

## CHAPTER 3

### **Babies rights, when human rights begin**

Priscilla Alderson and Tamaki Yoshida

#### **Abstract**

*All the Articles in the UN 1989 Convention on the Rights of the Child can apply to babies from birth as shown in this chapter. It begins by examining legal and natural rights. Natural rights that are inalienable to all human beings especially apply to babies. Protection, provision and participation rights are reviewed in turn for their relevance to babies as well as to every age group. Babies' rights are better understood as human all-age rights than as separate junior versions of rights. Recent psychological research on preverbal babies' moral and scientific understanding opens new insights into how 'human' young babies are. The authors draw on the research literature and also on their daily experiences of living with babies, Ren in Tokyo Japan and Kolbe in Dorset England. The chapter aims to illustrate the practical meaning of the UNCRC's 'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family'.*

#### **Introduction**

This chapter regards babies as real human beings. Every child is a different individual. Their thoughts and feelings and developing capacities form part of their humanity and 'inherent dignity'. These entitle each baby to 'the equal and inalienable rights of all members of the human family' (United Nations (UN), 1948, 1989). Academic analysis of babies can increase our understanding of humanity, of human rights at any age, and the human agency of rights-bearers. We take babies to be people aged up to about 12 to 15 months. As we discuss later, defining children in terms of age is not helpful from natural rights perspectives, although from legal rights perspectives it is sometimes necessary.

Rights are broadly justified on either legal or natural grounds. This chapter will review differences between the two approaches, and their relations to children's and babies' rights. We consider how human rights protect vulnerable human beings, how they provide for human flourishing, and how participation rights promote social inclusion for all age groups (1). This chapter is informed by United Nations' (UN) international standard, and illustrated cross-nationally by our experiences of living with Ren (born in 2016) in Tokyo Japan, and Kolbe (born in 2017) in Dorset England. They reminded us each day of how, from birth and when they are awake, babies constantly and intensively think, explore, communicate, relate to other people, and enjoy and wonder at the world.

#### **Two ways of justifying rights: legal and natural**

##### ***Legal rights***

Rights are legal concepts. To be more than empty claims, rights have to be carefully worded in terms that could be tested in law courts. For example, children do not have a right to love or to health because neither of these can be willed or enforced. The courts cannot order parents to love their child, or assure health to a child dying of cancer. Instead, the courts can enforce behaviours to protect children's rights not to be neglected or abused. The courts can only support children's rights to 'the highest attainable health and healthcare' (UN, 1989, Article 24) by working to prevent low standards and obvious abuses. However, in response to child abuse in the home, the revised Japanese Child Welfare Act (2016) in the spirit of the United Nations Convention on the Rights of the Child (UNCRC) Preamble refers to the child

as the subject rather than the object, It mentions the child's need for family-type care, and the 'child's rights to appropriate/adequate rearing, to be loved and to be protected' (UN, 1989) (2).

The advantage of national law is that it provides the strongest practical support for citizens' legally recognised rights, enforced by the courts (Freeman, 2011). The UNCRC (UN, 1989) is the most detailed statement of children's rights, ratified by every state except the USA. Yet as international law, the UNCRC has the disadvantage of being less enforceable. However, governments that have ratified the UNCRC undertake to implement it in law and administration, and to respect children's 'economic, social and cultural rights...to the maximum extent of their available resources...[and] with international co-operation' (UNCRC. Article 4).

National legal rights are limited in that they reflect local cultures. For example, English and Japanese law still allow parents to hit their children although, by 2018, 53 countries had banned all physical punishment. Hitting most commonly and seriously affects the youngest children (Children's Rights Alliance for England, 2018; Save the Children, 2018). For millennia, national laws have favoured property-owning men as rational rights holders (Freeman, 2011). Only slowly over the past century have the rights of women, then young people, children and other disadvantaged groups been recognised. Babies seem to be the last group to become widely respected as entitled to human rights.

Legal rights are defined and enshrined by governments. Further limitations of national rights are shown, first, when government refuse to recognise and respect the rights of certain groups. Second, greater dangers occur when governments actively violate certain of their citizens' rights. Third, other countries may refuse to help refugees and asylum seekers who try to escape from regimes that refuse to protect and provide for them (Freeman, 2011). These problems challenged the UN after World War II during the Nuremberg trials of Nazi state-organised genocide (Sands, 2016). The agreed way forward was to promote older ideas of every human being's natural rights.

### ***Natural rights***

In contrast to rights recognised in law, the idea of natural rights assumes that everyone has human rights by virtue of being human. These rights are seen as universal and inalienable (Freeman, 2011). Human nature in its innate human quest for equality and freedom is central to natural rights. Over 2,000 years ago Cicero (1943) claimed: 'we are born for Justice, and that right is based, not upon opinions, but upon Nature'. Some authorities justified rights through divine authority. For example, the USA Declaration of Independence (1776) asserted: 'We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness'. The Declaration's main author, Jefferson (1823: 15, 441) later added: 'Man [is] a rational animal, endowed by nature with rights and with an innate sense of justice'. The idea of 'innate' (inborn) relates to babies and will be discussed later.

