Public Health hosted in Cambridge, Massachusetts, November 9–10, 2009; at the annual meeting of the Canadian Political Science Association, in Montreal, June 1–3, 2010; at the Faculty Workshop of Washington University Law School, St. Louis, July 7, 2010; and at the Political Theory Workshop at Washington University in St. Louis, September 17, 2010. Thanks to Felton Earls, Samantha Brennan, Anna Stilz, and Laura Rosenbury, and participants in those fora for their input and feedback. Additional thanks to Annette Appell, Jenny Diamond Cheng, Claudio López-Guerra, David Koenig, Ron Levin, Frank Lovett, Ian MacMullen, Neil Richards, and Daniel Weinstock for their additional feedback. This article does not fully take into account their responses. I intend to expand on the discussion in this article in later publications.

DOI: 10.1177/0002716210383656

Statement of the Problem

The United Nations Convention on the Rights of the Child (CRC) reflects the widely held view that children are in need of protection and should not be treated as full citizens of a democratic polity. Thirty-five of its forty-one substantive Articles (listed in Part I of that document) protect, secure, and guarantee welfare rights for children. The six articles that specify some legal and political rights of children—including provisions for very limited freedoms of expression, thought, conscience, religion, association, privacy, and access to information (Articles 13–17)—treat children more as a protected class than as active agents, subordinate to their parents' views, particularly in the areas of religion and privacy. Providing that "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in matters affecting the child," Article 12 exemplifies in three ways this prioritization of welfare over citizenship. First, it limits the expression of children's voices to cases in which they have a direct personal interest. Second, they only have the "opportunity to be heard in any judicial and administrative proceedings affecting the child"—not, that is, in legislatures. And third, these purported rights are fully executable by an "appropriate body" who may execute this function without oversight or post hoc accountability by the child on whose behalf the body acts. In contrast, democratic citizens justifiably (1) are involved in decisions that affect their interests much more broadly and indirectly than the narrowness implied in Article 12;¹ (2) are entitled to participate across judicial, administrative/executive, *and* legislative venues; and (3) have the power to hold a representative to account for her or his actions even when acting on the citizen's behalf. According to widely endorsed principles of representative government, these are necessary elements for a polity to be reasonably democratic.

The emphasis on children's welfare is, however, understandable. Children are, by nature, an at-risk population, and their inclusion, as political citizens, must rank behind their basic security. Even where their welfare is for the moment secured, the exclusion of children from politics may be reasonable because children,

*Andrew Rehfeld is an associate professor of political science at Washington University in St. Louis. He received his MPP and PhD in political science from the University of Chicago, where he has taught as a lecturer and visiting assistant professor. His main area of research is in the theory and practice of political representation, with ancillary interests in the philosophy of social science and the politics of the Hebrew Bible. His book *The Concept of Constituency* (Cambridge University Press 2005) explored the negative consequences of representing citizens by where they live and proposed national, permanent, randomized constituencies as a preferable alternative. He is completing a second book with Cambridge University Press about the relationship between representation and democracy. His other articles have appeared in the *American Political Science Review*, the *Journal of Politics*, and *Studies in American Political Development*, along with other journals. He serves as the secretary and treasurer of the *American Society for Political and Legal Philosophy* and is on the governance committee of the *Association for Political Theory*.*

again by nature, appear to lack the minimal bundle of cognitive, emotional, and moral capacity necessary for justifiable participation in a democratic polity. The prospect of two-year-olds voting is absurd because they presumably lack these features.

Nevertheless, this bundle of capabilities—what I call “political maturity”—is continuous and developmental, not something a person or group suddenly comes to possess. By contrast, we tend to think of benefits of citizenship as discontinuous—one has the right to vote, for example, or one does not. The failure to think more creatively about institutions that might respond to the continuity of development has exacerbated the exclusion of children from politics, particularly where their welfare is reasonably secure. For this viewpoint makes it appear that there is no way to partially include them in the polity without giving them full rights and power of citizenship that, owing to their political immaturity, they admittedly do not deserve or ought not to have.

The argument proceeds in five sections. In the first section of this article, I speak to the importance of addressing children’s welfare prior to the development of their citizenship capabilities. Children pose a specific problem for democratic institutional design: they are a population that is incrementally developing among institutions that are usually all-inclusive or all-exclusive. In the second section, I take up the topic of political maturity and argue for a developmental approach to institutional design that reflects the fact that children’s political maturity develops incrementally.

In the third section, I argue that political institutions should be designed to represent the interests of children, while developing their citizenship capability and mitigating the harm that they, as politically immature citizens, might do to the polity. By way of illustration, I suggest four examples: increasing fractional votes for children beginning at age 12, forming national children’s electoral constituencies to promote their voice and interest in the legislature, creating children’s political spending allowances of \$10 each that children could allocate to political campaigns and interest groups as they saw fit, and using federalism to limit the reach of children’s involvement in politics. By using the incentive structure at the heart of representative government, each of these institutional designs would provide mitigated voice and representation to children. Children, in turn, would use political institutions to cultivate their citizenship capacity, rather than leave that to the politically impotent realm of the schools.

In the fourth section, I take up various approaches to political representation that can provide children with opportunities to be *democratically* represented (rather than virtually or by proxy). Finally, in the fifth section, I develop the four institutional designs mentioned above to flesh out how these approaches might look in practice.

Three important presumptions precede the following argument. First, in what follows, I do not define “childhood” in any precise way. Instead, I presume that all humans are “children” when born, and the vast majority of them stop being children sometime before the age of 25. Zero to 25 years old is admittedly an overly inclusive span to treat as “childhood.” But I leave the developmental milestones to

developmental psychologists. What I mean to ask is how should we treat humans who at some point have enough developmental capacity to engage appropriately in political citizenship prior to the point at which they have fully matured.

Second, I do not take up the prior question of what principles more generally should govern the granting of political rights. Instead, in what follows, I presume that whatever those standards are, they will also exclude the politically immature. Thus, the arguments concern the extension of rights in a preexisting political community and are thus consistent with a broad range of citizenship principles. The arguments here thus apply whether one would limit voting rights to certain groups, or to those living within a territorial space, or, in its broadest conception, to those whose interests are plausibly affected by the decisions of a government (Goodin 2007).

Third, in what follows, I make two assumptions about the kinds of errors that political immaturity is likely to cause. First, I presume that these errors will be systematic but hard to correct,² but not random. If political immaturity simply made people random decision-makers, then in the aggregate, the effect of giving the politically immature voting and other power would cancel itself out. Second, I also presume that political maturity develops positively, if not linearly, so that with each year of age, a person is more politically mature (to a certain limit of human ability). However, it is entirely possible that the tumultuousness of adolescence makes teenagers regress in political maturity from where they had been prior to the onset of puberty.³ These issues—along with the establishment of precise age proxies for the stages of political maturity—would all have to be tied to an empirical account of developmental psychology, as would the institutional recommendations that would follow. But these presumptions affect only the particular institutions that map onto this development and not the form of the argument itself.

Welfare before Politics

There are good reasons that the CRC and democratic governments generally emphasize welfare and protection rights over political rights for children. First, childhood is a naturally precarious time; human beings are born at risk of death and are easily abused and neglected if not attended to for many years after they are born. Furthermore, millions of children currently live under conditions of material, political, and psychological instability. The primacy of welfare and protection rights over political rights is thus appropriate and justifiable. Claims to and protections of political rights of any kind are justified only where these basic protections are first secured or justified as a means to securing these protections if they are close enough at hand.⁴

However, children are not always in diapers, nor do all or most of them live in conditions of material, psychological, and educational deprivation. Even as many children remain at risk from external threats, tens if not hundreds of millions of

children have their basic welfare needs met; are protected and living in conditions of relative stability and affluence; and receive a minimal, if still not necessarily adequate, education. So while the primacy of welfare over political rights is understandable and appropriate, it leaves the political questions open for a large proportion of the population who is not facing these extreme conditions. We can thus move to ask whether, in situations where reasonable protections have been secured, the exclusion of children from politics is in fact justifiable and, if not, what institutions might be endorsed to promote their involvement and why.

