Methods in Philosophy of Education

Edited by Frieda Heyting, Dieter Lenzen and John White

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This book introduces a variety of methodological approaches in philosophy of education. Established researchers from various philosophical and national backgrounds demonstrate the application of their methodologies by examining issues concerning children's rights and education.

The diverse methods reflect current debates in philosophy of education and demonstrate some of the specific contributions to educational sciences which can be expected from the subject. The methods examined include: analytic philosophy, reflective equilibrium, structuralism, deconstructionism, hermeneutics and antifoundationalism.

The demonstrations of methodological approaches will be of great interest to both new and experienced researchers in the field, and readers interested in children's rights in education will find fresh light thrown upon a number of topical issues.

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Preface

In the fall of 1998, the Dutch graduate school for philosophy and history of education (the *Kohnstamm-netwerk*) organised an international symposium in Amsterdam in order to discuss current methodological issues in philosophy of education. The result was remarkable in several respects. Methodological debates resulting from delivered papers showed liveliness that participants had hardly experienced since critical theory disturbed the peace of 'positivist' methodology in the 1970s. Despite the relative silence in the past decades, papers and discussions gave evidence of substantial renewal and progress in the field. However, at the same time, debates as well as very lucid commentaries from participating PhD students made clear that methodological views in philosophy of education still had to be crystallised in some respects – even though philosophers of education remain reluctant to commit themselves to fixed methodological rules for good reason, as this volume demonstrates. A project to publish a book on methods in philosophy of education seemed a good way forward.

Publication of such a book would also serve a second end. Participants were impressed with the profusion of views and insights that philosophers of education from different linguistic backgrounds – especially English and German traditions – mutually had to offer. Despite the growing international character of the discipline, methodological approaches appear to draw on different sources that have by no means run dry. The project could thus give this mutual learning process a new impulse. The combination of editors – from Berlin, London and Amsterdam – reflects this dimension of the project. Contributors were selected to ensure a wide variety of approaches.

In deciding to prepare a book on methods in philosophy of education, we also bore in mind the opportunity to facilitate the training of new researchers in the field. The above-mentioned inclination of philosophers of education to keep their methodological options open excludes any exclusively 'technical' kind of training and demands a specific blend of reflection and practice. Contributors not only describe and justify a certain approach, but also demonstrate its methods of working – thus giving rise to reflection as well as exercise.

These three ingredients – to revive methodological discourse and reflection, to make resources mutually available on an international level, and to support newcomers to the field – provided the formula for this book. Now that it's finished, we look back on a period of inspiring and fruitful cooperation, not only with contributing authors, but also with a wider circle of colleagues. Those PhD students who commented on first drafts should be especially mentioned here. We thank the Dutch *Kohnstamm-netwerk* for providing the project with the necessary funds.

December 2000
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1 Methodological traditions in philosophy of education

Introduction

Frieda Heyting

Philosophical methods: to ascertain truth and to answer questions

How do you *do* – or how should one do – philosophy of education, and why should one do it that way? This question served as a guideline for an international project in philosophy of education. However, as it soon turned out, debates would not result in an unequivocal answer to the question raised. Unlike John Wilkinson, participants in the project would not be able to provide their students with 'an infallible recipe to make a great (…) Philosopher of a numbskull' (Wilkinson 1969: 153).

Debates rather confirmed the view that philosophy of education could never be reduced to a technical know-how. However, the absence of a univocal answer to the question about methods in philosophy of education does not indicate that there are no answers at all. In fact – as the symposium confirmed once again – the history of philosophy demonstrates an uninterrupted concern for methodical issues, resulting in a lot of judicious answers to the question 'how to do' philosophy. However, as the acute commentaries from the attending students demonstrated, each of these answers keeps being open to question in certain respects. Against this background, a book on current methodological insights in philosophy of education seemed necessary.

Two major sources from which debates on philosophical methods seem to stem match the two main functions methods should serve. Firstly, a methodical approach should ascertain verifiable truth of the results of its application. Because philosophers – unlike empirical researchers – are not inclined to simply adopt a specific view of what 'true knowledge' entails, they tend to relate methodological considerations to fundamental epistemological questions. Therefore, differing opinions on methodological issues, and consequently a plurality of methods, seem to be unavoidable.

Secondly, a methodical approach should ascertain verifiable answers to specific questions. Which questions should be answered by philosophy of education is not an established matter either. Philosophers of education, being so closely related to a social practice, can hardly ignore this issue. A

broad and historically persisting distinction could be made between approaches aiming at knowledge of an objective world, and approaches aiming at knowledge of a humanly perceived and experienced world. As can be expected, all kinds of mixtures can occur. Furthermore, these considerations as regards content are interrelated to the above-mentioned epistemological ones. Consequently, authors were asked to apply their methodological insights to a self-defined issue concerning children's rights.

From those complex backgrounds, a variety of traditions in philosophy of education arise. In this variety, certain national characteristics cannot be denied, simply because philosophers from different countries draw from different philosophical and scientific sources. At the same time, however, these various approaches share the main issues, not only in the above-mentioned formal sense, but also in a historical sense. Methodological debates seem to get intensified during specific historical periods. One such period followed the development and subsequent successes of the natural sciences.

Today, philosophers seem to live through a period of intense discussions as well, this time stemming from fundamental doubts on the relations between scientific knowledge and reality. The accompanying methodological concerns in philosophy of education seem to be activated by a growing – and liberally appreciated – pluralism in modern Western societies as well. This 'globalisation' of problems to be dealt with supports converging tendencies of different traditions. Of course, intensifying international exchanges also reinforce this process. The chapters that were brought together in this book not only illustrate the – partly nationally coloured – diversity and interplay of considerations concerning epistemology and content, but their recent convergence as well.

An irreducible plurality

Attention to methods of philosophical inquiry goes back to the ancient philosophers. For instance, Plato developed his dialectical method in various ways in the course of his writings (cf. Matthews 1972). In his turn, Plato developed those views partly in reaction to the methodological considerations of the sophists. At the end of the classical period, the sceptic Sextus Empiricus brought to perfection the sceptical method of setting up oppositions – suspending judgement as long as opposing statements of equal strength can be found (cf. Heyting and Mulder 1999). These few examples already demonstrate a diversity of philosophical method. In the course of history, this diversity would only increase.

The seventeenth century was a period of special importance to philosophical-methodological deliberation, partly due to the rise of the natural sciences and partly in reaction to the 'sceptical crisis' in philosophy that had followed the translation of the works of Sextus Empiricus (Popkin 1979). René Descartes (1596–1650) 'raised in this context, "outdoubted"

his contemporaries in order to find a truth so certain that all of the most extravagant suppositions of the skeptics could not shake it' (Popkin 1980: 11). He wanted to demonstrate that ascertaining indubitable foundations, from which the body of true knowledge could be further developed, would be within reach. He published his *Discours de la Méthode* (1637), the second part of which was written according to his four self-set methodological rules, stating principles like 'accept nothing as true which I did not clearly recognize to be so' and 'divide each of the difficulties which I examined into as many parts as possible' (Williams 1978: 32). Considering these rules hardly conclusive, Leibniz compared them with 'the precepts of some chemist; take what you need and do what you should, and you will get what you want' (Williams 1978: 32). However, Descartes had not intended such mechanical recipes, wanting merely 'to show in what way I have tried to conduct my own (reason)' (Williams 1978: 32). In Descartes's methodological rules skill on the one hand, and justified certainty on the other, competed for priority.

This same quest for absolute certainty made David Hume (1711–1776) appeal to the natural sciences that had become so extremely successful in the eighteenth century. According to MacNabb (1967: 75), 'Hume's policy, both in the *Treatise* (1739) and in the *Enquiries* (1748–51), was to apply the Newtonian experimental method to the British empiricists' investigations into the powers and principles of the human mind'. Hume strictly held on to his principles, that all ideas are derived from impressions of the senses, and that all matters of fact are to be proved by inference from experience (MacNabb 1967: 76). However, this approach forced Hume to give up so many philosophical ideas passed down through the ages that his pursuit could only end in scepticism, instead of true justified belief. His methodological rigorousness left him paralysed with respect to content, precisely the kind of situation Descartes had tried to avoid, though in his turn evoking much criticism from the profession.

These historical examples demonstrate two characteristics of methodological debates in philosophy. Firstly, they are preoccupied with fighting fundamental doubt, while at the same time evoking this very doubt. Secondly, it seems impossible for philosophers to agree on methodological questions even for a short time. A worldwide and enduring mainstream view in matters of philosophical method is not in sight. As the work of Ludwig Wittgenstein (1889–1951) suggests, both characteristics are interrelated.

Wittgenstein was interested in finding a philosophical method that could guarantee justified and certain truth. For example, George Edward Moore (1873–1958) recorded Wittgenstein's remark in one of his lectures, of having caused 'a "kink" in the "development of human thought"…that a "new method" had been discovered, as had happened when "chemistry was developed out of alchemy"; and that it was now possible for the first time that there should be "skillful philosophers", though of course there had in the past been "great philosophers"' (Moore 1959: 322). Unfortunately, as

Moore also reports, Wittgenstein never expounded this method, but some indications of what he had in mind can be found in his work.

Discussing linguistic analysis, Wittgenstein makes a sharp distinction between the clarity achieved by refining or even completing 'the system of rules for the use of our words in unheard-of ways', and the clarity he is aiming at, which is 'indeed *complete* clarity' (Wittgenstein 1968: 133; original emphasis). Though he thinks 'an improvement in our terminology designed to prevent misunderstandings in practice, is perfectly possible' (Wittgenstein 1968: 132), this is not the ultimate goal he has in mind. In his view, ultimately 'the philosophical problems should *completely* disappear. The real discovery is the one that (…) gives philosophy peace, so that it is no longer tormented by questions which bring *itself* in question. – Instead, we now demonstrate a method, by examples; and the series of methods can be broken off. – Problems are solved (difficulties eliminated), not a *single* problem. There is not *a* philosophical method, though there are indeed methods, like different therapies' (Wittgenstein 1968: 133; original emphasis).

According to Wittgenstein, solving a diversity of problems – corresponding with a diversity of methods – lies well within reach, but solving *the* problem of philosophy, finding absolute certainty, is still pending. This situation has not changed to date. Wittgenstein's distinction between methods for solving problems and methods for solving 'the' problem could also explain why agreement on methods seems so much easier in empirical sciences than in philosophy. Referring to psychology, Wittgenstein observes, that 'the existence of the experimental method makes us think we have the means of solving the problems which trouble us; though problem and method pass one another by' (Wittgenstein 1968: 232). Experimental method undoubtedly solves a problem, or even a class of problems, but considering experimental method a method to solve the problem of establishing absolute truth is beside the point.

In other words: as long as you are solving *a* problem – which empirical research does – and as long as you take for granted a specific view of solving *the* problem of establishing truth – which mainstream empirical research also does – consensus within the profession seems largely reachable. However, philosophers of education – as philosophers in general – are much like Wittgenstein in that they cannot ignore the philosophical problem of truth and certainty in developing and judging methods for solving specific problems. The question, how to solve *the* problem of truth, constitutes their final horizon. Any method to solve a problem in philosophy raises the question of how, in which way and in what respect this method can be said to represent the way to solve *the* problem. Philosophy is always 'tormented by questions which bring *itself* in question', as Wittgenstein (1968: 133) states. Such a situation seems to rule out any long-lasting consensus.

As the preceding paragraphs suggest, a book on how to do philosophy of education is a book on methods in the plural. We decided to bring together in a book a range of methodological considerations as can be found in

contemporary European philosophy of education. By not only asking authors 'how do you *do* philosophy of education?', but also asking them why one should do philosophy of education that way, we hoped to gain insight into their ways of relating methods of solving 'a' problem to the overall background question of solving 'the' philosophical problem.

A diversity of approaches results, drawn from a wide variety of philosophical sources ranging from analytical philosophy – as is widespread in the Anglo-Saxon world – and interpretative approaches owing more to hermeneutic traditions from the European continent, to various postmodern lines of reasoning. Each approach generates its own instantiation of balancing claims of justification against ways of practising philosophy of education. As balancing justification and practice can be done in a theoretically infinite number of ways, this collection does not make any claim to completeness.

In view of completeness, we could have tried a categorisation, picking one representative from each approach. However, such an approach would easily evoke discussion on the quality of the categorisation instead of drawing attention to practising philosophy of education, which was our primary interest. From that perspective, the balancing of method and truth claims is only one of the problems – albeit a major one – philosophers of education encounter. A second dilemma of no less importance concerns balancing method against considerations as regards content, a dilemma to be covered in the next section.

Methodism versus particularism

Methods in philosophy of education should not only ascertain truth; they should be guidelines to answer specific questions concerning the subject of research. Producing 'true justified belief' – as knowledge is usually defined – requires a combination of both dimensions. As we saw, the first dimension – trying to attain true justified belief – will already cause enough trouble on its own. Considering those problems, Quine even goes so far as to suggest rejection of the very concept of knowledge. According to him, it seems hardly possible to satisfy both conditions – justification and truth – at the same time. One can have true belief on false grounds, and conversely 'the justification underlying a belief can be as reasonable and conclusive as you please and yet be contravened by some circumstances that nobody could reasonably have suspected' (Quine 1987: 108f.). Quine therefore urges one 'to accept the word "know" on a par with "big", as a matter of degree. It applies only to true beliefs, and only to pretty firm ones, but just how firm or certain they have to be is a question, like how big something has to be to qualify as big' (Quine 1987: 109). Consequently, it is a matter of *making a decision* as to what (kind of justification) we consider 'reasonable and conclusive'. This decision also depends on the question of knowledge *about what* one wants to achieve.

Consequently, questions of methods are stuck in the middle of considerations concerning justification on the one hand, and considerations concerning content on the other. Deciding on 'reasonable justification' also requires an idea of the results one is aiming for. In view of similar problems, Sosa (1986) distinguishes 'methodist' from 'particularist' approaches, the first being strongly inclined to consider justification of decisive importance, the second tending to give priority to content. Extreme methodism would eventually 'plunge us in a deep scepticism', depriving us of 'knowledge' on any subject, as Sosa demonstrates using the philosophy of Hume. One has to pay a price for such 'methodist' use of criteria. It would become impossible to prove any of the common-sense knowledge – let alone extend and refine any part of it – and thus create a big gap between philosophy and everyday problems. Particularism, on the other hand, would not resign itself to such a situation. 'If such criteria are incompatible with our enjoyment of the rich body of knowledge that we commonly take for granted, then as good particularists we hold on to the knowledge and reject the criteria' (Sosa 1986: 148). In practice, most philosophers can be situated between both extremes.