Following the Nuremberg trials, the UN justified natural rights in secular terms of promoting peace. The UN Charter (United Nations (UN), 1945) and Declaration (UN, 1948), on which the Convention of the Rights of the Child is based (UN, 1989), and the European Convention (EC) (European Court of Human Rights (ECHR), 1950) were all agreed as major tools to protect all human beings and their rights. The Charter aimed 'to reaffirm faith in fundamental

human rights, in the dignity and worth of the human person, in the equal rights *of men and women*' (UN, 1945). This changed, emphasised by our italics, into the more all-age inclusive: 'recognition of the inherent dignity and of the equal and inalienable rights of *all members of the human family* is the foundation of freedom, justice and peace in the world [and prevents] the disregard and contempt for human rights [that] have resulted in barbarous acts which have outraged the conscience of mankind' (UN, 1948). Whatever the local laws, the UN agreed that all governments should respect human rights.

Natural rights promote respect, justice and equality for all. This can involve extra support for the weak and vulnerable. Natural rights have emerged throughout history from mass social movements and protests against oppression and injustice (Freeman, 2011). Children's rights are discussed as if they began with the UNCRC (UN, 1989), such as in Article 31, the right to play. However, many UNCRC Articles originated in all-age human rights, enshrined in the Charter (UN, 1945) and the Declaration (UN, 1948). Article 31 stems from: 'Everyone has the right to rest and leisure' (UN, 1948, Article 24) as an inalienable natural right.

One limitation of natural rights debates is that, despite the claims that they are equal, universal, inalienable and innate to all human beings, there has been little recognition of how they actually apply to babies, the main topic of this chapter. Another limitation is that some authors confine natural rights to negative rights, to freedoms *from* harm and injustice. Yet freedoms *to* goods and services, more fully recognised in legal rights, are also vital for everyone, especially the most dependent groups such as babies. The UN (1945, 1948, 1989) combined legal and natural rights in human rights. The next sections examine how human rights protect babies, provide for their human flourishing, and promote their social inclusion or participation.

### **Protection rights**

Children's rights are criticised for being too different from adults' rights. It is as if children 'have to be protected and kept apart from the adult world for their own safety' (Gadda, 2008: 6), and as if adults do not also need similar protections. Yet protection is central to the all-age international human rights (UN, 1945, 1948). Even freedom rights involve protection from the constraints and harms that interfere with freedom. For six decades, sociologists virtually ignored human rights and also the Holocaust (Alderson, 2012; Hynes et al., 2011). Then Zygmunt Bauman (2005) and Bryan Turner (2008) considered new understanding of rights. Instead of emphasising the historical basis of rights in respect for rational men (Freeman, 2011), they also stressed how rights are essential to protect vulnerable human beings from suffering. Turner (2008) also cited children's need for protection and provision rights during their long, dependent childhood.

The Nuremberg trials drew the world's attention to the need for strong enforceable protection rights. During the trials, lawyers debated whether the Holocaust should be termed 'genocide', an attempt to destroy a whole ethnic group, the Jews (Sands, 2016). Genocide is one of many examples in which babies play a central though often hidden part, when one main genocidal method is to prevent all births in that ethnic group. Another method is to ensure that any babies who are born are of mixed not pure ethnicity; so rape is a routine part of warfare, to produce children who are fathered by the victors, in another form of genocide

The most basic human right protects the right to life (Article 6), in terms of both survival and an adequate standard of living (Article 27). Babies with their small frail bodies are at highest

risk of being killed or permanently disabled by disease, malnutrition and injury. For example, every year an estimated 250,000 to 500,000 young children become blind for lack of vitamin A. Half of them die within a year (Empson, 2014: 184-5). Many of those babies who survive face a lifetime of social exclusion, whereas working-age adults who become blind may be better able to continue with the partners, friendships and work they already enjoy.

Babies are also in greatest need of protection during natural disasters, floods or famine, earthquake or fires. However, as Aramaki (2013: 9) criticises, adults are often prioritised during and after natural disasters. It is as if ‘restoration of children’s lives could be achieved if adults’ everyday lives are restored’ (author’s translation). With climate change, disasters are increasing. Babies and children will live longest into the future when the effects of climate change will be much more severe Intergovernmental Panel for Climate Change, (2018). Real concern to protect young children would respect their present and future rights, and present policies towards reducing greenhouse gas emissions would greatly change.