As David Archard and Colin Macleod (2002, 4) have noted, most political philosophers ignore the moral and political status of children.⁵ Where they do take up children, their focus is on children's education, welfare, and development, reflecting the relative importance and insecurity of these kinds of goods to swaths of the globe. Within democratic theory, children feature largely in debates about public education and indirectly through the treatment of justice in the family and gender roles (Gutmann 1987; Okin 1989; Reich 2002; MacMullen 2007). Within the law, children have been more extensively treated, but here mostly in terms of the protections of their interest from abuse and defenses of paternalism (Buss 2003, 2004). We need not deny the primary importance of the developmental issues to children's welfare or the very real fact that even in the most prosperous nations there may be groups in which poverty or minority status renders children's security particularly insecure or uncertain. It is simply to say that basic welfare and developmental needs have been reasonably secured for a significant number of children, and it is time then to ask what benefits might be gained from having these children participate as emerging political citizens.

Political Maturity, Political Citizenship, and Political Rights

The academic literature reflects the emphasis of the CRC on child welfare and protection rather than active engagement, which appears justifiable for two primary reasons. First, as I mentioned above, claims to political rights are justifiably secured and protected only under conditions of stability and relative prosperity. Securing children's welfare and development must be a priority before considering whether or how they should participate as members of the political community. Instrumental considerations are the exception that proves the point: we might give votes to children, for example, if it made it more likely that their security and interests would be protected and advanced (Schrag 1975; Peterson 1992).

Even in nations where much of the population live in relative peace and stability, children by nature remain at risk because children—however one reasonably defines the bounds of childhood by age—lack the physical, emotional, and cognitive capacity that adults have to protect and advance their own interests as they develop. This natural state of childhood, into which all humans

are born, creates a substantive political justification to exclude them from political citizenship: children, certainly at birth and for some time after, lack the skills that are reasonably required for a claim to political participation in a democratic polity. These qualities include a minimal level of cognitive capacity (what has historically been called “reason”), moral and emotional development to understand arguments about the good and empathize with others, the ability to communicate with others, and the capacity for independent action. When first born, children lack these four features, even if it is reasonable to expect that almost all humans are capable of developing them by the age of 25.⁶ Even when they have access to some feature(s) of this set, it is partial and incomplete. Children of a young enough age do not have full command of reason; they lack the ability to think complexly about moral problem solving; and they have an extremely limited ability to communicate, let alone the ability to act independently. In short, we can say that children lack “political maturity,” that bundle of cognitive, emotional, communicative, and agency capability that justifies a claim to citizenship rights within any democratic society.

Although the actual development of these capability will depend on the security, nurturing, and education that a child actually receives, I presume that all human offspring are developmentally the same in regard to the lower limits of when political maturity can set in; a newborn, for example, is not and will not be politically mature in any culture or society. Thus, the argument here is universal in its most general form.⁷ However, since culture, nutrition, education, and material conditions affect the rate at which a child becomes politically mature, we should expect that the particular age of political maturity varies by culture or historical time frame. So while the argument that follows is universal in its categorical descriptions, the precise ages that children mature politically will depend on the interaction between developmental psychology and culture broadly conceived.

Why is political maturity a justifiable prerequisite for democratic citizenship?⁹ First and at the very least, rights claims usually entail the ability to make choices about the exercise of those rights. Goodin and Gibson (1997) have put it this way:

What makes the rights of the immature young problematic . . . is the inability of such people to articulate a “choice” in any meaningful sense at all. They lack the requisite autonomy, in the moral much more importantly than in the merely physical sense of the term. Their will is unformed or deformed, their judgment deficient or impaired. (P. 187)⁸

Even where choice seems to be unnecessary, a purportedly “interests-based” account—in which rights are said to adhere to those who have interests—cannot help us here for reasons that Goodin and Gibson also persuasively articulate. “We can know what children’s interests are without their making any choices because they will be making lots of choices in the future, and anything that preserves that future choice for them is in their (choice-maximizing) interests” (1997, 195). I do not want to take up the ontological question about whether children have rights, what rights they have, and how they may be protected or expressed.⁹ We can still ask whether children ought to have the right to participate for other reasons, and

it is on this point as well as the questions of rights that political maturity appears just as necessary for their inclusion.

A second reason that political maturity is a justifiable prerequisite for democratic citizenship has to do with the justification for democracy in particular, whether epistemic (Estlund 2007) or equality-based (Christiano 1996; Beitz 1990). On a strong epistemic account, democracy is endorsable because leaving decisions to the people is the most reliable way to arrive at the right answers to questions such as “Who should write our laws?” if not to questions about what the right policies and laws should be. Such an approach would require that citizens have at least a better than random chance of choosing correctly, and this grounds the need for political maturity (along with education). Even on a modified epistemic account, in which we endorse democracy as a good enough means of realizing the right answers, political maturity is necessary to ensure that decisions are not terrible. Similarly, on a political equality account, each citizen’s interest is owed equal treatment, and that, as Goodin and Gibson (1997) describe above, presumes that each has the kind of competency to know his or her own preferences and determine his or her own interests, which requires political maturity.

More broadly, Schrag (1975) argues that participation rights should follow one’s ability to deliberate in a way that approximates ideal considerations. The key capability that deliberators must have is offering reasons that would appeal to other reasonable persons. If we think that the role of the voter is simply to articulate her or his interests and vote for what she or he believes is in the public good, then a higher level of mental competence is necessary for voting than we usually think. But if not, voters younger than 18 would certainly be able to identify their preferences and quite possibly their narrow interests vis-à-vis political matters (Schrag 1975, 445–46). Such a view would exclude only “very young children,” as older kids (Schrag suggests as young as 10) would be able to deliberate appropriately. Schrag, for example, imagines two kinds of arguments offered by children against closing a public music program. “A child who simply says she wants the chance to learn to play the violin will not have met the requisite standard. But a child who says that it is not fair that some children have their parents to pay for violin lessons at home while other children whose parents are poor never have a chance to find out if they have musical talent would, I take it, be offering an ‘independent justification.’” We might accept with Schrag that “most 10 year olds would be able to offer such justifications,” although this is a matter of empirical debate about child development (Schrag 2004, 367).

The necessity of political maturity to ground citizenship claims, at whatever age it arrives, can be seen best in the breach by considering arguments that would deny its necessity to democratic participation.

Some might reject the necessity of political maturity to claim a right of political participation for one of two reasons. First, democratic citizenship might seem to be simply a right owed on account of being “human” (where one’s status as “human” is not in any way linked to the very possession of “political maturity”).¹⁰ Proceeding this way is difficult and likely impossible. Yet if the possession of political maturity matters *not at all* to the granting of political rights, then we

might ask why we do not give citizenship to baboons or other life forms (see López-Guerra 2010). That humans develop into politically mature beings distinguishes us from other mammals who at birth appear to be more politically mature than we are. But the fact that we do not have political maturity until later in life, justifies the current exclusion of the very young from political rights. It is thus their *future* status as politically mature adults who have opportunities to participate in the democratic polity that make a child's status as "currently immature" worth thinking more carefully about.¹¹ If we deny the necessity of these goods to the claim on political rights, we are in a very difficult position to explain why only humans should claim them and then why newborns should not.