Wilhelm Dilthey (1833–1911) made a close connection between methods in philosophy and the kind of problems at stake. In a way, he intended a supplement to the work of Immanuel Kant (1724–1804). Assuming the truth of Newton's physics and contemporary mathematics, Kant had formulated the mental prerequisites of attaining this true knowledge. Dilthey adopted Kant's doctrine, that we can only know reality as the content of our consciousness. Consequently, both philosophers considered it the task of theory of knowledge to examine the knowing subject (cf. Rickman 1979: 52). However, Dilthey did not agree with Kant's approach, which had mainly focused on knowledge of nature. According to Dilthey, Kant's results could not be applied to knowledge of human reality. Considering them too one-sided cognitivist and unhistorical, Dilthey rejected Kant's a prioris as proper preconditions for the study of human phenomena.

According to Dilthey, Kant's 'knowing subject' could hardly be considered human. This brought him to his much-cited statement:

> *In den Adern des erkennenden Subjekts, das Locke, Hume und Kant konstruierten, rinnt nicht wirkliches Blut, sondern der verdünnte Saft von Vernunft als bloßer Denktätigkeit.* (In the veins of the knowing subject, as it was conceived by Locke, Hume, and Kant flows no real blood, but only the diluted juice of reason, by way of thinking activity.)
>
> (Dilthey 1973: xviii; cf. Rickman 1979).

According to Dilthey, the knowing subject was also to be provided with feelings and a will. In addition, considering it a metaphysical construction, Dilthey rejected Kant's idea of 'pure' reason, and replaced it by historical reason. The rules and principles of historical reason, as opposed to those of

pure reason, are variable with time and circumstances. Accordingly, Dilthey judges Kant's a priori fixed and dead (cf. Keulartz 1994).

Human life, as the historical totality of experience, thus has primacy over knowledge in all its forms. Where Dilthey makes a fundamental distinction between natural sciences and human sciences, he does so because of the fact that human beings relate differently to nature than to human phenomena, thus knowing both in a different way. As we have direct access to the historical human world, nature can only be observed from the outside. For Dilthey, this also results in a methodological difference between the two types of sciences: 'The natural sciences seek causal explanations of outer experience through hypothetical generalisations. The human sciences aim at an understanding (*Verstehen*) that articulates the typical structures of life given in experience' (Makkreel 1995: 203).

This primacy of life – and thus of practical interest – over knowledge makes interpretation not something that can be 'objectively' done, but something that people are involved in. Considering knowledge and interest interwoven reminds the reader in certain respects of John Dewey. The point is that practical interests condition interpretation (Gallagher 1992: 44). This methodical characteristic is common to all branches of hermeneutics, from Friedrich Schleiermacher's (1768–1834) original version relating discourse and understanding, Dilthey's concern about the proper method for the human sciences (*Geisteswissenschaften*), Martin Heidegger's (1889–1976) existential hermeneutics, to Hans-Georg Gadamer's (1900–) more recent concerns for illuminating what is omitted by the specific character of written texts or culture in general, and Jürgen Habermas' concern for (un)distorted communication (cf. Gallagher 1992: 3f.).

These varieties of hermeneutics alone suffice to illustrate not only that methods can be considered dependent on the nature of the questions to be answered, but also that the way methods and questions are mutually related cannot be easily and unequivocally settled. Like epistemological considerations, the subject matter of philosophy of education and its expression in ways of doing research remains open to debate today. For this reason, authors were asked to apply their methodological views to a question of children's rights. This field seems interesting, not only because it currently evokes a reasonable amount of attention. It also allows for a broad variety of questions to be dealt with, leaving each author free to define his or her own specific interests, as related to methodological issues. On the other hand, the field seems just definite enough to make the chapters comparable as regards the specific mutual relations between methodological considerations and issues with respect to content.

Current topics as represented in this volume

Just as the rise of the natural sciences caused an intensified concern for methodological considerations in the seventeenth and eighteenth

centuries, late developments in the sciences seem to evoke a similar concern now. A main presupposition of traditional epistemologies, which seemed strongly supported by traditional natural sciences – that knowledge could be identified in terms of its relationship to a mind-independent reality – now seems open to question. 'As science has become more and more removed from common-sense beliefs and observable experience, or, to use W.V.O. Quine's terminology, as the recognised disparity between our meager input and our torrential output has expanded, this assumption of the determining role of nature has become increasingly implausible' (Alcoff 1996: 6).

To many philosophers, this situation implies that one should consider knowledge dependent upon the knower instead of upon mind-independent reality (Alcoff 1996: 7). Consequently, questions of truth and justification get a new impetus. For example, it causes Hacking's 'worry that whether or not a proposition is, as it were, up for grabs as a candidate for being true or false, depends on whether we have ways to reason about it', and 'that the very candidates for truth or falsehood have no existence independent of the styles of reasoning that settle what it is to be true of false in their domain' (Hacking 1985: 145, 146). Not wanting to depend on conventions we abide by and simply take for granted, Hacking looks for a more objective kind of justification. Rorty, on the other hand, is one of those philosophers who seem glad to swap objectivity for solidarity (Rorty 1991: 21ff.).

At the same time, educational problems attract a lot of attention in many increasingly pluralist Western societies, as traditional ways of dealing with them are losing their persuasiveness and perceived legitimacy. Against this background, it seems an opportune moment to have a look at methodological discourse in philosophy of education, as it can be expected to reflect new problems in educational practice and epistemological developments in philosophy as well. The combination of epistemological and practical uncertainty will stimulate reconsideration of passed-down approaches as well as the search for new and creative solutions.

The contributions to this volume achieve this in that they display a variety of highly reflexive as well as practically engaged views of 'how to do' philosophy of education, as demonstrated using issues concerning children's rights. The subject of justification comes up in every chapter, ideas on this topic serving as a guideline, sometimes positive, sometimes negative – reacting to critically scrutinised other views – to explain the approach that is under discussion. However, in none of the cases do authors lose sight of this aim of justification, putting this problem behind them as if it were definitely solved, and translating this presumed solution into a strictly technical method of doing philosophy of education. Methods are kept open to adaptation to the kind of – justified – intended results.

Neither do methods constitute the subject of investigation in a mechanical way. They rather constitute a frame for demarcating the kind of problems to be dealt with. Many, if not all, contributions retain a vivid link

to educational practice and ideas, more or less attuning them to criteria of relevance and balancing methodical requirements against the requirements of contributing to an improved educational practice. Though philosophers of education show clear engagement with the field of education, practical views are not taken for granted, but are in different ways analysed and opened up for debate and alternative views. Rather than formulating final solutions, philosophers of education from a broad variety of traditions at least seem united in their awareness and appreciation of the possible legitimacy of alternative views – which in its turn tends to evoke epistemological considerations again.

All contributions in this volume give evidence of this complex equilibration of methodical clearness, epistemological justification and practical relevance. As exemplification via children's rights issues illustrates, this results in a broad variety of problem definitions within this field, and a matching variety of ways to philosophically deal with them and thereby contribute to their approach in practice.

Clearly distancing themselves from any aspiration to develop 'the' logically perfect language, John and Patricia White concentrate on the exploration of conceptual schemes – mutually related concepts – as embedded in the language we already know and use on a daily basis. Exploring meanings and interrelation of concepts of rights on the one hand, and related concepts of law, morality, obligation, etc., on the other, their 'connective analysis' primarily aims at clarity of issues. John and Patricia White apply their approach to the question who should have the right to determine content and form of children's education, insofar as they are not themselves in a position to do so (Ch. 2).

Ben Spiecker and Jan Steutel investigate the possibility of assessing the justification of ethical beliefs, suggesting coherence as a criterion and 'reflective equilibrium' as a methodical approach. They also think one unavoidably should start investigations with initial knowledge, this time initial moral judgements on children's rights in sexual education in general and paedophilia in particular. They control the risk of confirming any preliminary prejudices – caused by starting with our initial moral judgements – by seeking extra support in additional background theories (Ch. 3).

Colin Wringe combines clarification of concepts and questions of justification by analytically establishing the kinds of claims being made in different issues concerning children's rights. Distinguishing children's rights into different kinds – such as legal rights, positive and negative rights of freedom, and welfare rights – he demonstrates the implications of different justified claims for different categories of rights. Like the authors of the former chapters, he is aware that results might be related to the specific time and place of the issue under investigation. He points out, however, that any more profound enquiry should follow on this kind of preliminary analysis (Ch. 4).

Limitations of any methodical approach are explicitly discussed by Jörg Ruhloff. Doubting whether philosophy of education can be developed into a

technically executed activity, he stresses the aim of philosophy, to which any way of doing philosophy of education should be adapted. Though advocating a sceptical approach, the question how to prospectively develop education and culture under prevailing conditions is not ignored in this contribution, as it can in fact be considered an approach to culture and education as well (Ch. 5).

Ger Snik and Wouter van Haaften are primarily interested in the foundations of education, i.e., those basic ideas and conceptual models that guide educational theory and practice. Though such presuppositions are considered historical and changeable, they are seen as delimiting our possible ways of understanding, at least for the time being. Snik and Van Haaften thus relate philosophy of education to known ways of thinking and conceptualising. Presenting foundational analysis as a prerequisite for foundational critique, they do not restrict practical relevance to clarification. An analysis of the relations between conceptions of political liberalism and children's rights in education exemplifies their approach (Ch. 6).

Yvonne Ehrenspeck and Dieter Lenzen discuss the possibility of reconstructing deep-structures – functioning as prejudicial structures – in handed-down discourses. Like Snik and van Haaften, they stress the historical character of such discourse. By analysing the deep-structure of both the 1959 *Declaration of the Rights of the Child* and the 1989 *Convention on the Rights of the Child*, and subsequently comparing them, they reveal just this historical dimension. These authors also stress the impossibility of a technical approach to philosophy of education, relating the analytic process to the investigator and his or her situation as well (Ch. 7).

Investigating the consequences of antifoundationalist epistemology for foundational analysis, Frieda Heyting defines foundations not as fundamental ideas, but as taken-for-granted contexts. As participants in any discourse seem to attune their assertions and arguments to the contextual background beliefs they mutually assume, foundational analysis entails the reconstruction of such implicitly functioning 'game-boards' on which debates take place. Stressing the unavoidable perspectival character of critique, but intending to avoid cultural relativism, she demonstrates her approach in an analysis of academic publications of children's rights in medical decision making (Ch. 8).

Like many of the above-mentioned authors, Gert Biesta considers it the main task of philosophy of education to call into question any views taken for granted, thus emphasising its critical function. As most forms of critical research depend on the application of criteria that are not themselves questioned, Biesta proposes a deconstructionist alternative. Stressing the aim of revealing such preconceptions as to make possible our thought systems, he thinks priority should be given to sensitivity instead of technical procedure. This approach is instantiated by showing how the *Convention of the Rights of the Child* relies on a typical modern Western conception of childhood, thus leaving groups of children without protection of their rights (Ch. 9).

Alfred Langewand raises doubts against methods – in a mechanical sense – as applied to philosophical problems. He stresses the embedding of all knowledge in daily human experience, and consequently he alerts us to the impossibility of formulating methods that will invariably yield the same results. He proposes an interpretative hermeneutic approach that is sensitive to this embedment of knowledge, demonstrating it with an interpretative analysis of the historicity of rationality in argumentation concerning children's rights (Ch. 10).

The practical embedding of knowledge is a keynote in Wilna Meijer's line of reasoning as well. Against this background, she suggests we should link theory and history in our approach to philosophy of education. Historical and cultural context being the arena in which educational action is set, she considers culture not only as context but also as content of education. Meijer applies her views to an analysis of environmental education, resulting in a demonstration of the priority of children's rights to develop autonomous judgement over the aims of environmental policy in society (Ch. 11).

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2 An analytic perspective on education and children's rights

John White and Patricia White

The analytic tradition in British philosophy of education

How and why each of us in this book approaches philosophy of education as we do is bound to have a lot to do with the tradition of philosophising in which we have been brought up. In the case of the present co-authors, this is the so-called 'analytic' tradition of post-war British philosophy, partly influenced as it was by the work of the later Wittgenstein (Hacker 1996). British philosophy of education in its present form was propagated from this parent stock when the analytic school of thought was in its full flowering, that is to say in the early 1960s. The person responsible for this creation was Richard Peters, who turned his energies towards philosophical issues in education upon his appointment in 1962 to the chair of Philosophy of Education at the University of London Institute of Education. This followed a distinguished earlier career in the Philosophy Department of Birkbeck College, University of London, where he specialised in philosophy of psychology, ethics and social philosophy. The present co-authors were both pupils of his between 1960 and 1966 and in the mid-1960s joined him as colleagues in the Philosophy of Education Department of the Institute of Education.

What do we mean by the 'analytic' tradition of post-war British philosophy? In the next two sections we argue that the term 'analytic' needs careful delineation, so as not to confuse the philosophical tradition we have in mind with, first, an earlier 'analytic' movement, to which the later was partly a reaction; and, secondly, certain stereotypes and misunderstandings of this later movement. These stereotypes and misunderstandings have produced a misleading picture not only of 'analytic' (or 'Oxford') philosophy in general, but also of analytic philosophy of education in particular. Even today, forty years since Richard Peters crossed the road from Birkbeck College to the Institute of Education, the old misconceptions of the kind of work we do still exist.

Post-war analytic philosophy in Britain

The post-war 'analytic' school – largely based at Oxford – did not share the preoccupations of the 'analytic' movement of the first half of the twentieth

century – largely based at Cambridge – against which it reacted and of which the leading figures were Russell and the Wittgenstein of the *Tractatus*. Although an interest in language was a common thread, the later school did not seek a logically perfect language from which the inadequacies of the language we have would be absent. Neither did it understand the 'analysis' of language as a reduction to atomic elements. Nor did it see its work on language as leading to discoveries about the structure of reality (cf. Wittgenstein's picture theory of meaning).