Natural disasters can increase violent social conflict, forced migration and separation of families, when, of all age groups, babies are least able to trace their family and reunite with them. UNCRC Article 22 concerns extra protection for refugee children and asylum seekers. Article 35 is about preventing babies from being stolen by criminals and trafficked for the international adoption market or the trade in human organs (Bagheri, 2016). Yet States too separate children from their families, legally when children need to be protected from their parents (Article 9). This sometimes occurs illegally. In 2018, USA officials took babies and children from their immigrant parents at the Mexican border, leaving many parents unable to find their children (BBC, 2018).

All the UNCRC Articles apply to babies, even seemingly adult-centred ones. Babies need rights to protect them from narcotics (Article 33). Thousands of babies each year are born addicted to the narcotics their mothers take, and they need intensive nursing care (Smith, 2017). Many also need protection from ‘sexual exploitation and sexual abuse’ (Article 34). Online pornography involves babies (International Watch Foundation, 2018). Protection from economic exploitation, hazardous work and long working hours (Article 32) affects babies. For example, pregnant women’s stress and exhaustion can induce premature birth, when their new-born babies may need intensive hospital care and have many associated problems (Li, Jia, Su, Zhu, Sungkur, Padari et al., 2012).

The law is meant to protect the innocent and ensure that they are not wrongly imprisoned. ‘No child shall be deprived of his or her liberty unlawfully or arbitrarily’ (Article 37b). Nevertheless, many babies live in prisons when they stay with their mothers. In many countries they have to leave their mothers behind in prison when they are a few months old. They then may have to be fostered and can lose contact with their family (Gordon, 2018). Women are usually imprisoned for petty theft and other crimes linked to poverty (Ministry of Justice, 2016). States that support young families with adequate income and housing (Article 27) can prevent much imprisonment of young parents. The states then save on the high costs of imprisonment, often followed by unemployment, homelessness and family breakdown, as well as the costs of the likely lifelong harmful effects on the young children. Numerous reports from around the world attest to the need of young children for protection and rescue, both by individual adults but also through laws, political and economic structures (Rutter, 2002).

Providers of services, such as healthcare, social care and criminal justice, learn many details about babies and their families. To prevent ‘unlawful attacks on his or her honour and reputation’ all States Parties (including all agencies of state services) must respect each baby’s right to privacy (Articles 16.1, 40.2.vii). This includes protecting babies’ personal records as confidential.

Increasingly, wars are fought in civilian areas when homes, water systems and even hospitals are bombed (Bourke, 2014; Feinstein, 2012). This can deny healthcare to all ages, and babies are the group that most urgently needs expert emergency care in cases of infection or injury. Article 37 protects against ‘torture or other cruel, inhuman or degrading treatment’. Article 38 protects children against physical, mental and sexual abuse during armed conflict. There is great concern about child soldiers, but little is said about the babies the young girl soldiers have. It is hard for former child soldiers to reunite with their families and communities, with respect for their right to promotion of their ‘physical and psychological recovery and social reintegration’ (Article 39) (Anderson, 2016). This can be still harder for girls who have illegitimate babies (Denov and Buccitelli, 2017). Wars and disasters leave many children deeply traumatised, haunted by memories of the suffering they have experienced and witnessed. Psychoanalysis reveals how trauma and subconscious fantasies remembered from the earliest months, even of seemingly ‘minor’ neglect or abuse, can affect children and adults most seriously and be the hardest to heal (Chertoff, 2009).

All UNCRC Articles apply ‘without discrimination of any kind’ (Article, 2) and babies should be protected against discriminations of racism, sexism, and religious, class and other prejudices (Article 1). However, babies tend to suffer from discriminations and oppressions against their parents, to the extent of inheriting their family’s debts and being born into low caste or lifelong indebted labour. Babies born outside wedlock and their mothers may endure severe discrimination (Hertzog, 2009), though far less so today in many societies.

The law is concerned with recognised legal persons and with property. Children used to be treated as their father’s legal property whereas, today, most children are respected as legal persons with rights and interests (Freeman, 2011; UN, 1989) although this varies (Twum Danso, 2010), and babies are still at risk of being treated as property, to be disposed of as others decide. In the growing international surrogacy services, for example, women in India give birth to children who have developed from the egg and/or the sperm of individuals or couples in certain Australian states. Many of these babies are cherished by their intended parents, but some are treated as mere objects and may be rejected by all the adults concerned, and be left stateless, defenceless and bereft (McGuirk, 2016).

This links to perhaps the greatest discrimination against babies: doubt that they are fully human when differences between the fetus and the newborn baby may be blurred. A few leading bioethicists deny any difference between feticide and infanticide, arguing the newborn babies are ‘pre-persons’ without justified rights, though many bioethicists disagree (Rodger, Blackshaw and Miller, 2018). Abortion of 100,000s of unwanted female foetuses can merge into infanticide when girl babies are killed, starved or abandoned (Ahmad, 2010). Japanese law allows abortion up to 21 weeks gestation under specific conditions (Okamoto, 2014); English law allows the abortion of abnormal foetuses up to 24 weeks gestation, and also the quite frequent medically assisted ending of the life of severely impaired babies after birth (Larcher et al., 2014).