A second reason one might deny that political maturity is necessary for political rights is simply practical: in most democracies, any human over the age of 18 is given the right to vote, and some of them, if not many, lack political maturity. This practical fact may seem to demonstrate that this capacity is not, in fact, a necessary requirement for allocating participation rights. Since these immature adults over 18 are permitted to vote without regard to their *actual* political maturity, we should be consistent and allow children to have political rights (or at least the vote) as well. Indeed, as Schrag has argued (2004, 367–69), the exclusion of children on the basis of *their* political immaturity cannot be maintained on the basis of any number of standard arguments in favor of democracy (equitable treatment, interests protection, and other beneficial consequences to citizens) without running into a problem of consistency. "None of the standard theoretical defenses of democracy, then, provides a reason for excluding children that would not at the same time be applicable to some proportion of adults" (Schrag 2004, 369).

Yet such a view confuses arguments we make concerning the *principles* upon which we design institutions. Most laws and rules that we write employ proxies that roughly approximate the results at which we aim, rather than directly achieving the aim itself (Rehfeld 2005, 2010). As such, most rules will, in practice, overinclude or underinclude those who ideally qualify. In this case, if we had a reliable and fair way of distinguishing the politically mature from the politically immature of any age, we would have a strong reason to employ it.

This is not to say that if we had such a test we should use it; in fact, there are compelling reasons to reject such tests. We might reject a perfect test of political maturity that is impervious to manipulation on purely consequentialist views: if the benefits of allowing the politically immature to participate as democratic citizens outweigh the costs. First, following López-Guerra (2010), publicly identifying some people as politically immature might cause considerable harm either directly to those who are excluded or indirectly by making the rest of us more callous toward those without this competency. Second, the effect of treating the politically immature as full citizens might be small either because there simply are not that many who are politically immature or because, contrary to the third assumption I made at the start of this article, their immaturity leads not to systematic errors of a particular kind but to random decision-making and actions.¹²

These two sides of the consequentialist coin provide possible reasons to *override* the otherwise justifiable exclusion of those who are politically immature even in the case where we have reliable and fair tests. But in any real-world context, most proposed tests of political maturity would likely be objectionable because they would not be reliable or fair. We should not employ tests because they are likely to introduce far more error and to be prone to devious manipulation than following a general, if imperfect, rule. Literacy tests that excluded African Americans in the South are only one tragic example of such misuse. Still, the fact that tests can be manipulated does not mean that the underlying principle—minimal capacity—is a bad principle upon which to include people in citizenship.

By contrast to tests, a general age requirement corresponds reasonably well to the fact that the cognitive and moral prerequisites to democratic citizenship closely correspond to age; moreover, it is hard to manipulate, and it applies to all. We simply cannot sustain the view that minimal cognitive and moral capability should not be one *principle* guiding institutional design, even if we disagree about what age is best to secure minimal competency and even if these rules wind up overincluding or underincluding those who, on that basis, deserve to have them.

If the possession of political maturity justifiably guides claims to participate in a polity, then any argument for including children among rights-holders must be advanced by reference to these capacity, not by denying their necessity or using the fact that some adults who now have them do not deserve them. In this case, political rights—first among them, the right to vote—are granted to 18-year-old citizens. But as many have argued, 16- and 17-year-olds are not *that* different on these dimensions from 18-year-olds; and this has grounded a small movement among some American states, as well as other nations, to lower the voting age to 16.¹³ Such a view, though, will run into a regress problem: 15-year-olds are not that much different from 16-year-olds, 14-year-olds not much different from 15-year-olds, and so on. In other words, using any set age as a proxy for capability will be arbitrary in some sense.

However, age distinctions are not arbitrary in every sense. The fact is that as a group, 15-year-olds are more politically mature than 4-year-olds, and 25-year-olds have greater political maturity than their younger cohorts.¹⁴ Additionally, the development that this age-related tendency reflects is a continuous phenomenon, varying by individual, and not something that someone “suddenly” has. So one way to nonarbitrarily set the age for inclusion in the polity would be to survey children in a particular society and see when, generally speaking, some proportion of them have the minimal capability to participate in the polity. Of course, doing so will open up two subjects of intense debate: What proportion of a particular age is “enough” to treat all of that age as having political maturity? and What means do we have of testing our sample such that it is not prone to the kind of error or manipulation already described? But these problems are generally true of every general rule that we establish (Schauer 2003) and should not be seen as a reason to end the inquiry.

To set the proxy, we need to know whether we care to avoid Type 1 or Type 2 errors: excluding those who have the capacity or including those who do not, respectively. Setting the age requirements at a high level in an attempt to include only the politically mature will exclude those who mature earlier and have the capacity to participate; requirements that include young age groups will include more of those who lack the capacity to participate but also include more who do. To determine which groups to include, we would rely first on developmental psychologists and second on some process to select which of these errors we feel justified in making.¹⁵ Most democracies have set the age to something that approximates when perhaps “most” or “almost all” have the capacity required: 16 to 21 years old.¹⁶

If political maturity is necessary for inclusion in citizenship rights, it nevertheless develops incrementally. It is easy to say when someone is politically mature and when he or she is not, but it is less clear where that line should be drawn. Political maturity similarly develops continuously, and although we could, following Brighouse (2002, 45), treat it as a threshold capacity, the only reason we might do so is if the good to be allocated—political rights—were a discontinuous good itself. But political rights need not be, despite their usual treatment as such. While a child over time becomes an adult, citizenship rights are treated as discontinuous: one either has them or one does not. These two conflicting facts—the continuousness of development versus the seeming discontinuity of rights—pose the central challenge to giving children full citizenship rights.¹⁷

Principles of Institution Design

So far, I have only argued that political maturity ought to be included in any principle that guides the distribution of political rights. As I said above, this minimum may be only imperfectly achieved because we cannot always perfectly translate the principles upon which we design institutions to the institutions. Reviewing further, we may choose not to institutionalize those principles when doing so would violate other, perhaps more important, principles. In this case, even if we had a perfect competency test that was administered fairly, we might find that the marginal gain of excluding the politically immature was not worth the stigma that it caused them in society. But these two facts—that institutions only imperfectly instantiate principles and that the principle of minimal competence might in practice be trumped by the effects of institutionalizing it—do not affect the view that competency ought to be a central principle in designing institutions.

I do not propose to speak any more about what other conditions we might add to the allocation of political rights, nor about the relationship of political rights to human or welfare rights more generally. In this section, I argue that children—the politically maturing—ought to be given participatory opportunities first to cultivate their ability to exercise political judgment and second in a manner that mitigates the harm that their political immaturity might do to the polity as a whole.

First, if competency forms a minimal requirement for political rights, it might also be reasonable to limit political rights to individuals who have not been properly trained and educated—a related but different dimension from the emotional and cognitive *capacity* so far discussed. I think that minimal levels of education—to read, communicate, and understand the issues of the day—should be part of any principle that guides institutional design in much the same way as basic capacity does. But to avoid manipulation and discrimination, we do not test or require one kind of education but use age again as a proxy.

However, while we can leave the question of how much education and nurturing is required for the full development of political maturity, we can, with Brighouse (2002), recognize the value of having political rights in the first place to the competency of their exercise (see López-Guerra 2010).

Children cannot come to be competent agents without some experience of agency. They must have the experience of choice before it makes sense for them to be seen as having the right to choice. I do not think this justifies children's agency *rights*: instead what it justifies is an obligation on parents (and the agencies of the state) regularly to introduce children, as they age, to situations in which they can make choices, and in which they are not fully protected from the consequences of their decisions. As they get older they should be protected ever less from the consequences of their choices, until, on the cusp of being rights-holders, they should be protected from consequences no more than adults are. . . . The child can be said to have a right to an upbringing that prepares her for competent agency (which will include many opportunities for agency) but not to have agency rights. (Brighouse 2002, 46)

That children are not permanently politically immature but developing toward maturity is—from a democratic polity's point of view—the decisive feature of their status. Any democratic nation has an interest in cultivating the citizenship capacity of those who will be its members; as Nussbaum (2007) argues, a nation may also have a general reason to promote the capacity of future citizens as well. Thus, governments have a good reason to give their citizens the kind of training that they need to participate well in politics when they come of age. Since having power is an extremely good way to train one for its use, this becomes a reason to provide children with political power as a way to cultivate their political maturity.