Although there were many differences in the philosophies of the post-war analysts – e.g., Gilbert Ryle, John Austin, Peter Strawson and closer followers of the later Wittgenstein like Elizabeth Anscombe, Peter Geach and Peter Winch – these philosophers and others together built up a distinctive form of philosophising of which the following were the leading features (not all equally prominent in all contributors). Philosophy is an exploration of conceptual schemes embedded in the language we know and use. It does not reject this in favour of some more adequate language. The analysis in which it engages is not reductive, but 'connective': it investigates how one concept is connected – often in complex and ragged-ended ways – in a web of other concepts with which it is logically related. This type of analytic philosophy does not seek to discover new truths about the world: philosophy is not, as for instance Russell believed, part of the same enterprise as science. It gets to work on what we already understand, albeit often inchoately, aiming at clarity in place of obscurity and confusion. A large part of this confusion stems from misleading accounts of how our concepts are to be understood, emanating from earlier, influential writings in philosophy and elsewhere. One task of philosophy – for some philosophers the major task – is therefore therapeutic, to free one's thinking from the mental cramps which these erroneous theories have inflicted on it. The work of the later Wittgenstein, culminating in his *Philosophical Investigations* (1953), was a powerful force in this reconceptualisation of the discipline, although the independent contribution of the Oxford philosophers should not be overlooked (Hacker 1996: ch. 6).

As an illustration of the points made in the last paragraph, we can take work in the area of the philosophy of mind during this period. This was conceived as connective analysis of mental concepts – e.g., mind itself, consciousness, intentionality, dispositions and abilities, concepts, thought, imagination, sensation, perception, memory, belief, agency, desire, motive, intention, emotion. The aim was as perspicuous as possible an understanding of the web of mental concepts in all its complexity, doing justice to its resistance to systemisation beyond certain points and exposing misleading pictures of how the mind operates. Ryle's *The Concept of Mind* (1949) criticised the Cartesian notion of the mind as a non-physical substance attached to a body and replaced it with a largely dispositional account of intelligence, imagination, emotion and other concepts. Critics of Ryle questioned the emphasis on overt behaviour in his analysis and the

downplaying of consciousness. In the 1950s and 1960s detailed attention was given to the 'logical geography' of the mental concepts, discussing, for instance, the connections between sensation and perception, between perception and belief, between belief and motive, between motive and emotion, and between emotion and sensation. An excellent and more up-to-date example of this kind of work, which draws, however, on writings of this earlier period, is Anthony Kenny's *The Metaphysics of Mind* (1989).

This work in the philosophy of mind, as in other areas of philosophy, was seen as a non-scientific enterprise. Unlike empirical psychology, it did not aim at discovery of hitherto unknown facts about the way the mind works. (We will come back to the relationship between philosophy and psychology in a later section.) Philosophy of mind was conceived as a 'second-order' discipline, making clearer what we already dimly or implicitly understand. We have a common-sense understanding, for instance, that we are afraid *of* things, angry *at* things, proud *of* things, etc. What philosophy does here, as a preliminary to a more profound analysis, is to hypothesise that emotions in general are directed to objects (i.e., 'intentional' objects); and then tests that claim by reference to such apparent counterexamples as objectless anxiety or depression. Seeing that the conceptual schemes we use – in the area of the mental as in other areas – are so central to our lives, constituting to a large extent what we as individual persons *are*, this type of analytic philosophy, including philosophy of mind not least, becomes closely associated with self-knowledge.

This brief account of 'analytic' philosophy presents the recent ancestry of the British school of philosophy of education. We will describe later how this mode of philosophising has been applied to educational issues, but something of its relevance should already be evident from what we have said about the philosophy of mind, given the indispensability of clear thought about the mental concepts in any overall account of education. The 'connective analysis', which we have illustrated in this area, was also pursued in many other areas of philosophy which philosophers of education have been able to harness to their purposes, including ethics, epistemology, aesthetics and political philosophy. It is in this last area, and in the related area of legal philosophy, that philosophers have investigated the concept of rights in general, including its connections with other concepts such as obligation, law, morality, liberty, welfare, personal autonomy and liberalism. In a later section we will go into more detail about these links and about their bearing on issues of children's rights.

Misconceptions of analytic philosophy

Post-war 'analytic' philosophy, including analytic philosophy of education, has often been represented, both by non-philosophers and sometimes by philosophers working in other traditions, as a somewhat trivial pursuit concerned with spelling out the meaning of words. We

were recently at a committee meeting whose members were worrying over how to define 'a book' in the cause of recording staff research output in the field of education. Would something less than 80 pages count? Could a book have just two chapters? Etc. etc. 'We can't get much further with this one' someone said. 'This is clearly a problem for the philosophers.' Fortunately we were ready with an answer. 'We'd like to help', one of us replied, 'but not yet awhile. You see, we're still working on the concept of the slate.'

Not only those outside the discipline see analytic philosophers as poor relations of dictionary compilers. Take Bertrand Russell, for instance, on the later Wittgenstein: 'I have not found in Wittgenstein's *Investigations* anything that seemed to me interesting and I do not understand why a whole school finds important wisdom in its pages…if it is true, philosophy is, at best, a slight help to lexicographers, and at worst, an idle tea-table amusement' (Hacker 1996: 139).

Philosophers of education outside the analytic school have had similar reactions to analytic philosophy of education, conveniently labelled 'APE' by Australian colleagues working within Marxist or Quinean frameworks. Other critics, who equally deride the superficiality and parochiality of APE, have found greater profundity in 'continental' philosophy, like that of Heidegger, Gadamer or Merleau-Ponty. They would do well, though, to heed Bernard Williams' comment on the alleged contrast between 'analytic' and 'continental' philosophy: 'This classification always involved a quite bizarre conflation of the methodological and the topographical, as though one classified cars into front-wheel drive and Japanese' (Williams 1995: 66).

How sound is the charge of lexicographical triviality? Work in the analytic tradition has often been labelled 'ordinary language philosophy'. It has been conceived as an exploration of the minutiae of word usage, including, for example, the careful separation of the different ways in which the same word is used in different contexts, and the laying out of minute differences in the meanings of closely cognate words. If analytic philosophy were just this, it would indeed be parochial, for it would be bounded by the linguistic horizons of a single language – English in the case of 'Oxford' philosophy, although equally parochial philosophy could be done within, say, the Dutch language or Japanese.

It is true that among the different strands which made up post-war philosophy at Oxford, the approach of J. L. Austin did look in some detail at subtle idiomatic distinctions, but (1) few of his colleagues followed him down this road, and (2) Austin himself did not see this approach as *the* philosophical method, but only as *one* method which might be fruitful in illuminating *certain* philosophical issues, e.g., to do with responsibility (Hacker 1996: ch. 6). As this last remark implies, exploration of linguistic usage was not an end in itself, but *one* means to a more important end, the understanding of philosophically interesting concepts and their interrelationships.

It is true that post-war analytic philosophy can be called 'linguistic philosophy', but this need not carry with it any connotations of superficiality. The earlier analytic school of Russell and the Wittgenstein of the *Tractatus* can also be called by the same name, given its interest in a logically perfect language and in its basic propositions as a reflection of reality. The later analytic school was equally preoccupied with language, but in a radically different fashion, as indicated earlier. It rejected the idea of a logically perfect language in favour of the language we ordinarily use. For this reason, one can understand, even if one does not accept, the appellation 'ordinary language philosophy', which became attached to it. The term is misleading however if thought to imply that *any* of the words we use in everyday transactions are fair philosophical game. No philosopher would be riveted by the concept of a book. The focus was on the investigation of the *use of philosophically important concepts*, on their function within wider conceptual schemes and within language as a whole. 'Use' in this sense is a world away from 'usage' in the more parochial sense. Neither was analytic philosophy exclusively concerned with the use of non-technical concepts, if 'ordinary language' is taken as to be contrasted with 'technical language'. Although, it is true, much of its time was taken up with notions in everyday use like knowledge, belief, ought, pain, cause, action. etc., it also puzzled over esoteric terms like 'entailment' or 'existential quantifier'.

We hope this does enough to remove familiar misconceptions about the nature of analytic philosophy and therewith of analytic philosophy of education. It is time, in any case, that we looked more closely at the latter in pursuit of our main objective, that of showing 'where we come from', philosophically speaking, in discussions of children's rights.

Analytic philosophy of education

In the 1960s and early 1970s British philosophy of education under Peters' direction applied analytic methodology in three ways. Firstly, it investigated interconnections between concepts peculiar to education, which lay outside the purview of general philosophy, although the work of Wittgenstein and especially Ryle touched on them in places. These included the concepts of education, teaching, training, learning, development and indoctrination (see, for example, Peters 1967). Secondly, it sought to untangle conceptual confusions and philosophically dubious claims embedded in influential educational theories, e.g., the developmentalist child-centred theory of the time (see, for example, Dearden 1968). Thirdly, it applied investigations of certain concepts explored in general philosophy to educational issues. The clarification of relevant mental concepts, for instance, illuminated practical concerns about the development of the imagination or the education of the emotions. Explorations of interconnections between knowledge, belief, truth and evidence were harnessed to classroom-level issues of learning and the curriculum. In the ethical area, work – by Peters himself, among others – on

the meaning and justification of moral principles was applied to matters of moral education and to aims and conceptions of education more generally (see, for example, Peters 1966, 1981).

The fact that analytic philosophy of education had to connect with the concerns of teachers and other educationalists gave it from the start a practical orientation not generally found in other branches of philosophy – even ethics, which at that time was almost exclusively a second-order discipline focusing on the use of very general moral concepts like ought, right and good. From the late 1970s onwards, ethics broadened out to embrace more practical concerns: its insights were applied to issues like war and peace, abortion, the environment; and the range of concepts it investigated extended to 'thicker' concepts like the concepts of the virtues and concepts related to personal well-being. Ethics now included, along with its earlier meta-ethical interests, normative and applied orientations. The interest of this shift, as far as analytic philosophy of education is concerned, is: (1) that this discipline was already moving in this more concrete direction from the mid-1960s and can claim to have been, in fact, one of the first areas of 'applied philosophy' (Peters' (1966) discussions of punishment in schools, equality of educational opportunity and education for democracy are good examples of early work of this sort); and (2) that the growth of normative/applied ethics has brought philosophers of education closer, since the 1980s, to the concerns of other philosophers.

A related way in which analytic philosophy in general has expanded its horizons since the 1980s is the greater attention now paid, especially in political philosophy, ethics and philosophy of the human sciences, to the cultural frameworks to which concepts often belong. The work of Charles Taylor (1985, 1989) on the concepts of self, human agency and liberty, of Alasdair MacIntyre (1981) on the moral virtues and of Bernard Williams on the notions of morality and obligation (Williams 1985) and shame and guilt (Williams 1993) are prominent recent examples. Philosophy of education has been profoundly influenced by this widening of focus within the analytic paradigm, which has been reflected in its own work. Its approach to children's rights, as we shall see, is now informed by an awareness of the links between this notion and contested perceptions of the meaning and value of liberal culture.

In only one of the three areas mentioned above has work in philosophy of education *contracted* since the 1960s. Much less attention is now paid to the specifically educational concepts, like education, teaching, learning and indoctrination. This may well be because the main articulations of these concepts were well charted in those early days, so that there is little more to say about them. In themselves, they perhaps do not go deep and their possible ramifications with other concepts do not generate interesting philosophical puzzles (unlike, say, the concepts of knowledge, truth or mind). This may apply less to the concept of learning than to the other concepts mentioned.

In sum, analytic philosophy of education is still firmly bound to connec-

tive analysis as its central methodology. Philosophers of education are as interested as other philosophers in becoming clearer about such concepts as knowledge, belief, morality, well-being, aesthetic experience, mind, motivation, democracy and equality. They tend to be less interested than many general philosophers in concepts like negation, sensation, entailment or personal identity, since these concepts are less directly relevant to matters of educational objectives, policy or pedagogy. Analytic philosophers of education have a more practical intent than many general philosophers – except those also working in applied philosophy. They are interested in conceptual clarification and in the exposure of confused or unfounded theories, not for their own sake but because of the illumination they cast on educational policies and practices and – ultimately – because of the improvements in these areas that this illumination can help to bring about. (For a recent survey of the field, see White 1995.)

There is no one way of pursuing analytic philosophy of education. It stretches between two poles: at one end, its parent discipline of philosophy, at the other, educational policy and practice. Its general aim is to bring the former to bear on the latter; but, naturally enough, some of its writings are more philosophical than practical, and vice versa. There is no harm in that, but there are dangers if the balance tilts too far one way or the other. Some journal articles are virtually pieces of pure philosophy, whose applicability to education is hard to see; others are close to policy recommendations and of little philosophical interest. In other roles than 'philosopher of education' colleagues in our discipline can, of course, write general philosophy if they want to, or put together policy documents. In their own role they need to walk a difficult tightrope between the demands of philosophical depth and practical pay off for education. The leading exponents of the discipline have always done this.

Analytic philosophy of education and educational studies

Before we look at children's rights in particular, a few words on the question: what is the specific contribution of this type of philosophy of education to educational studies, as compared with other sub-disciplines?

As stated earlier, like other branches of analytic philosophy, it is not about the discovery of hitherto unknown facts, but about understanding conceptual connections, including in this connections between concepts of ethical values. Its central task is to achieve confusion-free maps of the whole field of education, its aims, processes, cultural horizons, etc. It is different in its non-empirical nature from the history of education and the empirical parts of educational disciplines like psychology of education and sociology of education. At certain points it touches all three of these other fields, however. The history of educational ideas – about vocational education, for instance, the curriculum, or intelligence testing – is enhanced by a philosophical understanding of these issues, and vice versa.

Recent philosophical interest in the cultural horizons of our concepts brings philosophy of education closer both to general history and to sociology, including sociology of education. The work of a general sociologist like Anthony Giddens also overlaps at many points with work in the philosophy of social science: it would be good to see this overlap reflected in educational studies, where, in Britain at least, philosophers and sociologists of education have tended to keep their activities in separate compartments.

