

# Rights, obligations and the public sphere

## Arguments and options for securing just policies for young people

Judith Bessant

*Children and young people have too easily been subjected to state-sponsored mistreatment and neglect. One primary reason for the discriminatory and often hostile conduct directed at them by agencies ostensibly established to promote their welfare is that they have been 'constructed' as dangerous and 'anti-social', or as dependent, incompetent and naïve. A key aim of this article is to promote discussion about the significance of children's and young people's status as a key determinant of policies which routinely override their basic rights. The article argues that attention needs to be given to how child and youth policies can be developed more securely within a justice framework.*

*I argue that, if we are serious about developing both just policies and ethical relationships with young people, we need to recognise the role played by dominant narratives about young people in shaping policies. Once this is achieved, attention can then be directed towards how those*

*identities might be contested and reconstructed. I offer a number of suggestions for securing ethical treatment of young people which includes respecting them as fully-fledged human beings and citizens. I argue that challenging common-sense understandings of young people as dependent, not fully intellectually or morally competent, etc, can inform policies in ways that secure young people's entitlements as full citizens. In particular one way of challenging popular views about young people is to increase their involvement in the public sphere. The fact that most young people cannot currently claim rights for themselves directly is no reason for denying them. Indeed it is a good reason for securing mechanisms for monitoring those who have children in their care and to intervene to put those rights into effect. I also make a case for embedding young people's rights into an account of obligations that can be used to secure respectful and just conduct on the part of older people who have young people in their care.*

Most young people have a special status in contemporary Australian communities which derives from a position as financially, socially and emotionally dependent on older people (eg, parents). This status is also closely connected to the idea that young people are in need of care and protection which owes much to longstanding narratives of childhood and adolescence as a period of innocence, naïveté, vulnerability, transitional status and inherently troublesome in nature. The institutionalisation of such views directly affects the lives of many young people and often in ways that are injurious to them. A mounting body of scholarly research and official inquiries indicates how young people have been subject to dangerous, abusive and morally indefensible government and institutional practices (Queensland Commission of Inquiry into Abuse of Children in Queensland Institutions, 1999; Angus & Woodward, 1995; Bean & Melvill, 1989; Wood Commission, 1997; van Krieken, 1991; Fredman & Green 1994; Carrington 1993; Fogarty 1993).

I argue here that children (0-12 years) and young people (13-25 years) easily become subject to mistreatment and neglect, and that a primary reason for that discriminatory and often hostile conduct lies in their identity being ascribed as potentially dangerous, dependent, incompetent and naïve. Moreover, given the mistreatment many young people endured throughout the twentieth century at the hands of those responsible for their care, and knowing how easily they become victims of mistreatment, thought needs to be given to how child and youth policies can be developed more securely within a

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justice framework. In short, I argue that there is a serious need to secure legal, institutional and customary rights for them. Indeed, as O'Neill (1989) argues, if children and young people had rights, redress would be possible. Rather than being ineffective in coping with neglect and abuse, they would have legitimate and enforceable claims against others. Moreover, the fact that most young people cannot claim rights for themselves is no reason for denying their rights. On the contrary, it is a good reason for establishing institutions which monitor those who have children in their care and which intervene to enforce their rights.

I begin by offering a cursory survey of twentieth century policies pertaining to young people to highlight how that status is expressed as enmity inherent in many policies. First, however, it needs to be said that the primary aim of this article is to promote discussion about the significance of the status of children and young people as a key determinant of policy which routinely overrides their basic rights. I argue that if we are serious about developing just policy and ethical relationships with young people, then we need to recognise how dominant narratives about young people shape policies. Once this is achieved, attention has to be directed towards how those identities might be contested and reconstructed.

I present two suggestions for securing ethical treatment of young people that involves respecting them as fully-fledged human beings and citizens. I consider how dominant common-sense views about young people might be reconsidered through increasing the involvement of young people within the public sphere. This can allow young people greater involvement in both problem setting activities and in the construction of youthful identities. I then argue a case for embedding young people's rights in an account of obligations that can be used to secure certain conduct on the part of older people. I argue that challenges to the common-sense view of young people as dependent, not fully cognisant, not-yet-capable, etc, can assist in re-shaping policies in ways that secure young people's entitlements as full citizens.