Giving children some political power from a very early age would also allow them to habituate the practices of citizenship at a younger age and may make it more likely that they engage in and with the polity as adults. To use the United States today as an example, despite having a voting age of 18, most citizens do not vote until much later in life. There are many reasons for this, but one may be the lack of familiarity and comfort with the process of registration and voting. If voting rights were given in some form at a much earlier age, and if the exercise of those rights were to be instructed and executed in schools, citizens would become accustomed and habituated to the practice of voting. These political rights might be received while still in middle or secondary school, where children would get into the habit of internalizing civic engagement at a time critical to

their development. Having even a small set of political rights would encourage children to think strategically about the issues most important to them as active participants, including how best to frame their arguments to influence others. In short, such a practice would cultivate a habit of citizenship that would more likely produce lifelong habits of engagement than the current practice of waiting until the age of 18 to cast a vote. So, in addition to the cultivation of political maturity, early political engagement would more likely produce more engaged citizens when they are mature.

Yet granting political power to the politically immature may entail harm to others. This is no more so the case than with participatory rights, where the good to be used is designed to affect public outcomes. Even if an individual's vote has virtually no chance of affecting the outcome of an election, the effect of granting a new group a vote, of which that individual is part, can have the decided effect of altering the incentives of representatives to work toward that group's interest and, thus, policies and laws. In short, any institutional power that is granted to a group that is sufficient enough to provide some educational value to its use will have the potential of causing harm to others, along with whatever benefits it brings. This is no more or less true of children than it is or was for any subgroup in the polity or for the polity as a whole more generally.

This leads us to endorse a limitation on how we allocate citizenship opportunities to children (or again, any group): we should limit political rights to individuals if the allocation itself violates justice or if it were to cause harm to the individual or the polity as a whole. In some sense, this is a corollary of the very necessity of minimal capacity that I have discussed above. As Schrag has put it, "There is something amiss in the idea that our children might be considered competent to make decisions affecting millions of fellow citizens" (2004, 373).

Now it may seem to be a violation of political, if not human, rights to try to limit membership in a polity based on a principle of mitigating harm to others. But what I mean to do is to think about the grant of membership itself as limited in the same way that substance of legislation is itself limited by unjust harms to others. In most modern democracies, for example, the substance of permissible law is limited by substantive protections of fundamental rights even to minorities or individuals. The acceptance or rejection of a group of people—children in the present case—may be seen in the same way: we should not grant a group of people the right to vote if we know in advance that they are likely to use that vote to cause the polity unjust harm. The usual "Who's to say what groups constitute harm?" applies here and may, in practice, mean that we cannot exclude most people. But that again is a different question from the principle of excluding from membership those who will cause harm.

The account here, then, proceeds provisionally on the basis of what would be good for a polity over the long term rather than thinking about what justice or deontic considerations require us to give to children or, with O'Neill (1988), what obligations—perfect, imperfect, fundamental, or universal—we may otherwise have to children. By this view, and respecting the minimal competency argument, we should encourage the distribution of opportunities to participate if, all things

considered, it contributes to the public good and discourage it if not. This is not to deny that children might actually have fundamental rights that need to be respected; nor is it to deny that children might have a claim of justice to participate in the politics as full citizens. Nor does this weak consequentialist principle commit us to consequentialism or utilitarianism per se: if children do have such rights or if justice or obligation requires that we give them these opportunities, the argument here will only be stronger. In this way I differ from Schrag (1975, 2004), whose argument was based on the injustice done *to children* by excluding them from the vote.

The one problem with this provisional approach arises only if justice were to require that children be *denied* the right to participate or if our moral obligations to children require such a denial, perhaps, on the basis of keeping children from harming themselves, as it were. (No such corresponding problem arises if children do not have a deontic *right* to these goods, since lacking a right to *X* does not mean one must be denied *X*, only that one is not entitled to *X*.) We might be worried that the opportunity to participate *politically* constitutes an expression of power over other people as well as over the voter himself or herself and, thus, that justice would require us restraining children because they are likely to do unjustifiable harm to others. Similarly, if our obligation to children is to keep them from harming themselves, and giving them positive rights of political inclusion would cause them to harm themselves, this provisional account may lead to problems. That the good being distributed here is political power means that we have to be sensitive not only to the rights of those exercising it but to the consequences of its exercise over other people.

A more serious objection to any proposal to expand political rights to children is the potential harm it would cause children to engage in adult political discourse.¹⁸ The concern is that adults have an interest in promoting a healthy childhood that in some ways is protected from the concerns of adults, even if children are cognitively able to consider political concerns. Do we want, for example, a 12-year-old to deliberate about how best to deal with female circumcision in Africa or debate whether waterboarding is a good or bad policy of interrogation? Since “political maturity” as defined here encompasses both cognitive and emotional capabilities, I take it that the latter would be reflected as well. To deal with this serious concern, adults might limit the scope of issues that candidates could raise with younger citizens.

More generally, it is hard to see any in-principle violation of justice that a granting of participatory opportunities causes others, apart from the material gains to the public good that the expansion brings about. Put differently, the injustice to others involved in granting children the opportunity to have political rights should be conceived by reference to the material harm to others that their involvement brings about. It will be difficult, if not impossible, to claim that having children vote, for example, is an injustice to others if it turns out that extending the franchise benefits the nation as a whole.

With this discussion, we arrive at the two primary principles guiding the allocation of political rights to children. First, reflecting their developing political

maturity, children should be given opportunities to participate with an eye toward cultivating their own capacity as citizens. Second, again owing to their political immaturity, children should be given rights in such a manner that mitigates the harm likely to arise as a result of their exercise of such rights.

Political Representation: Passive and Active

Given the aims of promoting interests, cultivating capacities, and mitigating harm, how should we think about institutional design from the perspective of the representation of children? The question presumes that we have something in mind when we say “the representation of children,” and so I want to begin with that view before moving in the next section to think more concretely about what institutions can achieve those aims.

Representative government has long been defended as a democratic form to the extent that it allows individuals to participate in the protection and promotion of their own interests *and* to the extent that it provides a mechanism for individuals to participate in the articulation and determination of the public good. Whether the distance that representation creates between citizens and the laws that govern makes representative government an elective aristocracy (Manin 1997) or whether it instead promotes the very essence and value of democracy (Urbinate 2006) need not concern us here. Following Hannah Pitkin’s (1972) account, the critical feature of representative government is that it empowers citizens to rule over their rulers by

1. authorizing their representatives to act,
2. holding their representatives to account for their actions after they have acted, and
3. using their roles in 1 and 2 to incentivize their representatives to pursue the substantive interests of their constituents (or the polity more generally).¹⁹

As a starting point, we can distinguish between active forms of political representation and passive forms on the basis of the represented’s involvement in the process of representation. Active forms are ones in which citizens actually authorize their representatives and later hold them to account. As described above, representation within representative government is an active affair—all three parts involve the activity of citizens to authorize and hold accountable their representatives and use that power to incentivize their representative’s activity while in office. By contrast to active forms of representation, “passive” forms of representation are ones in which a citizen’s (or someone else’s) interests are pursued by a representative over whom that citizen (or person) has no electoral (or other) control.