There are similar overlaps with the work of conceptually and hermeneutically orientated psychologists and to a small extent psychologists of education. But links between our area and theirs are, again, pitifully few, both in general and in the field of education. This has much to do with the attempts that have been made since the nineteenth century to free psychology from the clutches of philosophy and to put it on an independent, scientific footing. There are serious questions – philosophical questions – about how far a science of the mind is conceptually possible. Philosophers of education who raise such issues are not always popular among psychologists of education of a more scientific bent. In our view, it is a pity that the two disciplines do not work more closely together. No one should welcome confused ideas. If philosophers and philosophers of education can sort out conceptual confusions, as we believe they do, in, for instance, the theories of Freud, Piaget, Chomsky and Skinner, or theories about artificial intelligence or the IQ, psychologists should be the first to welcome this. To judge by the eclectic and underconceptualised nature of standard textbooks in educational psychology, that discipline would also benefit by cooperation with philosophers of education in a mapping of the mental concepts so as to provide a more adequate framework within which empirical studies can find their place.

So much for some of the relationships, actual and ideal, between analytic philosophy of education and other educational disciplines. As a mapping subject, it also has a special contribution to make to a conceptual overview of educational studies as a whole (see Hirst 1983; Elliott 1987).

Children's rights

The topic of children's rights touches on the one hand issues of practical educational policy and on the other fundamental issues at the heart of political philosophy. At the policy end there is public concern and debate about a number of questions raising issues of children's rights. Anxiety about child abuse involves, very basically, the child's right not to be harmed. Discussions of national curricula, common curricula, black studies and women's studies raise questions about the kind of education to which children have a right and the nature of that right. Connectedly, who should have the right to determine the child's education, particularly in areas like religious education and sex education, is vigorously debated and the claims of parents, the state, educational experts and children themselves are subject to searching assessment. 'Rights talk' is a familiar feature of the contemporary educational

scene. Some see it as introducing a strident, conflictful ethos into what could, and should, be a more harmonious resolution of differences. What light can a philosophical perspective throw on the substantive issues and also the meta-issue of the appropriateness of rights talk?

Rights and rights talk

We talked at the end of our section on the history and nature of analytic philosophy of its mapping function. We need now to try to map the place of rights and rights talk in our moral and political life.

Most familiarly, rights are a part of our legal vocabulary. As citizens, employees, house buyers and sellers, tenants and landlords living under a particular legal system we have rights. The nature and legitimacy of these rights poses no philosophical problems. The relevant documents tell us what they are, the procedures by which they were established and how they can be changed.

So far, so good. But what about the case where particular rights do not exist under a legal system? Did women not have the right to a vote before the introduction of women's suffrage? In this and other situations, the claim of campaigners is that there is a moral right, which needs to be recognised as a legal right. Indeed it can be argued that, underlying many rights enshrined in law, like the right to a fair trial, are fundamental moral rights.

What is involved, then, in talking of moral rights? Rights here are to be understood as legitimate claims. What is being asserted when it is claimed that P has a right to do X is that others have a duty (at least) not to prevent P from doing X, that this duty protects an interest of P's and that P should feel no embarrassment about insisting on the duty. Further, in a rights-based approach to political matters, the focus is not on what might be for the common good in a given community or on, say, the duties owed to the poor and needy, but on the rights of the individual understood as legitimate claims. A qualification is called for here though. Recently there has emerged the demand for community rights, i.e., rights of minority communities against majority communities. This demand is formally similar to that of the rights of the individual against state authority, though there are complications, particularly in relation to education (see Callan 1997).

Looking at four objections to a rights-based approach to political matters will both further clarify the notion of a right and point the way forward to the kind of justification which can be offered for this feature of our moral world.

1 It has been argued that rights is an egotistical notion which does not fit well with the development of communal values and a sense of our responsibilities to others. However, this is misconceived because, as the above analysis of rights indicates, rights and responsibilities are correlative. More than that, virtually all moral rights are reciprocal so that

P's right (e.g., not to be molested), which imposes a duty on Q, is also Q's right, which imposes a similar duty on P (though for a discussion of exceptions, see Hart 1984: 81–82). Thus, there is an interlocking network of rights and duties (cf. Houston 1992: 152–153).

2 Similarly, it has been argued that the moral focus should be on basic needs rather than rights, but again this is misconceived. Rights can and do protect basic human needs (Raz 1986). There can after all be rights to food and shelter. This is however a controversial position. Some would argue that the only legitimate rights are the so-called 'liberty' rights attached to citizenship, i.e., rights to religious toleration, freedom from arbitrary arrest, free speech, the right to vote and so on. Rights which require forbearance on the part of others rather than positive action and were conceived to protect individuals from the power of an oppressive state. By contrast, it is argued that socio-economic rights, or 'welfare' rights as they are sometimes called, are overdemanding and perhaps even impossible to realise since they violate the principle 'ought implies can' (see, e.g., Cranston 1967: 50–53).
Three points can be made about the second objection.

(a) The distinction between liberty and welfare rights is not as clear cut as is being suggested. Liberty rights too require considerable resources and positive action to keep them in place.
(b) It can be convincingly argued that welfare rights are necessary to the realisation of liberty rights. More forcefully, it can be argued that socio-economic needs are as important as any civil or political liberties and disease and malnutrition should be as much matters of concern as free speech if the point of rights is that they protect important interests of the person.
(c) Finally, in the charge that welfare rights are overdemanding and that in some cases, nationally or globally, we cannot satisfy them, Waldron identifies the assumption that the existing distribution of resources is to remain undisturbed. Thus, as he puts it, 'the "ought" of human rights is being frustrated less by the "can't" of impracticability, than the "won't" of selfishness and greed' (Waldron 1995: 580).

3 Another objection focuses on valuable feelings and attitudes, like love and trust, which seem to be eroded by rights. Marital happiness, for instance, is hardly secured when husband and wife insist on their rights. Also, granting people enforceable rights seems to make trust redundant when perhaps trust is essential to social life. However, we are not faced with an either/or situation. Love and trust can exist in situations in which the parties also have rights but do not need to assert them. And, importantly, if love and trust break down at least the parties are left with justice (see Houston 1992: 150; Kymlicka 1990: 167; Wolff 1996: 219).

4 Linked particularly to objections 1 and 2 above is the view that the peremptory and litigious nature of rights talk is not the appropriate tone for a moral community. However several writers warn of the dangers of being too quick to overthrow the language of self-assertion. In a particularly compelling example, designed to convince the reader that rights are 'a most useful sort of moral furniture', Feinberg (1980: 151) outlines Nowheresville, a society in which there is a moral code and a general attitude of benevolence so that people act towards one another much as they do in our society. There is a notion of personal desert, though people cannot (i.e., they have no right to) complain if they fail to get their just deserts, and there is a notion of duty, although all duties are owed to a sovereign or god. Thus if I fail to carry out my duties I am blameworthy because I have failed to respect the will of the sovereign but I have not committed an offence against my fellows. What Nowheresville lacks is a notion of rights. For Feinberg that makes it irredeemably flawed:

> Having rights enables us to 'stand up like men' [*sic*], to look others in the eye, and to feel in some fundamental way the equal of anyone. To think of oneself as the holder of rights is not to be unduly but properly proud, to have that minimal self-respect that is necessary to be worthy of the love and esteem of others. Indeed, respect for persons … may simply be respect for their rights, so that there cannot be the one without the other; and what is called 'human dignity' may simply be the recognizable capacity to assert claims.
>
> (Feinberg 1990: 151)

This, in Feinberg's view, is what gives rights their supreme moral importance. It is also what links rights to the idea of the liberal democratic state. For the political setting for such rights requires institutions which embody a concern for the individual as a responsible moral agent animated in his or her political conduct by principles of justice and freedom. The manifold complexities of the relationship between rights and notions of democracy can, however, only be gestured at here (cf. Harrison 1993). Our earlier, brief discussion of the different attitudes to liberty and welfare rights indicates something of this complicated relationship to broader and narrower conceptions of democracy. Certainly, however, at the centre of any conception of democracy is the idea of a citizen whose life is governed by his or her own thinking, feeling and decision making and for whom it would be intolerable if his or her life were to be subordinate to the shaping of the state or any other person, and this is what the basic democratic rights safeguard. The precise character of the democratic polity will depend on what rights, in what combination, are seen as basic – which liberty rights and/or welfare rights and in what mix.

Children's rights, citizenship and education

So, given this broad sketch of rights and their place in our moral and political world, what is there to be said about children's rights?

The great philosopher of liberalism, Mill, and more recently H. L. A. Hart would have said: not much. Mill famously excluded children and those below the age of legal majority from the right to control over their own affairs (Mill 1962: 73). Similarly Hart, who regards it as distinctive of rights that they can be claimed, asserted, waived or forgone, would not extend them to young children since they are unable to do any of these things (Hart 1984: 82). Neither, of course, would sanction the ill-treatment of children, but Hart, and probably Mill, would not want to claim that children had a right not to be harmed.

Partly in the wake of the 'children's liberation' movements of the late 1960s and early 1970s, this denial of rights to children provoked considerable debate in philosophy of education in the 1970s and 1980s (see, e.g., Crittenden 1988; Harris 1982; Kleinig 1976; Scarre 1980; Schrag 1977; Wringe 1981). Kleinig (1976: 10) suggests that the argument about children being unable to claim, waive, etc. rights is not a particularly compelling one, as this might apply to other (perhaps infirm or disabled) citizens to whom we would not deny rights. Perhaps more central to the idea of a right is the notion of the protection of important interests. These children certainly do have and many of them (e.g., those involved in not being harmed) are shared with adults. Thus, Kleinig concludes, for the most part the welfare of children is identical with that of adults and there is no reason why they should not be candidates for the possession of rights.

There is however a significant exception which exercises Kleinig and the other contributors to this debate. This is the basic right to liberty, non-interference with one's plans and projects. Writers are agreed that babies and very young children very obviously are not self-determined persons and so do not qualify for the liberty rights which the status of being self-determined brings with it, but differ on what follows from this.

Does this very lack of the ability to be self-determining provide part of the grounds for a right to an education, which develops this ability so necessary to flourishing in a democratic society? If so, what kind of education and how much is required to meet this right (Haydon 1977; Snook and Lankshear 1979: 29ff.)? If children do have a right to education, this gives them a welfare right not normally possessed by adults. We take up this idea of a right to education again in the next section.

Another line of thought has been: even if very young children do not share adult rights to liberty and other associated civic rights, it does not follow that all children do not share these. In this connection much ink and energy has been expended on the adult/child distinction (Harris 1982; Scarre 1980; Schrag 1977). Is there some kind of watershed between the two or is the passage from childhood to adulthood a more gradual process? Are some children more mature and capable of being self-directed than some adults?

What follows from this for the granting of citizenship rights? Writers vary on this, some arguing for something like the status quo with a chronologically defined age for citizen status (Schrag), others arguing for the idea of citizenship status for 'all reasonably competent language-users' (Harris). We have simply highlighted a couple of the ideas in this once hotly debated area and cannot do justice to the skill and subtlety of the argument and counter-argument. These issues have lain dormant for a while but it seems to us that they are highly relevant to the current debate about citizenship education in the UK.

Children's rights, parents' rights and education

One major area of analytic work, then, has focused on the complex ethical and political problems posed by the status of children in the political community. This is paralleled by another connected major focus: the issue of who should have the right to determine the form and content of children's education. Should it be the state? Parents? Children's rights come into this story in two ways. Firstly, as we saw earlier, some would argue for children's having a welfare right to education. Insofar as they are not themselves in a position to determine what this education should consist in (and this itself is a contested claim), who should protect their interests here and ensure that their right to education is realised? Secondly, some would invoke at this point a child's right not to be formed into a mould prescribed by its alleged protectors, whether political authorities, families, educational experts, or whoever. We examine some of these issues below.

Amy Gutmann (1987) outlines the case in which the right to control education is in the hands of the state. In what she terms a 'family state', like Plato's Republic, the state knows and establishes the good life for all its citizens. The family state, however, will have to demonstrate that it can satisfactorily establish what the objectively good life is for all its citizens. If it can't convincingly do this, and the philosophical track record here is not promising, then it is in danger of imposing a life on some people at least, which, according to their own moral view, is wrong. Thus the state's claim to have the moral authority to determine its citizens' education looks insecure.

In what Gutmann terms the 'state of families', the right to determine the form and content of children's education would rest with parents. The right of parents to determine their children's education is often defended as necessary to the realisation of the parents' autonomy. As Charles Fried bluntly puts it: 'The right to form one's child's values, one's child's life plan and the right to lavish attention on the child are extensions of the basic right not to be interfered with in doing these things for oneself' (Fried 1978: 152). Here, however, we run into potential conflict with the child's autonomy. Why should the autonomy of the parent be privileged over that of the child? Yet, perhaps parents' rights can be more adequately defended in a way, which

focuses on the child's good. The expression *in loco parentis*, for instance, seems to make the assumption that parents are normally best placed to determine what is in their children's interests. They know their children and, apart from exceptional cases, they have their children's welfare at heart in the way that no public body could. Even so though, the question still arises as to whether what the parent judges to be in the child's best interests really is so.

We seem to have reached an impasse. Can it be avoided by the appeal to a child's right not to be moulded, mentioned above? There is little support these days for the kind of child-centred ideology that has been used to back this. On this view, it is nature, not social institutions like families and states, which provides the direction to a child's education. Education is conceived as a process of development, with teachers as facilitators in nature's kindergarten rather than imposers of socially approved values. As we mentioned in the earlier section on analytic philosophy of education in general, the conceptual confusions in developmentalist doctrine have long since been fully exposed. So no way out of the impasse here.

Another possible way forward is to re-examine the notion of the state. If we have in mind, rather than Plato's Republic, a democratic state, is it so clear that we can dismiss the claims of the state to determine education? In a pluralist democratic state citizens will have particular moral beliefs and may well weight them differently from others, perhaps because of their allegiance to minority religious or ethnic groups. As citizens, however, they subscribe to the basic democratic principles of freedom and justice and to the institutions which embody them, as well as being committed to refining and adapting them to fit changing circumstances. Thus perhaps it can be argued that, simply to preserve the political order which protects citizens' rights to determine how they want to live, the state has a right to determine the education of its youngest citizens so that they grow up to understand these principles and their institutionalisation and are committed to live according to them.