Recognising the ambiguous status of young people as citizens-in-pupae (and

thus needing nurturing-protection), as well as their status as a potentially deviant cohort ostensibly bent on creating disorder (and therefore needing control), helps in understanding the enmity inherent in many policies pertaining to young people. Youth policies like those mentioned above rest on concerns about protection as well as long standing anxieties about children and 'youth' as a threat to social order, as animalistic, troublesome and untamed (Langley, 1992; Gerster & Bassett, 1991; Cohen, 1980). Indeed the very category of youth and adolescence was constituted in terms of a period in the life-cycle characterised by precariousness, transitions, periods of storm and stress, and high risk behaviour (Burt, 1930; Hall 1905). The 'need' to closely govern young people has not simply been for the purpose of protecting 'them', but also for protecting 'us'.

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As a brief survey of twentieth century youth policy demonstrates, young people have been variously identified as a discrete section of the population needing close guidance and management. As Nikolas Rose (1989) observed, childhood and youth are the most governed periods of our lives.

Through the twentieth and into the twenty-first century many young people have been subject to the following policies:

- Education policies that make schooling legally compulsory for those aged between 5 and 16 years, while social security policies ensure engagement in some form of 'activity' in education or training programs for people under the age of

25 years. Notwithstanding the fact that some benefits are derived from education for both the young person and community, it remains the case that certain features of compulsory schooling for an extensive period of time signals an enmity towards students.

We need only observe the mandatory nature, prolonged period and quality of the experience characterised by constraints such as the denial of the student's right to freedom of speech and movement. Students are similarly denied the right to participate in decision-making that directly affects them (eg, curricula development, no or limited subject choice). Students rarely have the right to say how the school is run or how teachers and others adults should conduct themselves. While in school, students' rights to privacy are regularly refused (eg, mandatory and surprise bag and locker inspections, surveillance cameras in student toilets). There is also an insistence of ready obedience; a denial of most liberties that other citizens regularly enjoy (eg, to grow their hair long or have it styled in particular ways, to wear an earring, etc). As students, many young people are regularly subject to various regimes of 'discipline'. These have included corporal and other forms of punishment, intimidation and detention as techniques of governance that would not be tolerated if applied to any other age group.

- Military policies have seen young people conscripted into the armed forces to secure national defence. In so-called civilised countries such as the UK, soldiers as young as 16 years see military service.
- In Western Australia indeterminate and mandatory prison sentences apply to certain categories of young offenders. The discerning nature of mandatory sentencing and the differential treatment given to young aboriginal people compared to older and non-indigenous people is apparent in the ways it targets crimes committed by young and poor people.
- Child immigration programs saw young British children (whose parental status was ambiguous)

shipped to Australia as part of a national hygiene/racial program (Gill, 1997).

- The practice of legal abduction of indigenous young people and the removal of children from poor white families or single mothers by government officers was systemic through most of the twentieth century. Removing children from parents, families and communities denied those young people's rights on numerous grounds, including their right to know their parents and cultural identity.
- The placement of such children in institutions where many were systematically abused and neglected, reflected not only a perception of young people as less than fully human and as non-citizens, but also a deep disrespect and enmity toward them (Queensland Commission of Inquiry into Abuse of Children in Queensland Institutions, 1999; Davies, 1994; Coldrey, 1993).
- A youth wage, which ensures young people do not receive equal pay for equal work, is discriminatory on the basis of age, and is exclusively applied to those under 21 years of age, while all other age groups are protected from age-based discrimination. This also has the effect of extending the period of dependency on parent/s and guardians.
- Exclusionary policies enacted by some local governments and private companies restrict the movement of young people to set times and places (ie, youth curfews).
- Hundreds of asylum seeking children were, and continue to be, held in detention by the Australian government. The fact that many adult inmates stand alongside child detainees does not detract from any argument about the injustice of such policies.