Most democratic nations treat the political representation of children in passive ways, in an indirect “virtual” fashion, much as they did the representation of women before the early twentieth century. Although such nations view children

as having a special interest worth deliberating about and protecting through law, children, as illustrated in the CRC, have no direct “voice” or participation in government but rely on others to pursue their interests. Although other groups—African Americans in the United States and non-property holders more generally—have historically been excluded from representative institutions, women are the best historical analogue to the treatment of children for three reasons. First, like children today (but unlike other excluded groups), women were seen as a special class, needing their interests protected and advanced in the legislature. Second, the perception that women lacked capabilities very similar to what I have called “political maturity” justified their exclusion; other groups were denied on the basis that they were not deserving of representation at all. Indeed, it was in large part by persuading men that women were not politically immature, that they were not “like children,” that helped suffragists to win them their political rights (Keysaar 2000).

Third, and most important, women were seen as already being represented through the process of “virtual representation” and thus not in need of any further rights to participate. Virtual representation, also known as “surrogate representation” or “proxy representation,” is the process by which a representative pursues a person’s or group’s substantive interests but where the represented has no formal (electoral or otherwise) connection to the representative. Edmund Burke made virtual representation famous in his defense of the American cause: the Americans did not necessarily need to vote for representatives as long as there were English members of Parliament who would take it up for them. In contemporary democracies, elected representatives can serve as virtual representatives for groups and causes in other constituencies. When the late Ted Kennedy, the former U.S. senator from Massachusetts, proposed raising the minimum wage, he was in large part virtually representing the poor everywhere and not just in Massachusetts.²⁰

One recent extension of passive representation for children is the promotion of proxy voting for children. Various proposals support giving parents additional votes based on the number of children that they have, justified by the view that they would more likely use that power to incentivize representatives to pursue the interests of children. Other proposals in the United States advocate counting children in the apportionment calculus, something not universally done. This would effectively reduce the number of *voters* within each child-rich constituency (relative to child-poor constituencies) and, thus, give added voting weight to voters in these districts relative to voters in other districts.

Proxy voting is often framed as a way to enhance the political rights of children, but it does no such thing (Minow 1986; Rutherford 1998). All it does is shift where the passivity of representation “happens,” if you will. This would be seen clear enough if instead of providing women the right to vote, we allowed husbands to have proxy votes to cast on women’s behalves. Similarly, we might suggest that animals and perhaps the environment get special protection by giving additional decisional weight to voters in animal-rich or environmentally protected areas. The structural identity between these proposals and proxy voting for children

should illustrate that in no way is a proxy vote a right for the person being represented. It is rather a granting of a right (or additional power) to some people to look out for those things that they, or we as a society, wish to protect. The conceptual error of treating “proxy voting” as an actual political right of those for whom the proxy is cast is regularly made in the literature on children’s voting.

This is not meant to deny that proxy votes might promote children’s interests well; this is an empirical question. Indeed, it would be worth quantifying in greater detail whether and to what extent children’s interests are underrepresented in legislatures on account of the virtual representation they now receive or might receive under such a plan. There is some evidence to support that: Paul Peterson (1992) notes that spending on the elderly in the United States between 1975 and 1990 was 7.5 percent of GDP compared to 2 percent for children (see also Schrag 2004, 375). Relative spending is hardly a proof—in this case, it seems we would want the government to spend more, much more, on seniors who do not usually have parents providing for them and whose care is likely to be far more costly than for the healthier population of children. But it would be a good place to start, particularly given that children in some advanced democracies, such as in the United States, experience far higher rates of poverty than do the elderly.

Still, there is reason to think that proxy voting on this score would do an imperfect job of protecting children’s interests and perhaps come at too high a cost to the polity because it relies too much on the altruism of parents. Following Becker (1981), most parents have only imperfectly overlapping interests with their children—a parent’s desire for his or her child’s success is often satisfied only at a direct material and temporal cost to the parent, so parents should be expected to systematically underprovide for their kids (and support provisions that therefore underprovide for their children as well). Giving parents additional votes because they have children may promote more funding for playgrounds and schools but at the cost of providing even greater targeted benefits for 30- to 50-year-olds (roughly the age of parents) that have nothing to do with children. We should also expect on the margins that proxy voting would motivate bad reproductive decisions as well.

Treating proxy votes as a way of giving children political rights is thus a spurious argument. It may or may not promote their interests. But as a means of political representation, proxy voting simply shifts the representation of children from their surrogates who serve in government to their parents (or neighbors) closer to home. In no case does the move promote or even speak to the political participation and engagement of children in political citizenship.

A second form of passive representation comes in the form of descriptive representation. Descriptive representation happens whenever there is a correspondence between some feature of two individuals or one individual and a group. By this standard, any woman in office is a descriptive representative of women. And by this standard, African Americans are equally represented as blacks (as a descriptive matter) by J. C. Watts (a black Republican and former U.S. representative from Oklahoma) as they are by John Lewis (a black Democratic U.S. representative from Georgia). Descriptive representation is sometimes appealed to

for instrumental reasons—we want more people who look like “us” because we believe that they will pursue our interests. But as with the case of Watts, and more generally individuals who do not share the views of most of the members of their descriptive groups, this is an imperfect standard. It is important conceptually to distinguish descriptive representation from interest or “substantive” representation because, with Anne Philips (1995), there may well be something normatively wrong with a legislature that does not look like the rest of us, no matter what interests they are pursuing.

Descriptive representation is a passive form because it is achieved merely by the existence of someone descriptively similar to the relevant group and requires nothing on the part of the group itself. In this case, the descriptive representation of children would be achieved just in case a child were elected to the legislature. Current age restrictions notwithstanding, such a move is ill advised for two reasons. First, descriptive representation of children does not in fact encourage the development of children’s political maturity because it is a passive form. This is not to deny that having “one of our own” elected to government can be tremendously inspiring and indirectly encourage people to get involved. The 2008 election of Barack Obama as the first African American U.S. president is a case in point. Nor does it deny that the experience of the child elected might be tremendously helpful in cultivating her or his particular political maturity. But she or he is simply a single person. The inspiration that such an election might occasion among members of the described group to be involved in politics presumes first that there are ways to be involved in politics. It seems, on this score, that the inspirational value of a child serving as an elected representative would have little developmental effects on children generally.

Added to the diminished value of descriptive representation to cultivate political maturity among children, the mitigation of harm in this case would cut decisively against such a proposal. Although one might create a seat in Congress held by a child (or a number of children), their political immaturity would necessitate restricting the voting power of that child perhaps to simply a symbolic role.²¹ In a passive role, children holding office might thus be neutralized by having honorary seats that enable them to add their voice to the debate but without the corresponding power to influence the legislature.

Instituting Active Representation of Children

Along with the promotion of their interests, we return to the two guiding principles of institutional design for children that I articulated at the end of the third section: the promotion of children’s capacity as politically maturing citizens and the mitigation of harms that their political immaturity would cause them and the polity. Institutionalizing virtual representation of children through proxy votes may or may not advance their substantive interests; in any case, it fails to engage children in any direct way in the process of politics. In these terms, virtual representation is all mitigation with no eye to the promotion of children’s capacity.

Active institutions by contrast must give children a direct role in representative government by giving them real power with which to shape representative deliberation, incentivize and hold accountable those who represent them, and have their voices heard within a legislative body. At the same time, they must do so in a manner that reflects children's developmental capacity by minimizing the harm that they can do to others (and themselves) with such power.

In this section, I consider four institutions that illustrate the dual aims of promoting capacity and mitigating harm: fractional votes for children; defining national electoral constituencies to enable group representation for children; providing small (\$10) political spending accounts to children, who could allocate them to candidates and interest groups of their choosing; and using federalism to grant and limit the power of children as political actors. Although these institutional designs are conceptually distinct, they might nevertheless be combined or used in tandem.

Fractional votes for children

The most direct way to promote the political power of children is to give them the vote. In all but a few nations, citizens have the right to vote at the age of 18. In a few places, that age has been lowered to 16. Few serious proposals have been made to give children of much younger ages the vote. In large part, this reflects the broadly held view that children are politically immature. But it also reflects the fact that voting rights are seen as discontinuous rather than partial. This discontinuous treatment of voting—either one has the right to vote or one does not—makes lowering the age of voting more problematic. In the terms that I have developed here, as long as the vote is something one either has or does not have, we have to agree that below some age near 16, the harms that the vote will cause are likely to be too great to be worth the grant.