Clearly this does not solve all the problems of the rights of parents from ethnic and religious groups who have reasons to determine the education of their children. At the very least, however, it establishes a framework in which those claims and rights can be discussed and weighed in public debate. This is exemplified by recent writers in this tradition (see, e.g., Callan 1985; McLaughlin 1984, 1985; Gardner 1988) who debate the justice of the claims for separate educational provision for different groups with careful attention to the fine detail of the cases advanced.

Conclusion

How well does the topic of children's rights exemplify the points made towards the beginning of this chapter about the methodology of analytic philosophy of education? From one point of view, it belongs with issues which were once topical in educational circles as a whole, but in which interest has

now largely abated. As we said, the heyday of children's rights occurred in the children's liberation movements of the late 1960s and 1970s. Muddled thinking in this area, e.g., to do with overlooking relevant differences between children and adults, engaged analytic philosophers of education in the traditional negative task of their brand of philosophy, of exposing conceptual confusions. Once these problems were cleared up to most people's satisfaction, they disappeared from the agenda. But this is not to say that the topic of children's rights is moribund. As we have seen, the claim that children have a right to education has led to discussions, which show no signs of ceasing, about what that education should consist in and who should have the right to determine its content. In other words, the weight now falls on these traditional mainstream preoccupations of philosophy of education rather than on children' rights seen as a topic on its own. These discussions bring out very well points we made earlier about the role of connected analysis in our tradition. We have made it clear how the concept of rights in general is connected with such concepts as law, morality, obligation, welfare, liberty, liberalism. Investigating children's right to education in particular leads one into a closer investigation into this same range of concepts, but now in the context of a discussion of educational aims, as well as into other aims-related concepts. Thus much contemporary writing revolves around the notions of the promotion of autonomy, its connection with welfare or well-being, its connections with moral education, the nature of morality and the place of rules and virtues within it, the notions of liberal democracy, citizenship, the state, cultural pluralism, communitarianism and nationality. Among other notions, which also find their place in this web of interconnections, are educational aims to do with the cultivation of knowledge, skills, abilities, aesthetic responsiveness and preparation for work. Understanding how these and other ideas can be related together in different ways forms a large part of the substance of contemporary philosophy of education in the British analytical tradition. One of the routes into this complex – and untidy – network is via reflection on the child's right to education.

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3 Reflective equilibrium as a method of philosophy of education

Justifying an ethical conception of children's sexual rights[1]

Ben Spiecker and Jan Steutel

Introduction

Like so many other philosophers of education, we have tried to develop and discuss ethical conceptions regarding educational topics, including topics in the fields of civic education and sexual education. An ethical conception may be defined as a theory in which ethical claims are made and defended, for example, the claim that tolerance is a desirable or valuable trait of character, or the claim that civic education should promote critical thinking, or the claim that sexual activities should comply with the principle of mutual consent, or the claim that paedophilia is morally wrong.

In everyday life, too, ethical beliefs are held, defended and criticised. We may, however, assume some difference in quality between everyday and philosophical ethical disputes. In philosophy, including philosophy of education, the reflective attention that is paid to the justification of ethical beliefs is much more sophisticated. Penetrating accounts are given of the criteria that should guide us in assessing the reasons on which our ethical claims are based. Accordingly, the practice of justifying ethical beliefs is much more systematic, which means, among other things, that it is much more *methodical*. A methodical way of doing things implies that certain procedures are followed or particular methods applied. But which methods, if any, should be observed in justifying ethical claims concerning educational matters? And how could these methods themselves be justified?

Before going into these difficult questions we want to make clear that we prefer the term 'ethical' to the term 'moral'. The sphere of the ethical is much broader than the sphere of the moral. In ethical thinking many evaluative notions are used that are not specifically moral. Take, for example, 'admirable', 'excellent', 'advisable' and 'rational'. All these notions play an important role in ethical discussions but none is tied to moral evaluation in particular. Indeed, even central ethical terms like 'virtue' and 'good' are often used in a non-moral way, for example, when we speak about self-regarding traits like prudence and resourcefulness on one's own behalf.

Moreover, ethical evaluations often appeal to non-moral ideals of life or non-moral conceptions of the good. Examples are the rather elitist intellectual ideal of the educated person, or some purely aesthetic ideal, according to which things like refined elegance, sophisticated sensibility and artistic creation should be regarded as in themselves commanding our awe and admiration.

There is another point that deserves some preliminary attention. The ethical conceptions we are talking about are part of so-called substantive ethics. It is important to distinguish substantive ethics from *ethical epistemology*, which is an area of meta-ethics. Ethical epistemology asks whether, when and how substantive ethical beliefs can be justified or shown true. Because we are interested in methods of justifying ethical beliefs, our reflections are part of ethical epistemology. But we shall illustrate our meta-ethical views with some substantial claims, in particular with ethical claims about children's rights in the sphere of sexuality and with regard to sexual development.

Justifying conceptions

First, a distinction has to be made between possible *criteria* and possible *methods* of justification. If we are, in this context, discussing criteria of justification, we are talking about the conditions under which ethical claims are justified or credible (or under which a person has good reasons for believing some ethical claim). Methods on the other hand, must be conceived of as means to find out whether or not ethical claims are justified or credible (or whether or not a person has good reasons for believing such claims). The idea is that following the methods will increase the chance that our ethical beliefs will indeed meet the criteria. Suppose, for example, that an orthodox Christian thinks that homosexual behaviour is morally wrong because it is against the will of God. He adheres to the divine command theory and his criterion of justification is that a moral belief is justified or credible if, and only if, the belief is held or commanded by God. Possible methods of justification would be appealing to the Scriptures (e.g., to Leviticus 18: 22), consulting religious authorities, or any other procedure which puts him in the best position to find out what God commands.

Meta-ethical discussions about the criteria of justified ethical beliefs are dominated by two basic theories: *foundationalism* and *coherentism*. Not only different versions but also different explanations of ethical foundationalism have been proposed and defended. It could be maintained, however, that every foundationalist holds the view that our ethical claims are justified if, and only if, either: (1) they are part of an epistemically privileged class of beliefs that are justified independently of any inferential relations with other beliefs; or (2) they bear appropriate inferential relations to beliefs that are part of the privileged class (Sayre-McCord 1996: 149). Given this criterion of justification, the most obvious methods of justification will

consist in ways of showing (1) that certain beliefs are self-evident or based on non-doxastic states, and (2) that other beliefs are inferentially (by deduction or induction) connected with these foundational ones. Classical moral intuitionism is an example of foundationalism (Sinnott-Armstrong 1996: 25–26). This theory is a version of moral realism, that is, an ontological view that maintains that there are moral facts, not just moral opinions. These moral facts, for example, the rightness of a certain type of action, can be known by intuition. And such intuitions are taken as self-evident moral beliefs from which non-fundamental moral judgements can be derived.

The other dominant account of the criteria of justified ethical claims is coherentism. How exactly coherentism should be defined is a matter of controversy, but at least there seems to be consensus about its purist form, which is also the most simple (Sayre-McCord 1996: 140, 151–152; Sher 1997: 146). Negatively, pure coherentism says that there is no privileged subset of fundamental ethical beliefs. It denies the possibility of ethical beliefs that are justified independently of any inferential relationship they might have with other beliefs. Positively, it claims that whatever credibility an ethical belief enjoys is due to its relationships with other beliefs, whether ethical or non-ethical. Ethical beliefs are justified only if, and then to the extent that, they cohere well with a coherent system of beliefs. Coherence is not just a function of logical consistency but also a matter of connectedness by inferential relations. A consistent set of ethical beliefs may be a collection of mutually indifferent judgements. But a coherent set of ethical beliefs is a network of mutually supporting claims.

In our view, pure coherentism cannot be regarded as an adequate account of justified ethical claims. It is hard to see how coherence alone could yield credibility, or how increased coherence of a set of beliefs could by itself make the set more justified. Indeed, a mutually supportive network of ethical claims could be created that would be fully unacceptable, for example, by constructing a coherent set of ethical claims regarding sexual behaviour that would violate our most deeply held moral convictions. To meet this objection, pure coherentism should be reformed into a more sophisticated version, in particular by introducing so-called *initially tenable beliefs* (Elgin 1996: 13–15, 102–110; Griffin 1996: 11–18). Such beliefs do have a degree of credibility independent of their inferential relations with other beliefs and function as starting points for creating coherent ethical conceptions that are credible.

Because pure and simple coherentism holds that no one belief starts with greater credibility than any other, it is incompatible with introducing initially tenable beliefs. But acknowledging such beliefs does not imply embracing a version of foundationalism. Though initially tenable beliefs are in some sense epistemically privileged, they function differently from foundational beliefs (Elgin 1996: 110; Griffin 1996: 12). Unlike a foundational belief, an initially tenable conviction is only a reasonable starting point and

it can completely lose its credibility in the process of creating coherence. Moreover, foundational beliefs cannot augment their original degree of credibility, whereas the credibility of initially tenable beliefs will be enhanced by integrating them into a coherent set of beliefs.

Also, and in another respect, pure coherentism should be improved in order to be acceptable. The sophisticated version of coherentism we are inclined to defend not only introduces initially tenable beliefs but also endorses the criterion of *comprehensiveness*. Other things being equal, a more comprehensive coherent set of beliefs is more credible than a less comprehensive one. Suppose we construct an ethical view regarding human sexuality, which integrates our relevant initially tenable convictions into a coherent system. And suppose, too, that we have ethical conceptions concerning several other topics, which are also coherent systems of beliefs in which our initial commitments are aptly taken into account. Then the credibility of our ethical view on human sexual interaction would be increased if it could be integrated with those other views into a more comprehensive coherent belief-set.

Our guess is that the criteria of justified ethical beliefs should be explained in terms of the indicated sophisticated version of coherentism. The more comprehensive and coherent an ethical conception is, and the better it takes into account our initially tenable beliefs, the stronger is the justification of its constituent parts. Given this compound criterion, which *methods* of constructing an ethical conception would then be appropriate? What kind of method should we comply with if we are striving for an ethical conception that meets the standards of sophisticated coherentism? We believe that the most suitable procedure of justifying our ethical beliefs is the so-called method of *reflective equilibrium* (Rawls 1972: 19–21, 48–51, 1993: 8, 28, 45). The key idea underlying this method is 'that we "test" various parts of our system of moral beliefs against other beliefs we hold, seeking coherence amongst the widest set of moral and non-moral beliefs by revising and refining them at all levels' (Daniels 1996: 2).

The method of reflective equilibrium consists of four major steps. To start with, we are advised to articulate and collect our *initial ethical judgements*, that is, our ethical intuitions regarding the object of ethical study that have some initial credibility. For example, if we want to develop an ethical conception concerning human sexual behaviour, a useful start would be to collect and write down a rather extensive set of our initial ethical beliefs concerning different aspects of sexual interaction. It is quite possible, however, that some of these judgements – perhaps even many – should be mistrusted because they were made under conditions which tend to distort our ethical competency. Maybe we would not have made some of our initial judgements if we had been better informed about the situation at hand, or not excessively focused on our own interests, or less upset, frightened or hasty. As is well known, syntactic theory is not based on all initial judgements of grammaticality but only on grammatical performances that are

expressive of our syntactic competency. In a similar way, an ethical theory should not be built on all initial ethical beliefs but only on 'those judgements in which our moral capacities are most likely to be displayed without distortion' (Rawls 1972: 47). Therefore – and this is the second step in the method of reflective equilibrium – our initial beliefs need to be cleared of judgements that are not made under conditions favourable to the exercise of our ethical judgement competency. Moreover, we select only those initial ethical beliefs in which we have the greatest confidence. In the first step we articulate and collect our ethical intuitions that have some initial credibility, but in the second step we reduce this set of preliminary beliefs to the subset of our firmest convictions. Following Rawls (1972: 47–48), we shall call our initial beliefs that survive this two-fold filtering process our *considered ethical judgements*. So, if we want to construct an ethical theory of human sexuality, the second step we should take is to select those initial judgements regarding sexual behaviour which are made under favourable conditions and which have the greatest initial credibility. The result is a set of considered ethical judgements concerning human sexuality, which should be taken as basic data for designing our ethical theory.

In a third step, we try to construct an ethical theory by explicating *ethical principles* that account for our considered judgements. Suppose that one of our considered judgements regarding human sexuality is that paedophilia is morally wrong. Then we should raise questions like: 'What are our implicit reasons for considering paedophile behaviour morally impermissible?' or 'What exactly makes having sex with children morally reprehensible?' Answering such questions will be tantamount to formulating moral principles that underlie our moral intuitions regarding paedophilia, for example, the principle of mutual consent or the principle of non-exploitation (Spiecker and Steutel 1997). Likewise, we try to give an account of other considered judgements concerning sexual behaviour, until we have a moral conception of human sexuality which gives a satisfactory justification of our intuitive ideas.

It is important to notice that the third step may imply adjusting both the suggested ethical principles and our considered ethical judgements. It is not at all excluded that ethical principles that seem to be *prima facie* quite tenable do have implications that violate some of our firmest ethical convictions. Then we have to adjust those principles, possibly by revising them or by rejecting them as indefensible, even if they give an adequate account of some of our strongly held convictions. The general strategy is to figure out what the implications of particular principles are, to consider if these implications are intuitively acceptable and to adjust the principles wherever deemed necessary. However, conflicts between ethical principles and our considered judgements may also lead us to revise the latter. It is true that we sorted out our firmest convictions, but different from foundationalism's basic beliefs, they still are *initially* tenable beliefs only. Tensions between ethical theory and our deeply held convictions are normally solved by

revising the former. But our ethical intuitions may prove to be irregular, not fully consistent and sometimes distorted, because of which they may lose their initial credibility. In other words, taking the third step involves going back and forth between our considered ethical judgements on the one side, and the general ethical principles proposed to make sense of our considered judgements on the other, adjusting both wherever appropriate, until eventually they fit together into one coherent ethical view. The result is a reflective equilibrium between ethical intuitions and ethical principles: our intuitions do support the principles and the principles do increase the initial tenability of our intuitions (cf. Strike and Soltis 1998: 97–98).