The UNCRC does not define when childhood begins (Article 1), but leaves that to each state, and most choose the moment of birth (United Nations (UN), 2005). There are crucial differences between the fetus before birth and the infant after birth. The fetus has neither an independent existence nor, therefore, legal rights. In European law, women have autonomy rights to control their own body, and can refuse interventions during labour even if this could end the life of the fetus (Konovalova v Russia [2015], the European Court of Human Rights; St George's Healthcare NHS Trust v S, [1997]). However, from birth onwards the baby has an independent existence and legal rights. Modern medicine can keep alive many babies who are barely conscious but endure severe discomfort, with limited hope of developing or enjoying a minimally reasonable quality of life. In the past, they would have died. This raises hard questions for parents and doctors about how the baby's right to life (Article 6) may conflict with the right to an adequate standard of living (Article 27) and the child's best interests (Article 3). Far from treating babies as disposable property or pre-persons, the adults try to make decisions in which 'the best interests of the child shall be a primary consideration' (Article 3; Larcher et al., 2014). Real protection from poverty, neglect and abuse, illness and injury is based on respect for every child and baby as a valued person and a world citizen, principles at the heart of UNCRC.

### **Provision rights**

Provision rights ensure children are provided with all that they need to enjoy an adequate standard of living. Like protection rights, provision rights can be especially vital to support each baby's life, present wellbeing and future development. With education, for instance, (Articles 28, 29) babies are more likely to survive and thrive when their mothers are better educated (Boyden and Bourdillon, 2012), and they need care from well-educated health and welfare professionals.

People need to be aware of their rights in order that they may claim them for themselves and for others. When States Parties make the UNCRC 'widely known, by appropriate and active means, to adults and children alike' (Article 42), they strengthen practical respect for everyone's rights. They also do so when they show how human rights apply to babies and so actually are inalienable through life.

Babies benefit from public amenities and services: healthcare, public transport, nurseries, libraries, informal baby groups, parks, swimming pools, social services and legal services. 'States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible' (Article 18.3). All these need to be well resourced and young children are greatly affected by austerity cuts (Wickham, Barr, Taylor-Robinson, et al., 2018). Around the world, many babies live in slums, not served by electricity or water services or rubbish collection. They are at highest risk of illness and of dying from infections or heat or cold (World Health Organisation (WHO), 2018). Babies are least able to make formal complaints, and so they most depend on states ensuring routine review 'that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision' (Article 3.3). There should be 'periodic review of the treatment' of children in residential care (Article 25).

States should avoid separating families and should support the 'positive, humane and expeditious' reunion of children with parents if they are separated (Articles 9 and 10). Health visitors and social workers aim to support parents, but lack of time and resources increasingly

lead them (in the UK and Japan) into separating families, by ‘rescuing babies from failing families’ (National Audit Office, 2018). Current care policies are influenced by theories from brain science. These are cited to suggest that babies must be highly stimulated during the first 1,000 days after birth, or else their life-long development will be ‘stunted’ (Cusick and Georgieff, 2018). Gillies, Edwards and Horsley (2017) show how, although the first years are very important for learning, they can be over-emphasised. Undue stress on learning in the first months can result in unrealistic pressure on disadvantaged families. When brain theories suggest that these babies fail to learn later on through childhood, this can work to excuse poor services and schools. It can mistakenly shift blame away from inefficient schools, and on to children’s families (Gillies, et al., 2017). The theories can also undermine the respect professionals should show to ‘continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background’ (Article 20.3, 21).

Good healthcare supports babies’ present and life-long health. States Parties should ‘recognize the right of every child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health’ (Article 24). This includes ‘nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution’. Clean drinking-water is crucial when babies have formula milk. Bottle-feeding rates are rising, despite the higher costs and higher infection and mortality rates (WHO, 2017). Formula milk is usually sweetened, which encourages young children to want the sweet foods avidly marketed by baby-milk and food and drinks companies such as Nestlé (Changing Markets Foundation, 2017; World Health Organisation (WHO), 2017). This highlights how international trade policies can affect baby’s rights from birth when they increase the risks of later obesity and diabetes. Seemingly small rights, such as to clean air and water, can expand into large concerns: ways in which whole cities are planned can either reduce or increase water and air pollution and traffic accidents (Kent and Thompson, 2014)

If babies had a right to be breastfed, that could override the rights and privacy of mothers who do not want to breastfeed.; therefore breastfeeding is treated as the mother’s informed choice. Article 24.2e on healthcare rights requires that ‘parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents’. Japanese women are allowed extra breaks if they ‘request time to care for the infant of at least 30 minutes twice a day’(3). Another healthcare right, ‘abolishing traditional practices prejudicial to the health of children’ (24.3) relates to neonatal rituals.