Some people argue that these policies are not discriminatory and that most were developed to protect young people from harm (such as economic and social exploitation, and sexual abuse). Such claims highlight tensions which many policy makers interested in justice for young people encounter between the need to protect and the

need to be respectful of a person's human agency. It cannot be denied that:

- children and young people by virtue of their relative inexperience are often in weaker and more vulnerable positions compared to most older people; most also have comparatively less resources and access to power (through money, property, etc);
- the meanings given to being a child or a young person have very real and practical outcomes in terms of disempowering social expectations (eg, that they cannot and ought not act in particular ways), thereby denying many their rights and entitlements. This can work against the young person's capacity to defend themselves which can paradoxically increase their vulnerability and 'need for protection';
- the power relationship between most adults and young people typically works in the adult's favour, sometimes placing a young person at risk.

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#### **TENSIONS: GUARDIANSHIP AND PATERNALISM**

The tension between guardianship responsibilities and the effect of disabling paternalism lies with the reality that children and young people are susceptible to exploitation. For this reason a duty of care on the part of older people is a just and reasonable expectation. The difficulty is, however, that unless care is taken to prevent outcomes that are detrimental to the young person, guardianship itself becomes an oppressive act that denies the capacity and rightful entitlements of those being protected. This was indeed

the case for other groups, specifically women and aboriginal people, who in the recent past were subject to similar discursive and practical treatment.

Critics of the suffragette movement or of aboriginal rights claimed women and indigenous people were economically dependent persons, whose 'lack' of education and training made them incapable of making rational and informed decisions. Women, it was argued, were weak and vulnerable, a status that rendered them forever needful of protection and guardianship and thus incapable of full citizenship. These were arguments sincerely believed by a large number of intelligent, well informed and well intended people. Many of the arguments for denying women and aboriginal people rights were also allegedly grounded in empirical facts. Such common-sense representations of young people persist today and it is those understandings that are routinely used to deny them full citizenship. Like young people today, large numbers of women and aboriginal people historically did not engage in waged work, did not vote, did not have incomes or property and were 'poorly educated' at the end of the nineteenth century, and were seen to be incapable of full citizenship.

I argue for a concept of citizenship that depends on an ontological standing that all human beings share because we are human regardless of age, gender or ethnicity. This approach does away with faulty arguments that deny rights based on imagined levels or hierarchies of humanness and thus ensures all people are understood as human, and have entitlement to full citizenship.

If we are to talk about the inability (or limited ability) of young people to make informed and rational decisions, to be responsible, or to be independent, then we need also to reflect on the ways the same logic has historically been applied to other groups, such as aboriginal people and women, and ask why we can continue doing this to young people.

It is time to reconsider the ways arguments that young people are dependent, ill-informed and unqualified for full citizenship function to exclude young people and to deny many of their basic rights. I argue that it is up to those

who wish to continue limiting the entitlements of young people and to deny their citizenship rights to spell out just which limitations they wish to apply and what their rationales are for doing so.

It also needs to be acknowledged that these policies do not affect all young people in the same ways. For example, young people from poor and/or indigenous families are likely to experience policies like indeterminate sentencing or the policing of 'public' space differently to young people from affluent backgrounds (ATSIC 1999; Read 1998; National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, 1997; Vinson 1999; Gregory & Hunter 1995). Although policies impact on the lives of young people differently, the fact remains that too many youth policies deny the basic human rights of young people that most others take for granted.

Policies like those mentioned above are discriminatory and subject young people to treatment that would not be permitted if applied to any other groups (National Children's and Youth Law Centre, 1994; Sidoti, 1998). As Sidoti observed:

An examination of Australia's compliance with the International Convention on Civil and Political Rights and the Convention on the Rights of the Child raises serious questions about the level of respect by Australian governments for the civil rights of our young people (Sidoti, 1998: 32).