The result of the third methodical step, the match between our considered ethical judgements and a set of ethical principles, is called *narrow* reflective equilibrium. Reaching such a limited form of equilibrium after due reflection, however important this step may be, is still not enough for taking our ethical beliefs to be justified. According to the criterion of comprehensiveness, also all kinds of other beliefs that have some inferential bearing on our considered judgements and ethical principles should be taken into account. With reference to Daniels (1996), we shall call such epistemically relevant beliefs *background theories*, which may be both ethical and non-ethical. Just like our considered ethical judgements, background theories are no Archimedean points but can be revised in the light of other beliefs. But they can also force us to break open our narrow reflective equilibrium and to adapt and revise different parts of it, including some of our considered convictions. Thus the criterion of comprehensiveness incites us to take a fourth step: working back and forth among our considered judgements, ethical principles and background theoretical considerations, making adjustments wherever appropriate, until a so-called *wide* reflective equilibrium has been achieved.

We suggested above that the principle of mutual consent is one of the moral principles that underlie our moral convictions regarding particular forms of sexual behaviour. However, not only some of our considered moral judgements are sustaining the indicated principle, also ethical background considerations could increase its credibility. Elsewhere (Steutel and Spiecker 1997: 402) we argued that the principle of mutual consent can be justified in terms of a Kantian ethical theory of the person, particularly the idea that persons have intrinsic dignity because they are rational agents. This ethical background theory supports the principle of mutual consent on grounds to some degree independent of its match with the relevant considered judgements.

Non-ethical background considerations are perhaps even more important in the process of justifying our ethical beliefs. According to Sher (1992: 96), justifying an ethical belief does not exclusively consists of showing it to cohere well with other ethical beliefs, but also essentially involves appealing to non-ethical views, especially to psychological, political and economic-scientific theories. He rightly observes that we would be better not to set

any a priori limits on the kinds of non-ethical beliefs that may contribute to the justification of ethical claims. For example, in our underpinning of the intuition that paedophilia is morally reprehensible, we introduced as a scientific background theory Finkelhor's framework of trauma-causing factors in the experience of sexual exploitation (Finkelhor *et al*. 1986). Moreover, having some understanding of the social organisations and societal structures in which ethical views are embedded is also important in the process of justification (Williams 1985: 131). For example, the question can be raised as to why in Ancient Greece sexual activities between adults and children were not regarded as morally problematic. Another important reason for introducing non-ethical beliefs is the requirement that our ethical views must be able to stand the so-called *feasibility test* (Flanagan 1991: 31). We have to make sure that living according to the ethical views we are defending is possible for creatures like us. If the results of empirical research show that our ethical theory aims far too high, we have to revise it and make it more practicable.

To sum up, then, it may be stated that the method of reflective equilibrium contains four basic steps: (1) the collection of initial ethical judgements; (2) filtering our initial judgements to arrive at considered ethical judgements; (3) construing the best fit between our considered judgements and ethical principles (narrow reflective equilibrium); and (4) figuring out what the best fit is between our considered judgements, principles and background theories (wide reflective equilibrium). Now we shall briefly focus on some methods of reflection on central concepts, which are, in our view, essential parts of the overall method of reflective equilibrium. After all, concepts play a crucial role in both developing and justifying ethical conceptions.

Description and rescription

Before going into the procedures that we might observe in reflecting on concepts, it is important to explain briefly the distinction between concepts and ethical conceptions (cf. Steutel 1991: 86–89). If a concept (e.g., the concept of a virtue) corresponds to a word (e.g., the term 'virtue'), it is roughly identical with the meaning of that word (e.g., the meaning of the term 'virtue'). And the meaning of a word is best conceived as a function of *semantic* rules that lay down the correct use of the word in question (e.g., the rule that the term 'virtue' is used correctly only if reference is made to a trait of character that is for some important reason desirable or worth having). An ethical conception, however, is a normative view about a particular topic or subject (e.g., human virtues). Such a view is at least partly constituted by a more or less coherent set of *ethical* principles (e.g., the principles that generate important justifying reasons for regarding certain traits of character as virtues).

Although concepts are rather different from ethical conceptions, they are

quite easily mixed up, particularly if ethical principles are erroneously taken as semantic rules. A famous example is R. S. Peters' analysis of the concept of education. For years, he defended the view that the development of all-round knowledge and understanding should be considered a central semantic criterion of 'education'. In his last publications, however, he frankly admits that his analysis has some serious flaws (Peters 1979: 466; 1983: 37, 41). However important the development of all-round knowledge and understanding might be from an ethical point of view, he wrongly regarded his explanation of this educational aim as a clarification of the meaning of the term 'education': 'What has happened is that an aim of education has been taken as *the* aim and incorporated into the concept of "education" ' (Peters 1979: 481).

Elsewhere (Steutel 1988), we tried to elucidate a distinction between two different forms of dealing with concepts, namely, the *descriptive* and *rescriptive* approach. The methods of the former approach, which is normally called conceptual analysis, are rather well known. When, for example, the claim is made that the child, just like an adult person, is a sexual being, an analysis of the concept of sexual desire can be called for. Perhaps the best thing to do is to start with paradigmatic cases (examples of desires that are without any doubt sexual ones – e.g., the yearning for physical contact for the sake of orgasmic satisfaction) or, just the opposite, with contrary cases (examples of desires that are definitely not sexual ones – e.g., a parent's desire to cuddle her baby). On the basis of these cases, semantic rules can be articulated that actually govern the correct use of the term 'sexual desire' and that explain why the term is applicable to the paradigmatic but not to the contrary examples. Subsequently, we could trace so-called counter-examples, which, if we find them, would force us to adjust our description of the semantic rules.

The method of conceptual analysis shows great structural resemblance to the method of reflective equilibrium. What we are trying to do when analysing a concept is go back and forth between our linguistic intuitions and articulated semantic rules until all our beliefs concerning the application of the corresponding term fit together into one coherent system. Interpreted in this way, conceptual analysis looks very much like the method of narrow reflective equilibrium. In both cases initial judgements are filtered, resulting in a collection of considered judgements (respectively, linguistic and ethical convictions). Then a set of rules or principles is proposed (respectively, semantic and ethical standards) which systematises the considered judgements in an economic way.

Nevertheless, important differences between the method of conceptual analysis and the method of reflective equilibrium can be pointed out. Conceptual analysis aims at *explication* and *description*, whereas reflective equilibrium aims at *justification* and *prescription*. Consequently, in conceptual analysis semantic rules should be adjusted to our filtered or considered linguistic intuitions, whereas in reflective equilibrium our filtered ethical intuitions may be adjusted to principles, and also, in case of wide reflective

equilibrium, to background theories. For example, the ethical principles of an orthodox-christian view on sexuality are supported by religious background theories. Criticising these theories may lead to adjusting or dismissing orthodox ethical principles, and, consequently, to a revision of the considered judgements.

In analysing concepts as part of construing a coherent ethical conception, our description of the semantic rules should be *integrated* in a wide reflective equilibrium. How should we conceive of such a process of integration? Normally, when developing an ethical conception, we take the results of conceptual analysis as a starting point. By analysing the relevant concepts we give a logical geography of the subject matter of the ethical conception to be developed. For example, by analysing the concept of sexuality we demarcate the sphere which should be the focus of ethical conceptions regarding human sexuality. The ethical principles should, so to speak, remain within the limits of the semantic rules. Therefore, the results of conceptual analysis do not form another background theory, but could better be typified as a *foreground* theory, that is, as a theory that opens up and demarcates the logical space of our ethical investigations.

However, under particular circumstances the integration of semantic rules in wide reflective equilibrium could also involve making some alterations. Instead of taking the current semantic rules as fixed starting points, we could also adjust them and introduce alternative semantic rules, thereby creating substitutive concepts. Such a way of dealing with concepts is a form of *rescriptive* analysis. As a rule, we should be rather reluctant about changing prevailing semantic standards, in particular because such alterations often create much confusion and misunderstanding. That's why we usually integrate the results of conceptual analysis into a wider reflective equilibrium without amending them. But there can be pressing theoretical reasons for considering current concepts inadequate and to replace them with ones that are more adequate.

Another form of rescriptive analysis, which is almost indispensable for developing an adequate ethical conception, may be called *typing*. In contrast with the form of rescription explained in the preceding paragraph, typing does not consist in substituting current semantic rules for other ones, but in supplementing them with more specific rules, especially by making more subtle distinctions or by introducing more refined classifications. Therefore, typing goes hand in hand with introducing new concepts, and to express these concepts often new terms (or new combinations of existing terms) are created. An example is the distinction between positive and negative sexual rights of children. An adequate explanation of the compounded concept of a sexual right could be confined to a description of the current semantical rules. But making and explaining the distinction between positive and negative rights involves supplementing the current rules with more specific ones. Our expectation is that this form of typing will be helpful in developing and justifying a moral conception of children's sexual rights.

Children's sexual rights

In the context of this book, we are expected to exemplify the recommended methods by applying them to the topic of children's rights. In the preceding, we illustrated our explanation of reflective equilibrium by referring repeatedly to the topic of human sexuality. Now we want to combine these topics, by showing how the method of reflective equilibrium could be helpful in developing a moral view on children's sexual rights. Our exploration will be rather tentative, just indicating how we might proceed and what the results of our reflections might be.

Getting some clearness about the topic to be discussed would be a sensible start to our philosophical undertaking. For how could we construe an adequate moral theory if we are confused about its subject matter? For example, is the object of our study confined to the child's sexual behaviour or do we also want to include sexual behaviour of other people towards the child? And what exactly do we mean when we talk about sexual behaviour? Is it logically possible for someone who is sexually immature to be one of the agents in sexual interactions? If not, how could we properly speak of the child's sexual behaviour? Or are we only focusing on the growth of the child into a sexually mature human being? It is hard to see how such questions could be answered without carrying out some conceptual analysis. In particular we should offer some description of the semantic rules which govern the correct use of terms like 'sexual activity' and 'sexual desire' (cf. Spiecker 1992; Soble 1998: 3–25). All these reflections will result in a 'foreground' theory in which the subject matter of the moral view we are supposed to develop is defined and delineated.

After our preliminary conceptual clarifications we continue our philosophical inquiries by applying the methodical steps of reflective equilibrium. First we try to register what our immediate moral responses are to the various aspects of the topic defined, for example, to the child's sexual behaviour, to different forms of having sex with children, or, more generally, to the ways in which adults deal with the child's sexuality. The second step is to eliminate initial judgements we are not confident of, or have made without adequate information about the situation, or have made in a state of mind conducive to moral error. The intuitions that survive this process of pruning are our considered judgements. Some of the present writers' deepest considered convictions are that sex between adults and pre-pubescent children is morally wrong, that sexual exploitation of children, including sexually mature children, is morally reprehensible, that incest between the parent and the child is morally detestable (Spiecker and Steutel 2000), as well as that mutilation of female genital organs (clitoridectomy) is to be condemned, that parents should not suppress the child's persistent homosexual proclivity and that boys and girls have essentially the same sexual rights.

The next step is to formulate moral principles that account for our considered judgements, to explore the practical implications of those principles and to test the implications against our moral intuitions. Given the aim

of our investigations, the principles we are looking for should be construed in terms of rights. But what kind of rights? In philosophy of law rights are classified in various ways, according to different criteria, and in order to introduce the relevant distinctions we need to do some typing. In particular the distinction between positive and negative rights seems to be important in the context of our enterprise (cf. De Ruyter 1993: 91). Negative rights correspond to negative duties or prohibitions, that is, to duties to refrain from certain actions (or to abstain from doing X). Normally negative duties are universal, which means, roughly, that they apply to all human beings. Positive rights correspond to positive duties or imperatives, that is, to duties to perform certain actions (or to perform X). In general, positive duties are specific, which means that they only apply to particular agencies or institutions, or to persons who have a particular role, function or position. Although we do acknowledge the possibility of positive sexual rights (cf. Ives 1986), we want to confine our discussion to a brief presentation of three negative rights that accommodate and systematise our considered judgements quite well.

Firstly, the child has the right not to be sexually abused. On the basis of empirical research it can be demonstrated that sexual abuse, including sexual exploitation, can severely harm the child's cognitive-emotional development and therefore its sexual development as well (Finkelhor *et al.* 1986). This right corresponds to the negative duty that everybody (and not only parents and teachers) should abstain from sexually abusing children.

Secondly, the child has the right not to be obstructed regarding the development of those physical powers that form the pre-conditions of sexual development. This right, too, corresponds with a negative duty, namely, the duty to refrain from impeding or stunting the growth of the physical equipment needed for mature sexual functioning later in life. Accordingly, every mutilation of the sexual organs that will seriously affect the development of capacities for having sexual pleasure is forbidden.

Thirdly, the child has the right not to be impeded in developing and practising its own conception of non-morally good sex. Different from sex that is good in the moral sense, sex that is non-morally good is sex that is pleasant, satisfying or fulfilling. What kinds of sexual activities people experience as being non-morally good may be rather divergent, ranging from heterosexual to different forms of homosexual activities, from adventurous and exciting sex to sex that is familiar and safe, from a one-night stand to sex within a long-standing loving relationship. Corresponding with the third right is the negative duty not to hinder the child in exploring and developing its own sexual preferences and orientation. In this context Ives speaks about 'ensuring that children and young people have the right to express their sexuality' (Ives 1986: 152). Obviously, this does not imply that parents or other educators never have to draw the line somewhere. Non-morally good sex should remain within the boundaries of what is morally permissible (cf. Steutel and Spiecker 1997).

We believe that our considered judgements and the indicated negative rights nicely fit together into one coherent moral view. With reference to the criterion of comprehensiveness, however, we could make our moral beliefs regarding children's sexuality more credible by integrating them into a more encompassing coherent belief-set. This could be done in two different ways. The first way is to extend the attained narrow reflective equilibrium by trying to justify the indicated negative rights in terms of moral principles that are much wider in scope. For example, the right not to be sexually abused could be justified by appealing to principles that cover all human sexual interactions, in particular the principle of mutual consent and the principle of non-exploitation (cf. Belliotti 1993: 195–205). Moreover, the right of the child not to be impeded in developing and practising its own conception of non-morally good sex could be interpreted as a specification of the principle of liberty or non-interference, which applies to any human interaction whatsoever (cf. Peters 1966: 179–192).