The above health and welfare rights are greatly affected by each family’s prosperity or poverty, and every child has ‘the right to benefit from social security’ (Article 26). ‘With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation’ (Article 4). Many parents of the youngest children especially need financial support, whether they stay at home with their children or pay others to care for them while they work. Yet child benefit and other supports are being reduced by global austerity policies in many countries, and have never been granted in others. Millions of refugee and asylum seeking families are in great need. When basic rights, such as to an adequate standard of living, are ignored or violated by States, all of whom have ratified the UNCRC (except the USA), then rights become even more important. They are remedies for wrongs and rightful claims to campaign for.

## Participation rights

Reviews of children's rights can make children seem like passive consumers of services. Instead they are contributors who take an active part in their families and communities. As has been known for decades, in seemingly innate, universal capacities, new-born babies engage in the micro-dance and turn-taking of communicating with another person (Dunn, 1977; Murray and Andrews, 2005; Stern, 1977). They immediately engage in education, avidly learning about time and space, cause and effect, self and others. By three months, they show their early understanding of justice and kindness, long before these concepts can be explained to them in words (Bloom, 2014; Gopnik et al., 2001; Gopnik, 2010). Charles Darwin (1877: 289) noted his 6-month-old son's moral sympathy in his anxious concern when his nurse pretended to cry. Babies share in their own healthcare; even premature babies can soothe and calm themselves (Als, 1999). Babies 'organise' breastfeeding by creating the 'demand' that builds up the 'supply'. As Ren and Kolbe kept showing us, babies inform their carers when they feel tired, hungry, too hot or too cold. They soon start helping to dress, feed and wash themselves, all activities necessary to maintain health and prevent illness. They 'reward' their caregivers with smiles, happily share toys and food with others from around six months, and by a year they are keen to help with housework.

Babies actively make very determined choices. They can get very anxious or angry if their 'plans' are thwarted or delayed. They concentrate intensely on repeatedly trying to solve problems, such as to reach a toy or fit it together. They are pleased and excited when they can carry out their plans and solve problems. Researchers find that babies think like scientists and philosophers (Bloom, 2014; Gopnik 2010). Babies show how rights are not abstract ideas, but respectful, living, interacting relationships through which both partners can benefit. This is endorsed in the *Declaration*: 'Everyone has duties to the community in which alone the free and full development of his [sic] personality is possible' (UN, 1948, Article 29.1). The *African Charter on the Rights and Welfare of the Child* (1990) states: 'Every child shall have responsibilities towards his family and society... 1. to work for the cohesion of the family' (Article 31). Very young children start to fulfil these responsibilities and, although they do not consciously do so, babies are the agents who create families through their arrival. They connect separate families together into new genetic alliances, and they regenerate societies.

New parents are often in closer contact with their own parents after their first baby is born than they may have been in preceding years, frequently visiting, or phoning with news about the baby, or relying on grandparents as carers. Ren's mother started to feel more included in the neighbourhood, talking to strangers after Ren had waved at them. Ren and Kolbe talk to dogs, and try to play with people sitting next to them on a train. Babies seem instinctively to be social and actively make contact with other people and animals. The UNCRC Preamble summarises vitally important matters, which cannot be willed or enforced rights, but which rights are intended to promote. One clause recognises: 'that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding' (UN, 1989). Babies greatly contribute to this atmosphere.

Participation rights involve agents as the right-holders who actively participate. In our chapter on older children we suggested six elements of human agency (Alderson and Yoshida, 2016), which can also apply to babies as agents: 1) physical/verbal (or preverbal) activity by the unique embodied agent with 2) thought and conscious decision-making, purpose and motive. Early on, babies make and persistently carry out 'plans' such as reaching for a toy then playing with it, or waiting eagerly to be fed. 3) At all ages, agency occurs



within powerful and enabling or constraining social relationships and structures. These evoke varying reactions in the agent, from voluntary/willing cooperation to active resistance, such as when babies happily accept or else protest when they are put into a cot or a pushchair. There is 4) some moral awareness about need and desire, harm and benefit to self and others (as Darwin noted above); and 5) time, space, resources and opportunity enhance and restrict limited human agency. Finally, 6) (babies') agency tends to affect others and cause change - as new parents very quickly realise.