The denial of young people's basic human rights is evident in practices that ensure they are:

- not authorised to participate in most areas of decision making that directly have an effect on them (government, education/training policy);
- subject to junior rates of pay for work that is of equal value to that performed by adults, even when there is no training component (Australian Industrial Relations Commission, 1999);
- excluded from certain quasi-public spaces of commerce and certain public institutions (eg, large shopping centres, 'public' parks, etc) (White,

Murray & Robbins, 1996). The removal of a group or individuals from specific socio-spatial systems (commercial-social space) that all other citizens are actively encouraged to share in is more than discrimination; it is action that alienates and reflects both a fear of and animosity toward those subject to such treatment;

- allowed very limited participation in public life (voting restricted to over 18 years of age);
- more likely than any other age group to be subject to police power (eg, reports that young people are harassed by police) (Sidoti, 1998: 36).

A primary reason for the formulation of policies that are discriminatory and indeed often hostile towards children and young people lies in the identity popularly assigned to them as potentially dangerous, dependent, incognisant and naïve.

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**THE JUSTIFICATIONS FOR SUCH POLICIES**

Advocates of exclusionary and discriminatory practices that target young people rely on the same arguments that were once used to excuse the poor treatment and denial of citizenship rights for aboriginal people and women. For example:

1. Young people do not make the grade as full-citizens. They are not fully-fledged and developed human beings. Similarly Aboriginal people

as 'natives' were believed to have lower forms of cognitive maturity and were not fully developed. This mind-set is evident in the pioneering work of youth experts such as the psychologist Jean Piaget whose ideas had a major impact on how youth/child experts came to 'know' the intellectual and emotional development of young people throughout the twentieth century. As Fernandez-Armestros observed: 'generations of school children, [were] deprived of challenging tasks because Piaget said they were incapable of them... If children perceived things differently, he classed them as rationally inferior' (Fernandez-Armestros, 1997: 18).

Like many adults, Piaget believed children and 'primitives' were capable only of what he called 'pre-logical, primitive thought' while adults 'naturally' practised higher forms of rationality which occupied the top rungs of the cognitive ladder. Although concerns about the perceived shared features of young people and 'primitives', such as their illiteracy and 'limited cognitive processes' were animated by benevolent intent, it was an adult, western, scientific imperitance that failed to recognise a different order of things and different ways of perceiving the world. Benign sentiment and scientific knowledge constituted identities of 'primitives', 'children' and 'youth' which in turn justified the exercise of paternalistic authority that implied a sub-human level of existence on both young people and indigenous people by denying their identities as fully developed citizens and human beings. This similar development in scientific and popular discourses about 'children' and 'primitives' indicates both what has changed in relation to indigenous people and what has not altered in regard to popular attitudes towards young people (ibid).

2. Most young people through the twentieth century have become increasingly economically dependent. The view that young people 'cannot/ought not' earn an independent income or own private

property also remains dominant. For this reason most remain reliant on the state and/or parent/s for a living.

3. Young people continue to be seen as lacking sufficient exposure to the appropriate level and kind of education and training, and therefore are not capable of making informed and rational decisions.
4. Young people are generally considered not to be fully developed emotionally or psychologically. Similarly it was once argued that women were 'too' emotional and did not possess the brain/physiological capacity to think rationally. Likewise 'the physiological nature' of aboriginal people and other 'natives' is said to have demonstrated lower forms of intellectual development that prevented logical and 'sensible' thought.
5. Young people are seen to have a weak and vulnerable status that renders them needful of guardianship. This points to the cult of the 'infantilised' adolescent and young person. The social sciences (such as developmental psychology, sociology and education) have played a significant role in this regard, producing discourses that reinforce the idea of child and adolescent as a discrete and dependent section of the population that requires close monitoring (Rose, 1989; Zelizer, 1994).

One outcome of these accounts is to deny young people their entitlements to live in ways respectful of their dignity and abilities as complete human beings (O'Neil, 1994). For people raised in traditions respectful of a reality defined by developmental psychology (or similar forms of sociology), the idea that young people (as children or adolescents) are capable of more than what such scientific knowledge prescribes of them can be as challenging as the now debunked, but once revered, idea that women could not do mathematics and 'Blacks' could not reach a high level of intellectual achievement. For many people the suggestion that such scientific knowledge does not accurately map the young person's cognitive and other types of intellectual and emotional development is inconceivable.