The second way is to take the methodical step from a narrow to a wide reflective equilibrium by introducing background theories. In fact we already made an appeal to some of those theories in our explanation and justification of children's sexual rights, for example, to the different classifications of rights in the philosophy of law, to the meta-ethical distinction between the morally and the non-morally good, as well as to the results of empirical research into the effects of child abuse on the child's cognitive-emotional development. Moreover, moral principles that are part of the indicated narrow reflective equilibrium, like the principle of mutual consent and the principle of liberty, seem to get epistemic support from a Kantian background theory of the person. And last but not least we should make sure that our moral view can stand the feasibility test, especially by demonstrating that acting in accordance with the indicated rights and corresponding duties is not excluded by psychological theories.

If we succeed in bringing all of these beliefs into wide reflective equilibrium, our moral view on children's sexual rights will meet the criteria of sophisticated coherentism and therefore may be regarded as justified.

Some concluding remarks

Our sketch of sophisticated coherentism and the method of reflective equilibrium has been rather rough and global. We simply skipped all kinds of interesting details and, what is worse, we did not go into the in-depth discussions about weak points or possibly fatal flaws of the meta-ethical position we defended (cf. Brandt 1979: 16–23; Siegel 1992; DePaul 1993; Daniels 1996: 29–33). Neither did we try to elaborate our account by confronting it with important recent views in the fields of ethics and moral-educational research, in particular with so-called virtue ethics and the virtue approach to moral education (Carr and Steutel 1999). For example, it would be quite exciting to chart the relationships between considered ethical

judgements and the judgements of the virtuous person, or to examine the possibility of explaining the practical deliberations of the virtuous person in terms of wide reflective equilibrium.

But however sketchy and incomplete our account has been, our conclusion is that there are indeed important methods of philosophy of education. If we have the intention of developing a justified ethical conception concerning certain aspects of education, it is sensible to observe in a properly integrated way both the method of reflective equilibrium and the indicated methods of reflecting on concepts. However, one should not forget that learning 'how to do' philosophy of education, and to do it properly, implies much more than reading publications in ethical epistemology. More important than getting theoretical information is being trained under authoritative supervision.

Notes

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4 An analytic approach in philosophy of education

The case of children's rights

Colin Wringe

Introduction

The purpose of this chapter is not primarily to claim particular rights for children or to advance new arguments about the nature and justification of children's rights. This has been attempted at some length elsewhere (Wringe 1981). My present purpose is, rather, to use the issue of children's rights as a case study to show how the philosophical method of carefully unravelling concepts and the relationships between them may be helpful in resolving substantive philosophical, not to say practical, misunderstandings. From the above it will be clear that I am concerned with an 'analytic' approach to philosophy in the sense suggested by John and Patricia White (Ch. 2 in this collection), rather than in the earlier sense of searching for basic propositions supposedly corresponding to the nature of reality. This chapter may therefore usefully be read in conjunction with Chapter 2.

In taking an analytic approach to questions about children's rights, one is concerned first of all to establish the meaning and nature of the key concepts involved, with a view to establishing the import of claims being made and, in particular, exposing ambiguities which may lead to misunderstanding, and thus obstruct the progress of discussion. This, however, is but a preliminary to two further and characteristic steps in the process of analysis. These comprise an examination of the justification of the claims being made, paying particular attention to the different modes of justification which may be appropriate to different kinds of claims and, finally, a consideration of the implications of such claims as may seem to be justified in relation to particular institutions and practices, larger world views or fundamental philosophical positions. In requiring us to give attention to each of these characteristic tasks of analysis in turn, issues surrounding children's rights provide a particularly good example of a topic in philosophy of education that is amenable to exploration along these lines.

Meaning

As John and Patricia White point out, one of the more misguided criticisms of so-called analytic philosophers has been that they are much taken up with the meanings of words to the neglect of more fundamental philosophical questions or attempts to confront the great intellectual issues of our time. All too often, however, a failure to attend carefully and methodically to the tasks of clarifying meaning, justification and implication referred to above may result in discussion proving abortive. People appear to be talking past rather than to each other and discussion may become acrimonious and even end in expostulations of anger and disbelief. This is nowhere more evident than in discussions about the nature and status of the rights of disempowered categories of human beings such as women, black people, the economically disadvantaged and especially children. In the course of such debates sincere misunderstandings may lead to mistaken anxieties on the one side, or on the other that more is being demanded or denied than is actually intended when particular rights claims are made or rejected.

This was all too apparent in the discussion of those supposed personal and political rights sometimes demanded for school students in the wake of the 1968 disturbances on university campuses, the degree to which children might legitimately be constrained and coerced in their own interests as seen through adult eyes or claims that education is a right rather than a branch of charitable social and economic welfare policy in return for which recipients owe a duty of gratitude and deference. Such misunderstandings may, indeed, have the result that, to many of a conservative disposition in schools, the mere mention of rights in relation to the young, rather than any particular rights claim made on their behalf, may function as a red rag to a bull, while to those of a radical temper any demur with regard to claims for basic political rights of freedom and equality on behalf of any group whatsoever may be seen as a provocation to demonstration and revolt. The first group have been inclined, on a number of grounds considered later, to assert that children are disqualified from having any rights at all, while the second have represented the constraints and disciplines of childhood in the rhetorical language of incarceration, torture and political oppression. If such confrontational views have arisen in the past and even continue to linger in some places this is largely because, when the rights of children come up for discussion, the debate so often takes a wrong turn. If we are asked 'Well, do children have rights or not? Can we not have a straight answer to a straight question for once?', to answer simply 'Yes' or 'No' is likely to lead some to accuse us of licensing everything from compulsory Latin verbs to paedophilia and infant mutilation or others to envisage the terrifying prospect of a total breakdown of school and family discipline with well-meaning adults being led away in chains for presuming to criticise young ruffians' conduct, appearance or school work. Clearly enough, the proper response to the question 'Do children have

rights?' is the all too readily parodied response of the analytical philosopher: 'Well, it all depends on what you mean by rights'. This is not to sit on the fence or indulge in equivocation but to insist that no sensible answer can be given to this question until it is clear what kind of rights are being discussed (for upon this will depend questions of justification) or what else one's answer is supposed to commit one to.

The process of clearing up confusions about the meaning of 'rights' began well enough with Hobbes' (1968) celebrated distinction between '*lex*', by which all are governed, and '*jus*', which establishes what an individual may do or have and may sometimes be limited by law, and sometimes not. This correctly diagnoses the all important but all too often misunderstood relationship between rights and other moral concepts by establishing that rights are primary and that law simply comprises those constraints we may be presumed to accept for the sake of our security and well-being. Sadly the situation is obfuscated by Bentham (1971), for whom the basic moral concept is not mutual independence but utility, and who, in a significant metaphor in this context, makes rights the 'child' of law, and therefore subordinate to it. It is not, perhaps, too much of an exaggeration to say that the issue of whether rights are fundamental to our moral understanding or whether they are the derivatives, if not of law then at least of some form of higher order moral principle, is at the root of many rights disputes, including those relating to the rights of children.

We need waste little time in dealing with the objection, based on Bentham's claim that rights not derived from law are nonsense if not actually nonsense on stilts, that children cannot have the right to this or that because the law of their country vouchsafes them no rights, forbids them to do certain things or places them under the authority of certain adults. The claim that even those laws which protect children from exploitation and abuse or assure them certain benefits, including education, do not confer rights because children may not claim those rights in court for themselves (Sachs 1973) may make good sense in jurisprudence, but it does not answer the concerns of those using it outside that particular, limited sphere. Legal usage is not the central issue when it is claimed, for example, that children have the right to choose their own companions, determine their own appearance, exercise some control over their own education or have their preferences (and not merely their best interests as determined by adults) taken into consideration in custody suits.

The obvious but often overlooked distinction between legal and moral rights may also prove misleading in the discussion of the moral rights of children in other ways. There is certainly a usage according to which rights are only truly rights once they are implemented. Thus someone might say: 'A child born out of wedlock now has the right not to be stigmatised as illegitimate' even though we may also feel that such discrimination against a child for something for which he or she was in no way responsible was always an abuse of his or her rights. From this it is sometimes inferred that

the moral use of the term, especially in relation to rights not currently being implemented, is a purely rhetorical or 'manifesto' (Feinberg 1973) use, so that 'All children have a right to education' is interpreted to mean 'All children ought to have the right to education'. What was the clear denunciation of a wrong being done to a substantial proportion of the world's child population urgently demanding attention *hic et nunc* is diluted to become one of a number of possible policy recommendations which will no doubt need to be addressed as and when other priorities allow.

In addition to misunderstandings arising from the view that the only genuine rights are legal rights, supporters of the rights of children also have to combat the assumption that, though the discourse of moral rights may function independently of legal rights, it functions according to the same logic. Ritchie uses deliberately parallel language in describing a legal right as the 'claim of an individual upon others recognised by the State' (Ritchie 1916: 78) and a moral right as the 'claim of an individual upon others recognised by society, irrespective of its recognition by the State' (Ritchie 1916: 79). A more sophisticated embodiment of this misunderstanding appears in the until recently standard orthodoxy that a right was simply the correlative of someone's duty. Such an interpretation places upon the rights advocate the onus of establishing by arguments consequentialist or deontological that someone, whom the rights advocate must also identify, has a particular duty to permit or provide the necessary resources when it is claimed that, for example, young people have a right to some say in the matter of their personal appearance or, indeed, a right to education, food or shelter when they are as yet unable to provide these things by their own efforts. Both Kantian and utilitarian arguments for such rights on the part of all individuals remain contentious. This, however, becomes irrelevant once it is seen that, far from being the secondary derivatives of higher order moral rules, rights, particularly our rights of freedom, are primary features of our moral understanding, the natural corollaries of our mutual independence and moral non-subordination to each other. This understanding places the onus upon those who would restrict our rights to show that our intended conduct in some way infringes the rights of others and makes it perfectly clear why it is possible to reject some rights claims on behalf of children while defending others.

As well as the above analysis of the differences between the very logics of legal and moral rights, and between rights and more general moral rules, the reply 'It all depends what you mean…etc.' also suggests that much confusion and frustration may be avoided by distinguishing between claims to:

1 two different kinds of rights of freedom (positive: rights to do as one chooses provided one does not infringe the rights of others; and negative: rights not to be interfered with, molested or harmed);
2 rights of participation in the making of decisions that affect one;
3 rights created by transactions or role relationships ('special rights');

4 welfare rights to receive from society certain things (including education) that are required for a minimally acceptable level of well-being when one cannot obtain these for oneself.

The drawing of such distinctions is, again, no self-indulgent exercise in pedantry undertaken for its own sake, but a necessary preliminary to the task of scrutinising particular rights claims, for these fall into one or another of the above exhaustive categories, each of which calls for a different mode of justification and, in consequence, is also subject to different modes of refutation. These differences are obscured and significant progress is rendered impossible if we attempt to address the question 'Do children have rights?' or, indeed, 'Do children have this right or that?' without prior analysis of the possible range of interpretations to which such claims may be subject.

Justification

To explore in detail the justifications appropriate to the various categories of rights would, of course, be beyond the scope of the present chapter (cf. Wringe 1981). The remarks that follow must, therefore, be seen as purely indicative of the lines of inquiry opened up once an analysis of meaning has been carried out, but virtually impossible to pursue at all if this process is not first undertaken.

Legal rights

Little needs to be said about the justification of legal rights. Whether someone has a legal right or not is to be settled by reference to regulation, statute, case law or, ultimately, the courts. The existence of legal provision for guidance, protection or welfare also justifies the moral right of children to receive those things as a transactional right (see below) in view of the expectation that they themselves will later be expected to obey the law. The remainder of this section is exclusively concerned with children's moral rights.

Rights of freedom (positive)

One consequence of tracing out the links between concepts, claims and arguments is to link particular disputes to more general and often long-established bodies of enquiry. The identification of a particular category of rights to, supposedly, do as we please provided we do not infringe the rights of others alerts us precisely to the issue of whether we do, in fact, enter the world without prior obligations of subordinacy to others. Hegelian and communitarian moralists (Bradley 1876; MacIntyre 1981; Sandel 1982) may point out that we enter a world in which a web of rights, obligations customs, roles and statuses already exist, but we may ask whether we are

under obligation to accept arbitrary distinctions of gender, race or birth or transactions entered into by our forebears to which we were not party, particularly if they leave us at the bottom of the social pile. Following what is now a clear and, indeed, well-trodden path of debate the defender of children's rights may argue that though physically powerless at birth we are as yet subject to no moral obligations, even if as Locke (1960), Hobbes (1968) and others suggest with some plausibility, we must be presumed to trade off much of our original moral freedom in return for the very substantial advantages of living in a society governed by morality and law. This is not to say that we owe our parents a duty of absolute and permanent obedience, as Hobbes claims on the supposed grounds that we must be presumed to promise this at our birth on pain of instant destruction at their hands, for the strong do not have the right to destroy the weak (Rousseau 1913) and in any case the generational order of birth is arbitrary and may not be used to establish relationships of moral subordinacy (Wringe 1992).

The defender of children's positive rights of freedom is obliged to take account of the point frequently made by critics of children's rights (cf. Kleinig 1976), namely that the exercise of rights of freedom entails the capacity for rational choice. It is not clear whether the absence of rational powers means that children do not have rights of freedom, or merely that even though they have them, they are in no position to exercise them and, indeed, benefit from a welfare right (see below) to firm guidance and, where necessary, constraint to protect them from harm. Proper identification of this 'incapacity' argument and its justification, however, makes two things clear. Firstly, we cannot suppose that young people need to have achieved rationality in all matters, and certainly not that they have reached a particular formal age of responsibility such as 16 or 18 before they are entitled to personal discretion in any matters at all. Secondly, insofar as children have rights of freedom, these are subject to limitation in the same way as those of adults, in that they are bound to respect rights of various categories belonging to others. Adults, parents, teachers and others may be supposed to have certain transactional and role-related rights (see below) in respect of children in their charge and may also have legitimate social and professional interests, which may be damaged by the conduct of their children or pupils.

Negative rights of freedom (rights not to be harmed)

Interest in rights of this kind centres on such questions as the punishment and other forms of harsh treatment of children, invasions of their privacy, their exploitation in industry, war and the sex industry as well as abuse in more private contexts (Kent 1992; Krill 1992). The general justification of rights of this kind resides in the fact that differences of power are morally irrelevant and do not justify the infliction of pain or harm on others. Apart from the obvious practical urgency of protecting rights of this kind, they are of particular relevance to the theoretical issue of whether, in general, children

can be said to have rights or not. Whatever virtue may reside in the argument that children's positive rights of freedom are limited by their incomplete rationality, no such disqualification can conceivably apply in the case of negative rights. One does not have to be rational in the slightest degree to have the right not to be abused or hurt.