As we saw above, Brighouse (2002) and others have termed the problem of political maturity to be a threshold problem. Still, the nature of the good to be distributed—the vote—exacerbates the “thresholdness” of the problem. The problem is compounded by the fact that we are applying a discontinuous good—the vote—on the basis of a continuous variable—maturity. I think a better solution is a variation of a solution that John Vasconcellos has proposed: to create a continuous voting right by the allocation of fractional shares to children as they grow into their political maturity. Imagine that upon turning 12, a child received $1/7$ of a vote, with an additional $1/7$ added for every year after (at 18 they have a full vote).²²

Fractional voting would immediately answer the concern that we are giving power to a group that does not know how to use it: we are giving a fraction of power to those who are coming to know what to do with it; it is the voting equivalent of a learner's permit. But as Brighouse (2002) suggests, it would also likely have a powerful citizenship effect on those who received it. Instead of the vote being something that adults have but do not use, children would be encouraged to be active members of the polity at a very early age and try on real power as they entered adolescence. Like a learner's permit that comes with limitations built in, these votes are self-limiting. Fractional shares would allow adolescents to

internalize civic engagement at a time that their habits are forming and developing. They would also be the target of ads and other influence that would heighten their interest, though others have argued that this would introduce new problems and concerns as well.

It is in the aggregate that children's fractional voting power stands also to promote and protect their substantive interests by providing representatives incentives to propose and follow through on issues of concern to children.²³ Middle schools and high schools would become environments in which representatives could campaign directly for votes, engaging students directly in the political process. This again raises the specter of improper influence, a harm that would need to be mitigated, but given the constraints of a school environment, these influences might be more easily controlled and justified by the citizenship effects that would result from representatives truly campaigning for the student vote. And compared to universities, where college students are transient members of the community, 12- to 17-year-olds are, and would have been, longer-standing members of the communities in which they vote.

Of course, college-age students have had the right to vote for almost 40 years, with limited effects, so perhaps we should be skeptical about the effects of political rights for even younger children. But the analogy from college-age students may not be the right one to use. College-age students are in the middle of a great transformation, forging their own identity as adults. Whether the minority of Americans who go to college or those who take on employment just out of high school, this age is often a time of great exploration and experimentation, one in which young adults rely on the habits and practices cultivated in their youth. By contrast, the middle and high school years are precisely the time during which we should work to cultivate civic virtues and habits—such as voting and political participation—so that when students enter adulthood, they more reliably vote and take part, having habituated the participation as part of what it means to be politically active and engaged. We have a cycle of nonvoting by parents who do not instruct and cultivate this civic virtue in their children at home. This is one way to address that problem. In any case, there is no reason to think that the lessons of college-age nonvoting will readily apply to younger voters, whose lives are more structured in the institutions of family and schools.

Finally, fractional vote shares may appear to raise a problem of political equality. Indeed, they are an inversion of John Stuart Mill's suggestion that we give double votes to those with higher education and explicitly treat some people as fractional citizens (Mill 1998). However, fractional vote shares for children do not violate any underlying principle of equality in force today, since there is no presumption that children are politically equal to adults. Indeed, compared to having no votes, fractional shares represent a step toward equality at an earlier age for children.²⁴

National constituencies for children

Although voting has been the primary way that political rights for children have been promoted (and "proxy voting" only erroneously described as enhancing children's political rights), we can think more creatively and flexibly about

institutional design beyond the right to vote. Along with a vote—fractional or otherwise—a second way that children may be brought into the political sphere to enhance their citizenship capacity, protect and promote their interests, and mitigate the harms that their immaturity might cause is by giving them group representation through the creation of electoral constituencies defined around age.

Defining electoral constituencies by age would have tremendous incentive effects over representatives elected from them. In virtually all democracies, constituencies are defined territorially by where a citizen lives, although, as I have argued at length (Rehfeld 2005), this is not at all necessary and leads to lots of perversions of the system (“politics is local” only because we represent ourselves that way; it need not be). But democratic governments could define electoral constituencies instead by votes cast (in the case of proportional representation) or a host of other ways, including by self-definition (Pogge 2002) or by random assignment (Rehfeld 2005, 209–39).

As I have argued, by concentrating one kind of interest into a constituency, a representative to a national legislature is less able to deviate from the pursuit of that narrow interest when the public good demands it. For this reason, I have argued that group representation, as a principle of democratic institutional design, is ill advised, even if on occasion it is necessary for reasons of justice or the promotion of a deliberation.²⁵ In the case of children, such an exception may be warranted for those who are not likely to fare well under territorial systems because their distribution in these constituencies is not likely to be random but rather systematically biased. Because of the tendencies for individuals to follow public service provisions based on their needs (Tiebout 1956), we should suspect there are more children living in a suburban or urban congressional district in, say, Michigan, than there are in Broward County, Florida, or, prior to the 1990s, most of Nevada. The same is true in systems of proportional representation: if party support varies by age, then younger voters with children will tend to group together, and children will be nonrandomly distributed.

Reflecting the need to mitigate the harms of the politically immature, we might define national, age-based electoral constituencies that would elect a certain number of representatives to the legislature based on age. Using the United States again as an example, we might create a “12-year-old” constituency in which all 12-year-olds nationally would elect a single representative to Congress with the full rights and privileges of office. Thirteen-year-olds might send two representatives to serve, 14-year-olds three, and so on until the age of 17 or 18, at which children would be assimilated and integrated into the body politic. This method would leave the current system of territorial districting in place but provide some corrective for children.

As I said, creating group representation often renders a representative less able to deviate from the narrow interests of the group that he or she represents even when the public good requires it. In this case, that the electoral constituency is temporary (each changes every year) mitigates that harm. Furthermore, the fact that children would receive far less representation than their numbers would normally allow would further mitigate the harm that this level of participation could

cause the polity. Having their own constituencies would encourage kids to develop citizenship capacity in a slightly better way than by simply including them in regular electoral constituencies, because it would more completely shield children from the influence and intimidation of their parents, whose interests in the outcome of the election would overlap less perfectly with their own.

Political spending accounts for children

In addition to voting power, children might also be encouraged to engage politically by being given small political spending accounts to allocate to any certified nonprofit or political organization, including campaigns. Again, a small amount of money would go a long way, and the amount, like the fractional vote and the number of representatives, might also incrementally advance by year. In the United States, for example, if there are between 3 and 4 million children in each of the age cohorts from 13 to 17, a grant of \$10 to each cohort creates a pool of \$30 to \$40 million of possible revenue for campaigns and interest groups. Even a tenth of that would produce significant contributory power. With that level of spending available to them, interest groups and campaigns would have a substantive interest in pitching themselves to children, a prospect that poses its own risks to be sure but has the benefit of again fostering the engagement of children as active members of the polity.²⁶

Using federalism to promote and limit influence

Finally, children's participation may be promoted and mitigated by encouraging it in, and limiting it to, the exercise of political power within local jurisdictions. Again, reflecting the developmental stages of political maturity, children might be allowed to participate with fractional (or whole) votes first in local, then state, and finally national elections.²⁷ By doing so, children might learn about the issues they were closest to, if not cared most about (Cohen 1975), in preparation for acting as full citizens and voters (partial or otherwise) in national elections.

Conclusion

The CRC prioritizes the welfare of children, treating them as a protected, at-risk class and marginalizing them from active engagement as political citizens. I argue that such treatment is not only justifiable but also reflects the nature of childhood and the specific harms that children face throughout the globe, even in situations of relative peace, material security, and stability. Welfare ought to be a priority before political participation. And, further, participation rights are, and rightly should be, linked to the possession of political maturity: a collection of cognitive, emotional, and moral capacity that develop with age and that children, by definition, lack. Thus, the priority of welfare over citizenship appears entirely justified.