Such claims of knowledge about young people are based on the practices of skilled experts who collected comparable information on large numbers of subjects which they then analysed for the purpose of standardisation and the construction of norms. Given the limitations of this paper and given that my primary aim is not to argue the epistemological merit or otherwise of these claims, I simply refer to the writing of those who have provided critiques of such research (see Danziger, 1990; Rose, 1989; Poovey, 1998).

Like so many adults, Piaget believed that children, like 'primitives', were capable only of 'pre-logical', 'primitive thought', while adults naturally practised forms of rationality occupying the higher levels on the cognitive ladder. It was an adult, western, scientific confidence that failed to recognise a different order of things (eg, alternative ways of seeing the world whether that be through the eyes of a young or indigenous person). The noble sentiments and 'scientific knowledge' constituted identities of 'primitive' and 'child' and justified paternalistic authority. This implied a diminished level of existence by denying their identities as fully-fledged citizens and human beings.

This analogy between children and 'primitives' also indicates the durability and potency of narratives about the child/adolescent. This can be seen in relation to the shifts in categories of indigenous people who in some ways have come much further in terms of securing their respective identities as citizens and full human beings than have children and adolescents.

The process of denying young people basic human qualities such as the capacity to think, feel, and behave like others, permits and indeed facilitates action against them that would be intolerable for any other section of the population. Here lies an explanation for the hostility inherent in the many policies concerning young people. Dominant discourses about the child, adolescent and youth as economically useless or unproductive, not capable of knowing their own mind and feelings, incompetent in terms of independent thought, unreliable, and irresponsible and troublesome, result in the denial of

citizenship and human rights. Such categories help ensure that young people are frequently seen as deserving of few, if any, entitlements to basic human rights (Sidoti, 1998).

Today those classified as 'children', 'adolescents' and 'youth' have a similar status to those categorised as 'Blacks' under racist imperial regimes of 'White Australia'. After all, who else besides young people can you talk about, while in their presence, as if they were not there? Who else has another speak on their behalf when they can actually speak themselves? Such conduct would be intolerable, read as demeaning and insulting, if anyone other than a young person was subject to it.

If the problem is that policies pertaining to young people reflect an animosity and popular anxiety about 'the child' and 'adolescent' resulting in oppressive and discriminatory action, the question is, what can be done to lay down a basis for policy making that is respectful of young people's human agency, their basic rights and entitlements?

#### WHAT CAN BE DONE?

The answer lies partly in observing the fact that children and young people are both missing from liberal theory and are not acknowledged or addressed in a wide range of civic practices (O'Neill, 1994; Wringe, 1981; Rayner, 1992; 1994; 1995; Jones & Basser Marks, 1994). Young people, for example, are largely absent from the theory and practice of citizenship (Marshall, 1950; Pateman, 1988; Pixley, 1993; Turner, 1991). More generally, most welfare and criminal justice programs express commitments to a range of social and economic goals, but justice in terms of the broad liberal tradition (eg, a concern for distributive justice) is not usually articulated as a goal (Mill, 1957; Rawls, 1971).<sup>1</sup>

Part of the answer to how we develop policies that do not reproduce this

<sup>1</sup> The priority given to economic and particular social goals rather than justice is evident in education policies where the primary concern is to save money (full-fee paying undergraduate and higher degree programs in the context of a reduction in the number of fee exempt places). Others include mandatory sentencing, the youth wage and youth accommodation services.

invisibility of children and young people as objects of liberal theory and practice is to demonstrate how policies designed to secure the welfare of children and young people can be reworked in the light of a conception of justice.

### **Inserting justice into policy relevant to children and young people**

What is needed firstly is a conceptualisation of justice as a set of norms and practices<sup>2</sup> achieved by drawing on the work of writers such as Rawls (1971), Dworkin (1978), Habermas (1997) and Gaita (1999) – to name a few. Such a rethinking can provide a framework of justice. What is needed is a defensible conception of justice which informs policy making in a vigorous way and in ways which ameliorate the effect of imperatives informed by economic priorities or law and order rhetoric.