Premature babies can clearly 'form and express views' (Article 12), of fear, pain, need, anxiety, trust and contentment (Als, 1999; Alderson et al., 2005). Carers have to give 'due weight' to babies' expressed views on when they need to feed, rest, be warmer or cooler, play, laugh or be comforted, in order to be able to care for them adequately. Babies intensely take in, sort through, and make sense of information (Article 17; Gopnik et al., 2001). When around six months old, instead of lying still while his nappy was changed, Ren started wriggling and reaching for toys around him. No longer absorbed with looking at people's faces, he wanted to play with his favourite toys, find out more, and scream. A few months later he would dance, run, talk, and reach for more. He smiles and taps in time with songs that he likes, dances to them, and choose songs to play by pressing buttons in his electronic song book. Then unexpectedly he stops, and plays with another toy, eloquently expressing himself through many media (Articles 12 and 13).

Many faiths have ceremonies to welcome new babies into their faith group. To attend these, families depend on their 'freedom to manifest one's religion or beliefs' (Article 14) without fear of discrimination or persecution. 'Freedom of association and of peaceful assembly' (Article 15) is also vital for the safety and wellbeing of babies and their families, to enhance their health, and to avoid parents suffering from social exclusion and anxious isolation.

Babies have crucial civil rights and States Parties should 'respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference' (Article 8). Yet an estimated one third of births still goes unregistered, leaving babies technically stateless and unable to claim the rights owed to them by the State (see Alderson, 2008: 78-86, and 2013, Chapter 6 for discussions of babies' 'identity').

States should 'encourage the mass media to disseminate information and material of social and cultural [and educational] benefit to the child' (Article 17a), that are useful and respectful towards all ages of childhood.

## **Conclusion**

The cited research on babies' thinking and our experiences on opposite sides of the world show how babies are far more like all other human beings than used to be believed, and that all UNCRC Articles apply to them to respect their inalienable human rights. Babies have different needs and vulnerabilities and levels of social advantage and disadvantage, yet they are highly aware and responsive in uniquely human ways. They expand earlier notions of humanity, beyond the rational adult versus the developing child. They show how pre-verbal babies too can reason and feel, fear and hope, have views and aims and moral relationships. Recent sociological interest in protection rights for all vulnerable human beings (Baumann, 2005; Turner, 2008) also opens the way for babies' rights to be more fully respected. Baumann (2005) and Alderson (2013) regard morality as partly innate and deeply integral to human nature. Morality is not merely a cultural veneer that has to be wholly taught to

children. The research with babies we have cited, which confirms this view, can increase our understanding of humanity, human agency and human rights shared by all members of the human family.

Policies are needed that prevent violent conflict and cherish babies and children for themselves, as well as for being the future workers and citizens who will maintain peace and prosperity. Legacies of conflict and divided societies tend to generate further conflict (Bourke, 2014). In contrast, policies that centre on protecting and promoting babies' rights as all-age human rights can benefit the babies and also whole present and future societies. They recognise that 'the inherent dignity and...the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world' (UN, 1948, 1989).

### Notes

(1) All Articles in Protection, Provision and Participation Rights sections refer to the UNCRC.

(2) Japanese Child Welfare Act (2016).

[http://www.japaneselawtranslation.go.jp/law/detail\\_main?id=11&vm=2](http://www.japaneselawtranslation.go.jp/law/detail_main?id=11&vm=2)

(3) Japanese Labour Standards Act (Act No. 49 of 1947) - *Art. 67 Time for Child Care*. (Author translation).

### References

- African Commission on Human and People's Rights. 1990. "African Charter on the Rights and Welfare of the Child. OAU Doc. CAB/LEG/24.9/49"  
<http://www.achpr.org/instruments/child/#a31>
- Ahmad, N. 2010. "Female Feticide in India." *Issues in Law & Medicine* 26 (1): 13-29.
- Alderson, P. 2008. *Young Children's Rights*. London: Jessica Kingsley/Save the Children.
- Alderson, P. 2012. "Young Children's Human Rights: a sociological analysis." *International Journal of Children's Rights*, 20:177-198.
- Alderson, P. 2013. *Childhoods Real and Imagined: An Introduction to Dialectical Critical Realism and Childhood Studies*. London: Routledge.
- Alderson, P., J. Hawthorne and M. Killen. 2005. "The participation rights of premature babies." *International Journal of Children's Rights*, 13: 31-50.
- Alderson, P. and T. Yoshida. 2016. "Meanings of children's agency: when and where does agency begin and end?" In *Reconceptualising Agency and Childhood. New perspectives in Childhood Studies*, edited by F. Esser, M. Baader, T. Betz and B. Hungerland, 75-88. London: Routledge.
- Als, H. 1999. "Reading the premature infant." In *Developmental Interventions in the Neonatal Intensive Care Nursery*, edited by E. Goldson, 18-85. New York: Oxford University Press.
- Anderson, R. 2016. "Family involvement in the reintegration of former child soldiers in Sierra Leone: A critical examination." In *Children and War: Past and Present Volume II*, edited by G. Prontera, W. Aschauer, J. Buckley, H. Embachler, A. Lichtblau and J-D Steinert, 103-117. Warwick: Helion and Company Ltd.
- Aramaki, S. 2013. "Kodomo ni Fusawashii Sekai no Souzou [Creating a World Fit for Children]". In *Kodomo no Kenri Ajia to Nihon [Children's Rights Asia and Japan]*", edited by Aramaki, S., A. Kita, and A. Morita, 8-15. Tokyo: Sanseido.
- Bagheri, A. 2016. "Child organ trafficking: global reality and inadequate international response." *Medicine, Health Care and Philosophy*, 19: 239-46.
- Bauman, Z. (2005) *Modernity and the Holocaust*. Cambridge: Polity.