However, the complete exclusion of children as political agents ignores the relative prosperity in which millions of them live and is a result of a failing to consider creative institutions to respond to the developmental fact of political maturity. Political maturity is a developmental, continuous bundle that does not suddenly emerge fully in a person but rather does so gradually and often in a manner that is positively influenced by engagement in politics. By contrast, institutions that permit citizens' political engagement tend to be discontinuous: either one has a vote or does not. Thus, children—defined here as the politically immature—have rightly, but detrimentally, been excluded from political citizenship on account of their political immaturity. By tailoring institutions to provide more continuous, gradual power to children as they mature, I suggest that they would be better citizens for that early engagement. But such institutions must also mitigate the harm that their political immaturity might cause to the polity as a whole. I reject passive forms of representation—proxy voting and descriptive representation—as not cultivating the capacity of children and propose involving children in active forms instead.

Much of the practical recommendations of this analysis will depend on the academic literature that can specify the trajectory of political maturity in human beings as well as more precisely indicate the specific ages at which it incrementally advances. Whether humans begin to mature at age 8 or 12, we ought to think more creatively about institutional design to respond to that developmental pattern.

Notes

1. For a general defense of this view, see Goodin (2007).

2. It may be surprising that systematic errors would be difficult to correct. Consider that at an individual level, systematic errors of judgment are in principle easier to correct than random errors, since the systematic nature of the error can lend itself to correction. By contrast, random errors—at the individual level—are impossible to correct, since we cannot know in advance in what manner the person erred. The difficulty of correction is entirely normative: we do not want the state “correcting” errors that citizens make for fear that such corrections will unmake democracy. This is a much larger point that I have explored elsewhere. See Rehfeld (2010).

3. I thank Emma and Hoben Greenberg Rehfeld for helping me entertain this possibility.

4. It is the justifications of *claims to* and *protections of* these rights that require stability, not necessarily the rights themselves. I, thus, leave aside here questions of the ontological nature of rights, whether they are naturally occurring or politically and socially constructed. Both Schrag (1975, 2004) and Peterson (1992) argue for the rights of children in part on this instrumentalist framing. See also Van Parijs (1998) on this point.

5. Schrag (2004), Archard (2007), and López-Guerra (2010) similarly make this point. See as well Schrag (1975), Pantell and Shannon (2009), O'Neill (1988), Lecce (2009), and Minow (1986).

6. Goodnough (2010) describes research that may indicate that humans develop a moral sensibility well before they can fully reason or otherwise communicate about the principles that motivate them. Even if moral sentiments emerge much earlier than thought, they are not present or not accessible at birth, and thus the central questions of this article remain.

7. That children separated at birth from the culture in which they were born conform to the culturally and socially influenced (not “determined”) standards of political maturity should be evidence enough for this claim.

8. Goodin and Gibson (1997) here are arguing about a choice-based conception of rights. They argue, at greater length, that an interest-based conception of rights runs into the same problems. They also extend their point logically to the mentally infirmed.

9. On this point I follow López-Guerra (2010), whose paper and subsequent correspondence on this point were influential.

10. If we simply defined “human” as a creature that has “political maturity,” the argument that all humans deserve citizenship rights would not be an objection to the present argument.

11. This is a fact that some who have advocated for giving children a vote have not noticed. For one example, see Lecce (2009). While Lecce acknowledges that “equality under the laws” might justify participation by children in a polity, equality alone does not explain why those with a similar bundle of emotional and cognitive goods would be denied. See also López-Guerra (2010).

12. This is a prime motivation of López-Guerra (2010), who sees granting the vote to children and the mentally impaired worthwhile because the harm done to the polity is marginal if it exists at all. I agree with Martha Nussbaum’s claim that disenfranchising the politically mature (as I would describe it) is “disrespectful and wrong,” based on the view that such a denial is tantamount to their being treated as inhuman, rather than the view that mental competence or political maturity is irrelevant to citizenship claims (see Nussbaum 2007, 248, as discussed in López-Guerra 2010, 20).

13. See Daniel Hart, “American Sixteen- and Seventeen-Year-Olds Are Ready to Vote,” in this volume. Hart cites evidence that cognitive development escalates from 11 to 16 years of age. The evidence that he cites to support lowering the voting age to 16, however, is based on survey data among U.S. teens who are allowed to vote at age 18. That means that it would be difficult to detect whether the results that Hart documents are due to individuals being 16 or, alternatively, because they are close to voting age (whatever it is). If it is their proximity to the legal voting age that explains why 16- and 17-year-olds are more politically aware, then Hart’s conclusion that voting should be extended no lower than 16 is unwarranted.

14. I remind the reader that though the general developmental trend is critical to the argument, the particular ages that I discuss are merely illustrative. In practice, they would have to be determined relative to any particular culture and society.

15. I do not address how to determine this, as it raises a separate set of issues. I do presume, however, that the selection of a voting age would be done in a deliberative fashion, though of course the inclusion problem asserts itself: one would not permit those currently excluded from voting based on whether they would later be included. But deliberative models would allow for their voices, nevertheless, to be heard. See Gutmann and Thompson (1996) and Cohen (1997).

16. Historically, in the United States, the argument to lower the voting age to 18 from 21 was not based on this “capabilities” view but simply on the argument of affected interests: since 18-year-olds were being drafted, they should have the right to vote. I do not find this argument philosophically persuasive—having an interest in policy may be a necessary but not a sufficient condition for justifiably being granted voting rights in a polity—even if it does causally explain why the vote was changed (Keysaar 2001). For a counterargument, see Goodin (2007).

17. Brighouse and Fleurbaey (2010) have argued more generally for a principle of proportionality that is more sensitive to the partial political rights that might leave room for a progressive allocation of political rights to children as they develop.

18. David Estlund raised this objection to me in a personal communication.

19. Pitkin’s (1972) account conflated the “concept” of representation with these three features that plausibly render any case of it democratic. For more on that critique, see Rehfeld (2006).

20. For the best statement of virtual representation, see the discussion in Pitkin (1972, 171–80). For a contemporary discussion and defense of “surrogate representation” as an alternative, see Mansbridge (2003) and also Rehfeld (2009).

21. It is possible that if adults elected the child-representative, these adults would be more likely to elevate the politically mature child to office. But if only the political mature child were elected to the “child’s seat,” it would beg the question as to whether that child was properly descriptive of children as *politically immature citizens* at all.

22. This proposal is a variation of one that California State Senator John Vasconcellos proposed in 2004 that would have given 14- and 15-year-olds 1/4 of a vote and 16- and 17-year-olds 1/2 of a vote. See

California State Senate (2004). It was defeated for being hard to administer and generally “crazy.” I thank Jenny Diamond Cheng for directing me to the proposal.

23. I think López-Guerra (2010) underplays the influence that children as a collective could have on electoral politics, even taking into account that individually their votes would not matter most. In competitive districts, or among competitive parties, the marginal effect of adding their votes to the mix could be significant. This effect will be even greater if children were to form their own electoral constituencies.

24. In the American context, fractional vote shares will face the superficial objection that they are offensive, given the purported history of treating African Americans as three-fifths human. African Americans were considered to be property and subhuman, if human at all. This view translated into a three-fifths representation, providing more power to white property owners in the South. Indeed, were African Americans treated as even three-fifths human and given a corresponding vote (and the protection to use it), they would have fared much better. It is no coincidence that proponents of slavery advocated for *not counting* slaves *at all*. The prospect of giving anyone three-fifths of a vote will likely seem offensive to many for historically inaccurate reasons that will limit the kinds of institutional reform possible in the United States.