This will help by-pass the traditional recognition of young people as dependent, incompetent and incognisant that has so shaped policies for the best part of the twentieth century

### **A post-liberal public sphere**

One justice-based strategy for challenging dominant views about young people requires action to increase their involvement in the public sphere. This access will allow young people greater involvement in the construction of social-youth problems and youth identities.

This will involve reworking the public sphere. As proponents of a deliberative democracy model from Arendt (1958), to Habermas (1989), and Fraser (1995), the public sphere is a forum in which political participation takes place and where citizens deliberate about public

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<sup>2</sup> This would include, for example, broadening of the range of legal entitlements that young people currently enjoy; the implementation of practices that ensure young people have what they are morally entitled to; access to decision-making processes, the allocation of goods, powers and opportunities that reflect a respect for the young person's identity as a full-citizen; separating out basic freedoms and securing them in a context of unequal division of goods, etc.

matters. It is a space for discursive interaction, the reproduction and communication of discourses that are critical to the state and society. The public sphere is also that place from which young people have always been excluded. Focusing on the public sphere is a useful place to start because it is there that hegemonic ideas and cultural common-sense are constructed and perpetuated.

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### *Relations between a parent and child, or carer and young person, are a subject of common concern and thus a legitimate topic of public deliberation.*

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The modern liberal notion of public sphere has however been largely irrelevant for young people. This is why, along with writers like Fraser (1995), I argue that it needs to be supplanted by a revised post-liberal public sphere that can offer young people opportunities to engage in deliberation about matters affecting them – including child and youthful identities. Challenging three assumptions underlying the prevailing modern liberal public sphere helps articulate what a revised public sphere that is inclusive of young people might look like.

- The first assumption is the idea that it is possible to bracket status differentials and to deliberate as if participants were social equals. This assumes that equality is not really required for democracy; that we can act 'as if' it exists (Fraser, 1995: 288).
- The second assumption is that a single, all-inclusive public sphere is preferable to a network of multiple, competing publics.
- The third assumption is that discourses in public spheres should be restricted to deliberations about public and not private issues (ibid).

An analysis of these three assumptions in respect to young people takes us some way towards revising a public sphere that is inclusive of young people.

If we un-bracket inequalities so participants can no longer participate in the public sphere 'as if' they are equals when they are not, there is likely to be a recognition of inequality. This is not to suggest that everyone must be comprehensively equal, but that these disparities are both recognised and redressed. This is important for children and young people because, if they are to enter the domain of the public sphere in its current form, they would do so on an extremely unequal footing. The public sphere is not neutral in terms of race, age, socio-economic background or gender. Unequally powerful groups develop unequally valued styles of operating with the result that subordinate groups are marginalised or excluded. Acknowledging inequality, rather than bracketing it, is likely to increase the possibility that arrangements are made which minimise disparity of participation between dominant and subordinate groups.

Recognising that a single comprehensive public sphere is closer to the democratic ideal than are multiple competing ones may also improve the young people's opportunities to effectively deliberate. There are good reasons why subordinate groups should have arenas for deliberation amongst themselves, to consider their needs to make policies. Venues for communicating that are not under the control or management of dominant groups are necessary to begin articulating the right words, to express particular oppositional interpretations of their identities, interests and needs. In this way new options for describing states of affairs like the youth wage as ageism, discipline/'smacking' as assault, become possible. This in turn can recast their needs and inform policies in ways that are different to those informed by adult groups. Thus, there are advantages for young people to constitute and be a part of alternate public spheres. As Fraser (1995) argues, such a plurality of publics will better promote the ideal of participatory parity than does a single supposedly all-inclusive public sphere (ibid).

We need to by-pass the assumption that the public sphere is only for the deliberation of public issues. We need to re-cast this distinction by recognising that many 'private' practices, such as hitting children to establish discipline, are public issues.

