



Children, Family and the State

David William Archard

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This latest book from David Archard begins with a compelling introduction. It outlines the key questions for each of its chapters on children, the family and the state: Do children have all or some of the rights that adults have? What is a family, do parents have rights over their children and are families ‘just’? What is the proper balance between the interests of the child, the parent and the state? Useful for both novice and experienced readers in this area, the introduction succinctly describes the growing philosophical interest in childhood, children and the family: that is, children represent an interesting ‘test case’ for who are rights-holders; the growing attention to the civic education of children into future citizens; the concern that families are an obstacle to justice; and philosophers’ interests in understanding societal changes, including substantial family changes and new reproductive technology.

The first chapter, on children, introduces the ‘will’ and ‘interest’ theories of rights and then reviews both significant child liberationists and those who argue for alternatives to children’s rights. The later half of the chapter discusses two major principles of children’s rights, the best interests principle and the right to be heard. Both discussions cover the ground well philosophically; their arguments are also useful for those engaged in policy and practice, in recognizing the limits of defining what are children’s ‘best interests’, and that the right to be heard does not mean children have a right to choose but to have their views considered alongside others.

The chapter on family begins with a detailed consideration of the definition of a family, taking into account changing views on families, societal trends and critiques. The chapter recognizes feminist critiques of the family; it would have been interesting to read Archard’s reflections on the latest feminist theorizations around the ethic of care and children’s rights (as, for example, so provocatively taken forward by Arneil (2002) in a recent edited collection by Archard) or on children’s contributions to family decisions (see, for example, Smart *et al.*, 2001). Foundational to the book’s arguments on parental responsibilities and limitations of the state’s intervention, the family chapter concludes that children are best brought up in families. Archard strongly argues that parents do not have rights over children because parents ‘own’ children or because children are extensions of their parents. Instead, parents



have responsibilities to care for their children. Archard introduces the concept of a 'shared life claim', which recognizes that an important part of a family's shared activities may be parents and children sharing many of the same values and beliefs. Finally, Archard concludes that full justice, in Rawlsian thinking, is incompatible with families but that families can still be justified for the values and functions they incorporate.

The introduction acknowledges that this 'family' chapter would specifically look at the rights of adult members of families — and parents (broadly defined) at that. This does create an adult- and parent-centred discussion of family for the rest of the book. Given childhood studies' interest in being 'child-centred', the discussion might have been further illuminated by considering *children's* rights to family privacy (e.g. what if a parent invites state intervention that a child does not want?) and to information (e.g. would a child's right to 'appropriate' information, in Article 17 of the UN Convention on the Rights of the Child (UNCRC), trump others' interests in sex education?).

The final chapter considers the state and its role *vis-à-vis* parents and children. The state, Archard argues, does have a justified role in enforcing the duties and in protecting the rights of children and parents, in providing public goods and services and in ensuring the creation of future citizens. Three contentious areas are discussed, which illuminate the tensions between parents and the state, in particular: compulsory education (including religious and sex education), child protection and medical consent.

What the chapter does not explore is the definition of the 'state' — in contrast to the book's earlier recognition that definitions of childhood/children and family are contestable and central to subsequent arguments. Who and what bodies are the 'state', as the state's boundaries are arguably unclear (for example, take state regulation of consumer products or the privatization of public services)? Considering the 'state' might have brought in its relationship with other concepts such as 'society' and 'communities' and considered the state's role to *support* families and not only intervene (see Moss and Petrie, 1997). The implicit definition of the state appears to be a national one but the book makes reference to both the European Convention on Human Rights (ECHR) and the UNCRC. How, then, do supra- or intra-state bodies fit into the triangle with children and parents?

This book illustrates key benefits of the philosophical approach to debating children's rights. For example, Archard breaks down the unquestioned acceptance of the rights of 'causal' or 'natural' parents to be custodial parents. He demonstrates the philosophical weaknesses of this connection, illuminated by the new possibilities of reproductive technology. He distinguishes between families' right to privacy, enshrined in the ECHR, from parental autonomy: the first can be justified by the 'shared life claim' but the second cannot. This



dissecting and questioning approach makes this book a current and useful complement to Archard's foundational book, *Children, Rights and Childhood* (1993).

References

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