BBC News. 2018. "Trump migrant separation policy: Children 'in cages' in Texas." *BBC News*, 18<sup>th</sup> June 2018. <https://www.bbc.co.uk/news/world-us-canada-44518942>

Bloom, P. 2014. *Just Babies: The Origins of Good and Evil*. New York: Broadway Books.

Bourke, J. 2014. *Wounding the World: How Military Violence and War-Play Invade our Lives*. London: Virago.

Boyden, J. and M. Bourdillon (Eds). 2012. *Childhood Poverty: Multidisciplinary Approaches*. Basingstoke: Palgrave Macmillan.

Changing Markets Foundation. 2017. *Milking It: How Milk Formula Companies are Putting Profits Before Science*. Utrecht: Changing Markets Foundation.

Chertoff, J. 2009. "The complex nature of exposure to early childhood trauma in the psychoanalysis of a child." *Journal of American Psychoanalytical Association*, 57: 1425-57.

Children's Rights Alliance for England. (2018) *State of Children's Rights in England*. London: CRAE.

Cicero. (1943) *De Legibus*, C. Keyes (trans) Book 1, section 28. London: Heinemann.

Cusick, S. and M. Georgieff. 2018. "The first 1,000 days of life: The brain's window of opportunity." <https://www.unicef-irc.org/article/958-the-first-1000-days-of-life-the-brains-window-of-opportunity.html>

Darwin, C. (1877) A biographical sketch of an infant, *MIND* 2, pp. 285-94.

Deno, M. and A. Buccitelli. 2017. "Child Soldiers", in *Handbook of Children's Rights: Global and Multidisciplinary Perspectives*, edited by M. Ruck, M. Peterson-Badali and M. Freeman, 465-78. New York: Routledge.

European Court of Human Rights. 1950. "European Convention on Human Rights." [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

Dunn, J. 1977. *Distress and Comfort*. Glasgow: Fontana.

Empson, M. 2014. *Land and Labour*. London: Bookmarks.

Feinstein, A. 2012. *The Shadow World: Inside the Global Arms Trade*. London: Penguin.

Freeman, M. 2011. *Human Rights*. Cambridge: Polity.

Gadda, A. 2008. "Rights, Foucault and power: a critical analysis of the United Nation Convention on the Rights of the Child." *Edinburgh Working Papers in Sociology*, 31. University of Edinburgh. [http://www.sociology.ed.ac.uk/\\_data/assets/pdf\\_file/0010/13015/WP31\\_Gadda.pdf](http://www.sociology.ed.ac.uk/_data/assets/pdf_file/0010/13015/WP31_Gadda.pdf)

Gillies, V., R. Edwards and N. Horsley. 2017. *Challenging the Politics of Early Intervention*. Bristol: Policy.

Gopnik, A. 2010. *The Philosophical Baby: What Children's Minds Tell Us About Truth, Love, and the Meaning of Life*. London: Picador.

Gopnik, A., A. Meltzoff and P. Kuhl. 2001. *How Babies Think: The Science of Childhood*. London: Phoenix.

Gordon, L. 2018. *Contemporary Research and Analysis of the Children of Prisoners: Invisible Children*. Newcastle upon Tyne: Cambridge Scholars Publishing.

Hertzog, E. 2009. *Tough Choices: Bearing an illegitimate child in Japan*. Stanford, CA: Stanford University Press

Hynes, P., M. Lamb, D. Short, and M. Waites. 2011. "Sociology and human rights: confrontations, evasions and new engagements." *International Journal of Human Rights*, 14(6): 811-32.

Intergovernmental Panel on Climate Change. 2018. "Global warming of 1.5<sup>0</sup>" [https://report.ipcc.ch/sr15/pdf/sr15\\_spm\\_final.pdf](https://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf)

Internet Watch Foundation. 2018. *Annual report 2017*. Cambridge: Internet Watch Foundation.

Jefferson, T. 1903-1904. *The Writings of Thomas Jefferson*, Memorial Edition, edited by A.Lipscomb and A. Bergh. Washington, DC: Thomas Jefferson Memorial Association.