25. For defenses of group representation to pursue justice, see Williams (1998), James (2004), and Young (1990). For the argument in favor of heterogeneous constituencies, see Rehfeld (2005, 177–208). For a general discussion of many of these issues, see Stone et al. (2008).

26. Public grants—whether of \$0.10 or \$10—would equalize children’s giving, which would be a necessary component of the system. In the United States, for example, children’s right to give their own money was recently protected by the Supreme Court. But that decision does not speak to the general issue that most children do not have money to give and are thus unable to take advantage of its participatory effect.

27. A similar discussion on using tiered structures appeared in the earlier colloquy between Schrag and Cohen. Schrag completes his earlier article by suggesting that children be given the vote at age 15 and then only over local issues (Schrag 1975, 456). In his response, Cohen rejects this idea because local issues seem no less complicated yet at the same time are less apparent to children, who have a greater sense of national and international issues (Cohen 1975, 462). I take no stand on which of these positions is correct; I only suggest that one might use the tiered nature of federalist governments to mitigate the harms of political immaturity.

References

- Archard, David. 2007. *Children: Rights and childhood*. Oxford: Taylor & Francis.
- Archard, David, and Colin Macleod. 2002. *The moral and political status of children*. Oxford: Oxford University Press.
- Becker, Gary. 1981. *A treatise on the family*. Cambridge, MA: Harvard University Press.
- Beitz, Charles R. 1990. *Political equality: An essay in democratic theory*. Princeton, NJ: Princeton University Press.
- Brighouse, Harry. 2002. What rights (if any) do children have? In *The moral and political status of children*, ed. David Archard and Colin Macleod. Oxford: Oxford University Press.
- Brighouse, Harry, and Marc Fleurbaey. 2010. Democracy and proportionality. *Journal of Political Philosophy* 18 (2): 137–55.
- Buss, Emily. 2003. Children’s associational rights? Why less is more. University of Chicago Public Law Working Paper 41, Chicago, IL.
- Buss, Emily. 2004. Constitutional fidelity through children’s rights. *Supreme Court Review* 2004:355–407.
- California State Senate. 2004. Voting age. SB 1693. Sacramento, CA: California State Senate.
- Christiano, Thomas. 1996. *The rule of the many: Fundamental issues in democratic theory*. Boulder, CO: Westview.
- Cohen, Carl. 1975. On the child’s status in the democratic state: A response to Mr. Schrag. *Political Theory* 3 (4): 458–63.
- Cohen, Joshua. 1997. Deliberation and democratic legitimacy. In *Deliberative democracy: Essays on reason and politics*, eds. James Bohman and William Rehg, 67–92. Cambridge, MA: MIT Press.

- Estlund, David. 2007. *Democratic authority: A philosophical framework*. Princeton, NJ: Princeton University Press.
- Goodin, Robert E. 2007. Enfranchising all affected interests, and its alternatives. *Philosophy and Public Affairs* 35 (1): 40–68.
- Goodin, Robert E., and Diane Gibson. 1997. Rights, young and old. *Oxford Journal of Legal Studies* 17 (2): 185–203.
- Goodnough, Abby. 8 April 2010. The examined life, age 8. *New York Times*. Available from www.nytimes.com (accessed 15 May 2010).
- Gutmann, Amy. 1987. *Democratic education*. Princeton, NJ: Princeton University Press.
- Gutmann, Amy, and Dennis Thompson. 1996. *Democracy and disagreement*. Cambridge, MA: Belknap Press.
- James, Michael Rabinder. 2004. *Deliberative democracy and the plural polity*. Lawrence: University Press of Kansas.
- Keysaar, Alexander. 2000. *The right to vote: The contested history of democracy in the United States*. New York, NY: Basic Books.
- Lece, Steven. 2009. Should democracy grow up? Children and voting rights. *Intergenerational Justice Review* 9 (4): 133–39.
- López-Guerra, Claudio. 2010. Enfranchising minors and the mentally impaired. Paper presented at the Symposium in Honor of Brian Barry, Columbia University, 19 May. New York, NY.
- MacMullen, Ian. 2007. *Faith in schools? Autonomy, citizenship, and religious education in the liberal state*. Princeton, NJ: Princeton University Press.
- Manin, Bernard. 1997. *The principles of representative government*. New York, NY: Cambridge University Press.
- Mansbridge, Jane. 2003. Rethinking representation. *American Political Science Review* 97 (4): 515–28.
- Mill, John Stuart. 1998. Considerations on representative government. In *On liberty and other essays*. New York, NY: Oxford University Press.
- Minow, Martha. 1986. Rights for the next generation: A feminist approach to children's rights. *Harvard Women's Law Journal* 9:1–24.
- Nussbaum, Martha. 2007. *Frontiers of justice*. Cambridge, MA: Harvard University Press.
- Okin, Susan Moller. 1989. *Justice gender and the family*. New York, NY: Basic Books.
- O'Neill, Onora. 1988. Children's rights and children's lives. *Ethics* 98 (3): 445–63.
- Pantell, Robert H., and Maureen T. Shannon. 2009. Improving public policy for children: A vote for each child. *Intergenerational Justice Review* 9 (4): 139–43.
- Peterson, Paul E. 1992. An immodest proposal. *Daedalus* 121 (4): 151–74.
- Philips, Anne. 1995. *The politics of presence*. Oxford: Oxford University Press.
- Pitkin, Hanna F. 1972. *The concept of representation*. Berkeley, CA: University of California Press.
- Pogge, Thomas. 2002. Self-constituting constituencies to enhance freedom, equality, and participation in democratic procedures. *Theoria* 49:26–54.
- Rehfeld, Andrew. 2005. *The concept of constituency: Political representation, democratic legitimacy, and institutional design*. New York, NY: Cambridge University Press.
- Rehfeld, Andrew. 2006. Towards a general theory of political representation. *Journal of Politics* 68 (1): 1–21.
- Rehfeld, Andrew. 2009. Representation rethought. *American Political Science Review* 103 (2): 214–30.
- Rehfeld, Andrew. 2010. On quotas and qualifications for office. In *Political representation*, eds. Ian Shapiro, Susan Stokes, Elisabeth Woods, and Alexander Kirschner. New York, NY: Cambridge University Press.
- Reich, Rob. 2002. *Bridging liberalism and multiculturalism in education*. Chicago, IL: University of Chicago Press.
- Rutherford, Jane. 1998. One child, one vote: Proxies for parents. *Minnesota Law Review* 82:1463–1525.
- Schauer, Fredrick. 2003. *Profiles, probabilities and stereotypes*. Cambridge, MA: Belknap Press.
- Schrag, Francis. 1975. The child's status in the democratic state. *Political Theory* 3 (4): 441–57.
- Schrag, Francis. 2004. Children and democracy: Theory and policy. *Politics, Philosophy & Economics* 3 (3): 365–79.
- Stone, Peter, David T. Canon, Michael Rabinder James, Melissa S. Williams, and Andrew Rehfeld. 2008. Polity forum: Reflections on Andrew Rehfeld's *The concept of constituency*. *Polity* 40 (2): 216–71.

- Tiebout, Charles. 1956. A pure theory of local expenditures. *Journal of Political Economy* 64 (5): 416–24.
- Urbinati, Nadia. 2006. *Representative democracy: Principles and genealogy*. Chicago, IL: University of Chicago Press.
- Van Parijs, Philippe. 1998. The disfranchisement of the elderly, and other attempts to secure intergenerational justice. *Philosophy and Public Affairs* 27 (4): 292–333.
- Williams, Melissa. 1998. *Voice, trust and memory: Marginalized groups and the failure of liberal representation*. Princeton, NJ: Princeton University Press.
- Young, Iris Marion. 1990. *Justice and the politics of difference*. Princeton, NJ: Princeton University Press.