Children's and young people's entitlements are not private matters. Young people do not belong to the private domestic domain any more than women do now. Young people's lives are both a private and public matter that can best be met by promoting their rights. Relations between a parent and child, or carer and young person, are a subject of common concern and thus a legitimate topic of public deliberation.

Young people and their advocates would benefit from a public sphere in which their identities and interests can be clarified and contested. A better conception of public space could secure ethical treatment of young people. This means challenging the assumption that participatory disparity can be bracketed; that multiplicity of contesting publics rather than one has value; and that child-youth issues are generally considered inadmissible because they are private.

### A case for a theory of obligations

Developing just policies involves asking basic questions like 'what do we owe each other?' 'Adults' tend to be clear about what young people owe 'us', but how often do 'we' ask what we owe young people? Asking this simple question, which reflects a concern about justice, is likely to result in policies respectful of young people's basic entitlements.

Drawing on the writing of Onora O'Neill (1989), ask whether the rights of young people and children are best grounded in an appeal to fundamental (moral, natural, human) rights, or an account of obligations. I suggest that a more complete view of the ethical aspects of children and young people can be achieved by talking in terms of obligations as well as rights. A fully developed theory of obligation in tandem with a comprehensive theory of children's fundamental rights will help prevent moral failure in respect to relations between adults and young people. The case for rights has been

well rehearsed; what I signal here is a case for obligations as fundamental.

When we have obligations for all or for specified others (eg, children and young people), we are required to carry out or prohibit certain kinds of action. As O'Neill (1989) observes, a fully developed theory of obligations means that obligations are owed by all adults to all children and young people. Universal obligations, for example, may include the obligation to refrain from abuse. Obligations, unlike rights, specify who is bound and to whom the obligation is owed. Such a theory can involve universal and specified obligations so that those who have responsibility for the care of children are subject to obligations to those children and those children have rights to care and protection.

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The inclusion of a theory of obligations is critical for securing ethical relationships with young people because a rights-based approach on its own cannot offer a full cover for the many ways in which young people's lives are susceptible to unkindness, to lack of involvement, happiness and good feelings. As O'Neill (1989) explains, such absences are often invisible from a rights perspective.

This may not seem significant if we only think of children in danger, but it is vital if our concern is with the quality of the lives children lead. Cold distant ... Parents and teachers deny the general play of life; they wither children's lives (ibid: 192).

For this reason talk of obligation means adopting the perspective of the agent (adult) and considering what must be

done by that specific person or group if there is to be no moral failure. This means the chance of identifying responsibility is greater compared to the rights approach where the focus is on the recipient (young person/child) and involves consideration of what must be received if there is to be no moral failure. In practical terms the rights option is a more difficult task to realise because, by implication, it obligates, but does not necessarily specify who owes the obligation, and for this reason rights talk too often remains rhetoric. To begin the task of developing policies relevant to children and young people that are just, I suggest that a theory of rights alone is inadequate. Certain principles of obligation need to be developed and clearly linked to action.

### CONCLUSION

To varying degrees many youth policies in the twentieth century and into the twenty-first have reflected an enmity toward young people that has been disrespectful of their most basic human rights. This owes much to the status assigned to young people as dependent, potentially troublesome, incompetent and needing close regulation.

The primary aim of this paper is to argue a case for a well articulated justice framework for policies as they relate to young people. This article offers only a preliminary discussion intended to generate further debate about how institutional and government policies can be re-worked to reflect a justice perspective. In terms of outcomes, this might mean, for example, welfare reforms that do not place further burdens on single parent families, or policies that ensure people under the age of 25 years do not have an exceptionally high social security breach rate of 58% (ACOSS, 2000:7). It requires going further than simply inserting rhetoric in official documents about consultation, choice, support and recognition (Madden 2000). If policy makers working in government and other institutions are serious, as they say they are, about consultation and participation with young people, then attention needs to be paid to the processes used to include young people. A policy making process operating in a justice framework requires young people's involvement when agendas are

determined, when problems are framed and when decisions are made about issues that directly and indirectly affect them. It also means involving young people in selecting those who are consulted and in ceding to young people authority in terms of developing and facilitating the very processes of consultation-participation. ♦

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