- Kent, J. and S. Thompson. 2014. "The Three Domains of Urban Planning for Health and Well-being." *Journal of Planning Literature*, 29(3): 239-256
- Larcher, V., F. Craig, K. Bhogal, D. Wilkinson, and J. Brierley. 2014. *Making Decisions to Limit Treatment in Life-limiting and Life-threatening Conditions in Children: A Framework for Practice*. London: Royal College of Paediatrics and Child Health.
- Li, H., N. Jia, Q. Su, Z. Zhu, X. Liu, M. Sungkur, S. Padari... 2012. Effects of prenatal psychosocial stress on pregnancy outcomes and physical and neurobehavioural development in infancy with gender difference. *European Journal of Psychotraumatology*. 3: 1
- McGuirk, R. 2016. "Parents often reject surrogate babies with defects, Australian review says." *The Star*, Canberra, 4 February 2016.  
<https://www.thestar.com/news/world/2016/02/04/parents-often-reject-surrogate-babies-with-defects-australian-review-says.html>
- Ministry of Justice. 2016. "Women and the criminal justice system statistics 2015."  
<https://www.gov.uk/government/statistics/women-and-the-criminal-justice-system-statistics-2015>
- Murray, L. and L. Andrews. 2005. *The Social Baby: Understanding Babies' Communication from Birth*. Richmond, UK: CP Publishing.
- National Audit Office. 2018. "Financial Sustainability of Local Authorities 2018."  
<https://www.nao.org.uk/wp-content/uploads/2018/03/Financial-sustainability-of-local-authorities-2018-Summary.pdf>
- Okamoto, E. 2014. "Japan turns pro-life: recent change in reproductive health policy and challenges by new technologies." *International Journal of Health Policy Management*, 2(2): 61–63.
- Rodger, D., B. Blackshaw and C. Miller. 2018. "Beyond infanticide: how psychological accounts of persons can justify harming infants." *The New Bioethics*, 24: 106-121.
- Rutter, M. 2002. Nature, Nurture, and Development: From Evangelism through Science toward Policy and Practice, *Child Development*, 73: 1–21.
- Sands, P. 2016. *East West Street: The Origins of Genocide and Crimes Against Humanity*. London: Weidenfeld & Nicholson.
- Save the Children, Sweden. 2018. "Map Of The 53 Countries That Ban The Corporal Punishment Of Children." <https://brilliantmaps.com/corporal-punishment/>
- Smith, F. 2017. "Babies fall victim to the opioid crisis." *National Geographic*, September 2017, <https://www.nationalgeographic.com/magazine/2017/09/science-of-addiction-babies-opioids/>
- Stern, D. 1977. *The First Relationship: Infant and Mother*. Glasgow: Fontana.
- Turner, B. 2008. *The Body and Society*. London: Sage.
- Twum-Danso, A. 2010. "The Construction of Childhood and the Socialisation of Children in Ghana." In *A Handbook of Children and Young People's Participation*, edited by B. Percy-Smith and N. Thomas, 133-140. London: Routledge.
- United Nations (UN), Committee on the Rights of the Child. 2005. *Implementing Child Rights in Early Childhood General Comment no. 7 (2005) UN/CRC/GC/2005/1*. Geneva: United Nations.
- United Nations (UN). 1945. "Charter of the United Nations Chapter XIV: The international court of justice." [www.un.org/en/sections/un-charter/chapter-xiv/index.html](http://www.un.org/en/sections/un-charter/chapter-xiv/index.html)
- United Nations (UN). 1948. "Universal Declaration of Human Rights."  
[www.un.org/en/universal-declaration-human-rights/](http://www.un.org/en/universal-declaration-human-rights/)
- United Nations (UN). 1989. "Convention on the Rights of the Child."  
[www.unicef.org.uk/Documents/Publication-pdfs/UNCRC\\_PRESS200910web.pdf](http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_PRESS200910web.pdf)
- Wickham, S., Barr, D. Taylor-Robinson, and M. Whitehead. 2018. "Assessing the health impact of austerity and rising poverty in the UK."

[https://www.ohchr.org/Documents/Issues/EPoverty/UnitedKingdom/2018/Academics/University of Liverpool Department of Public Health and Policy.pdf](https://www.ohchr.org/Documents/Issues/EPoverty/UnitedKingdom/2018/Academics/University%20of%20Liverpool%20Department%20of%20Public%20Health%20and%20Policy.pdf)

World Health Organisation (WHO). 2017. "10 Facts on Breastfeeding."

<https://www.who.int/features/factfiles/breastfeeding/en/>

World Health Organisation (WHO). 2018. "Children: Reducing mortality."

<https://www.who.int/news-room/fact-sheets/detail/children-reducing-mortality>