If negative and positive rights of freedom differ in this respect, there is another sense in which they resemble each other. Identification of these two categories of rights and their proper mode of justification serves to refute the commonly heard claim that children can have no rights because they have done nothing to earn any rights. There certainly are rights that have to be earned, as we shall see below, but this does not apply to either positive or negative rights of freedom, which we already possess as individuals, provided we have done nothing to waive or forfeit them.

Rights of participation

In the 1970s advocates of children's rights were inclined to claim that children had the right to a say in the management of their schools, and A. S. Neill (1962) is famous for his claims to have put this principle into practice. It is not clear how far such a right could extend. It is nowadays considered sensible practice to consult school and university students on various matters and allowing some aspects of school life to be managed by students themselves has been represented as a valuable means of citizenship education (Qualifications and Curriculum Authority 1998). This, however, does nothing to establish that such participation is a right, as we might have supposed had we not earlier recognised the mutual independence of rights and the promotion of the good. We are able to see that the requirement of rationality is stronger in the case of rights of participation than in the case of positive rights of freedom, for though one may claim the right to make one's own mistakes in order to learn to manage one's own life, one is scarcely entitled to impose the errors of one's immaturity on others, be these one's fellow students or adult professionals who have invested time, study and experience in learning how to do the job of education or caring for children.

Talk of rights of participation, unlike some other parts of rights discourse, belongs specifically to the field of political philosophy, and raises the issue of the political status of the institution in relation to which they are claimed. Schools are not independent sovereign states. They exist within and are resourced by the adult community, which therefore has a legitimate interest in how they are run and what they achieve. Like 'rights', 'democracy' is another term that conceals multiple ambiguities and represents a concept that profits from careful analysis, particularly when it is used in relation to education. In liberal democracies, government does not normally proceed by plebiscite or majoritarian fiat but is bound by constitutional and procedural frameworks through a multitude of committees whose powers are strictly limited by terms of reference. It is possible that there are areas of

school life in which consultation is desirable, or even a right, consonant with our view of young people as increasingly sensible individuals with their own aspirations and perspectives on the world. In particular, school committees able to sound out student opinion, gather information and pass on comment and criticism without fear of sanctions may be a legitimate entitlement. The range of powers and functions properly delegated to such committees is obviously a matter for debate in the light of the considerations outlined above and local circumstances, such as the nature of the institution and the age and maturity of the students. The links that are so apparent between rights claims of this kind and the world of political democracy make it clear that there can be no absolute rights in this field. The concept of that which is *ultra vires* plays an important part in democratic procedure and rules out many of the prerogatives demanded for school student councils by radical elements in the 1970s.

Rights created by transactions and role relationships

Our positive rights of freedom are limited not only by the positive and negative rights of freedom of others but also by the rights we create in others by our own actions and the role relations into which we enter or upon which we rely for our well-being. If I agree to work for someone from nine to five each day, her right to my labour obviously limits my freedom to spend the day as I wish. Rights created by transactions may be taken to embrace rights of reciprocation, gratitude and reparation for harm done as well as those created by contracts and promises. Somewhat similar are the rights we acquire or create by entering into certain role relations. By becoming a husband I would normally create in my wife a right to expect that I will not spend all my evenings and weekends drinking with the lads or enter into sentimental relations with other women.

It is a crucial characteristic of rights created by transactions that they are justified by our own voluntary actions, choices and consents. The justification of many role relationships and the rights they embody, however, depends on the concept of tacit consent, in that we are assumed to consent to the relationships in question because they are essential to our well-being. Though we have not formally expressed our consent, no rational person could be expected to refuse to do so. Such an analysis is of special relevance to our understanding of the moral status of children who stand in two important role relationships to adults, namely those of child to parent and pupil to teacher. Precisely how these relationships are expressed will vary from context to context and culture to culture, but if the rights they are supposed to create are to be valid they must be relatively equitable: if someone is supposed to have alienated their freedom voluntarily it must be reasonable to suppose that it was advantageous to do so. We have already commented on the Hobbesian argument for absolute paternal authority, and children are no longer thought to owe their parents a permanent debt of

gratitude simply for 'bringing them into the world'. However, a consideration of the nature of childhood suggests that children normally receive considerable benefits from the adults with whom they share living space, even though these may not always be their natural parents, and we might think that this creates obligations of gratitude, reciprocation and considerateness, without substantially limiting the young person's right to increasing autonomy with advancing maturity. The act of deliberately (or negligently) bringing the child into the world may also be thought to create obligations upon parents towards their children.

Some pupils may deny that they voluntarily occupy the role of pupil during the period of compulsory schooling. Nevertheless, most pupils do benefit from their schooling, for all its shortcomings, and may therefore seem obligated to duties of reasonable cooperation and compliance in return, as well as being under an obligation not to disrupt the learning of others. If compulsory schooling and the tasks and disciplines it entails truly contribute to children's well-being it cannot be regarded as the denial of rights claimed by some radicals (Illich 1971; Holt 1974) who have sought to portray it as arbitrary imprisonment and the imposition of meaningless chores for the sole purpose of inculcating habits of docility and industry in the interests of others. Of course, pupils who spend eleven or more years in school in Western countries may expect some substantial benefit in return and may seem entitled to a measure of competence and assiduity on the part of their teachers who, for their part, do enter into their professional role voluntarily.

The category of transactional rights may also have played an important part in the development of the 'correlatives' theory of rights which, as we saw, tends to stack the cards against those arguing in favour of children's rights. 'If you lend me five pounds I have a duty to repay you and you have a right to the repayment' was for a time the standard exemplification of this theory and considered paradigmatic of all relationships expressed in terms of rights. If no analogous obligations to children had been incurred – and many adults may have thought that they had in fact incurred no such obligations – then it may have seemed that children in consequence possessed no corresponding rights. One benefit of identifying and distinguishing between a wider range of meanings of the expression 'A has a right to…' is to dispose of this simplistic denial.

Welfare rights

This category of rights – to receive the necessities of survival and an acceptable existence from society when one is unable to obtain them for oneself – is of particular importance to children in view of their vulnerability and dependence. Advocates of many important rights of children therefore need to challenge the view of some traditional social and political philosophers (Cranston 1967) that provision for the powerless and underprivileged is a

matter of benevolence or charity rather than strict obligation. Justification of the claim that this is a matter of right rather than charity rests upon the fact that no one can be expected to obey the law of a society that condemns them to die of starvation or similar avoidable deprivations when the remedy is readily to hand (Wringe 1992). In Hobbesian terms, we do not enter society to be worse off than we were in a state of nature in which we are free to take for ourselves whatever we need for our own preservation. We are entitled to rebel and overthrow or simply disobey the law that denies us the very means of survival. Provision of the minimum necessities of life in the last resort is thus the price of our obedience – future obedience in the case of children – to the law. Some further argument is necessary to justify education as a welfare right. To achieve this conclusion we need to argue that to lack education is to lack the means to a recognisably human existence or, perhaps, to be denied membership of the moral community by whose rules we are supposedly bound. This demands further tasks of analysis in respect of such notions as moral community, a recognisably human existence and education, which would take us rather beyond the bounds of the present case study.

Implications

The result of our analysis so far has been to reveal that rights are of various kinds and that many of them may be possessed by children. The difficulty in conceding that children, or indeed any other traditionally subordinate group, may possess rights is supposed to arise from the fact that to be a right-holder is to be in a position of moral equality or even moral advantage with respect to the other. John and Patricia White draw our attention to Feinberg's (1970) claim that a right-holder is entitled to demand his or her right insistently, urgently, even peremptorily, which is something that many may see as inappropriate within the parent–child or teacher–pupil relationship. Further analysis, however, suggests that such concern is misplaced. There is no obvious inconsistency between respecting someone's rights and enjoying their affection and respect. Indeed, the notion that we may disregard someone's rights because they are supposed to hold us in affection and esteem is monstrous. Someone may, perhaps, demand their rights peremptorily when they are being systematically denied, but we do not normally go around doing so. Even when someone has to insist, we still think it appropriate that he or she should do so courteously as far as possible. May we not reasonably require the same of children? And should we really think an adolescent boy was responsible for undermining proper family or educational relationships if he demanded insistently, or even peremptorily, that his father or teacher should desist from sexually abusing him? A careful analysis of those relationships would surely lead to a quite different conclusion. To recognise someone as a right-holder is simply to recognise he or she as someone not only whose interests, but also whose wishes and aspirations, may not be simply brushed aside, required to wait

upon what one considers to be one's own more important agendas or set at naught in the light of what one regards as weightier or more urgent considerations. If the notion of children's rights sometimes gives rise to indignation or derision in adults it is because they are often at odds with traditional relations power.

A further cause of anxiety, and therefore of hostility, in relation to the notion of children's rights is undoubtedly the belief that rights are in some sense absolute and that to concede that someone has a right is not only to accept that they are justified in seeking its fulfilment but to be committed to implementing it, whatever the circumstances. This is clearly mistaken, for it is often the case that, in the adult world, what is undoubtedly someone's right cannot be implemented as, for example, when unforeseen circumstances prevent one from fulfilling some undertaking given in good faith. A dilemma for liberal-minded adults in charge of children often arises when children or young people wish to be allowed to do something perfectly reasonable in itself and which they would, in moral terms, seem to have a perfect right to do but which one knows would be frowned upon if not explicitly forbidden by some higher authority or the wider public, which is demonstrably misguided. In this situation, the adult may decide that the desired activity is not to be allowed, if only for the sake of avoiding (totally unjustified) consequences to him/herself or the institution. What is significant in this situation is that a right of freedom has not been extinguished but has been, however unavoidably, infringed. The appropriate reaction in a situation in which the legitimate expectations of either children or adults cannot be met is, obviously enough, expression of regret, admission of impotence, apology or offers of compensation, which the right-holder is at liberty to graciously accept or to rebuff. Understandably, these are things which those accustomed to exercise unquestioned authority over children may find unpalatable, threatening to their own position or even detrimental to good order and family, school or social discipline.

Such an understanding of the discourse of rights, particularly as it applies to the rights of children, enables us to advance beyond a number of controversies, which occasionally continue to obstruct our discussion of relations between older and younger generations. Such a careful analysis makes it clear that not all constraints placed upon children by adults are grounds for strident and vituperative protest in the name of rights. Equally, the acknowledgement of justified claims to rights on the part of children does not carry the disastrous implications for social order that traditionally-minded adults have sometimes feared. The implications of this go beyond the confines of mere philosophical debate and may seem to justify a positive and flexible response to young people's wishes, aspirations and perspectives on the world even though their material dependence and the preponderance of adult power often makes possible a more authoritarian regime.

Concluding remarks

Our purpose has been to use the complex and still occasionally controversial topic of children's rights, and the question of whether their treatment is more properly discussed in terms of adults' obligations of general beneficence towards them, to illustrate what has been termed an analytic approach to philosophy or philosophy of education. We have seen how such an approach has led us to focus initially on the ambiguities disguised by the expression 'A has a right to X', indicating that our inquiry cannot proceed until it is discovered which particular categories of rights children are being said to have, and what justifications for such claims can properly be given or demanded. It has also been suggested that the conclusions of such an inquiry and the enhanced understanding of the nature of rights language such an analysis brings have important implications for humane and flexible relations between adults and children.

An analytic approach to philosophical issues is sometimes spoken of as if it were a local and, above all, a purely temporary episode in the history of our discipline, being concerned with superficial questions about the meanings of particular words rather than with the truly fundamental questions of philosophy. The dichotomy is, of course, a false one for, as we have suggested, the analysis of meaning may be an essential preliminary to and an essential ingredient of any more profound inquiry. Such an approach is, furthermore, no mere recent innovation but dates back, if Plato's representation of his philosophical method is to be believed, at very least to the time of Socrates.

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5 The problematic employment of Reason in philosophy of *Bildung*[1] and education

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in memoriam Wolfgang Fischer (05.01.1928–12.06.1998)

Preliminary remarks: exposition of the problem and terminology

The methodological question under consideration, 'How do we do philosophy of (*Bildung* and) education?', harbours several difficulties. For example: What is it that we are *doing* when we engage in philosophy? Can this be characterised as a mere methodical and operative activity, an activity as it can be found in the procedures and practices of the positive sciences and technologies – including educational science as a social science? Or does this already represent a typically modern and instrumentally oriented view that would restrict philosophical thinking from the start, and would thus lead us astray? In fact, the philosophical usage of the concept 'method' can be traced to Plato, as Paul Natorp (1903) pointed out. However, despite the intellectual strictness that was associated with Plato's *methodos dialektike* (*Politics* 533C), it is doubtful whether this method could be regarded as an operative procedure that could be easily learned.

By restricting the question of method in philosophy of *Bildung* and education to a way of '*doing*' (in the sense of a procedural technique) something important may be lost. It is crucial to realise that the modern operative idea of method is based upon the Cartesian tradition (cf. René Descartes 1701). Consequently, the issues relating to educational philosophy appear as if they obey rules that are geared to us as human beings or that are inherent in human Reason.[3] In either case, one only needs to make use of them in order to become a '*maître*' and '*possesseur*' and a professional educational philosopher. Though philosophical thought may occasionally turn into an operative process, it is essentially not restricted to it. In other words, philosophical thinking includes more than an operative methodology – without turning into mere mystical premonitions and vagaries because of that.

This transcending of operative rules is inherent to Plato's concept of method. His dialectical method *surpasses* presuppositions (*hypotheseis*) (*Politics*, 533C). Doing philosophy precisely differs from all other sciences by virtue of this recognition and transcendence in the effort to acquire knowledge. The projects of the other sciences are tied to an operative

methodology, and are not called into question. In this sense the kind of procedure, which is not tied to a method, can be called specific to philosophy. This point will be taken up again at a later stage.

Fortunately, in their invitation to this volume, the editors formulated their question so broadly that it leaves room for a *sceptical* investigation into a methodologically oriented and merely operative philosophical activity. I will approach the problem of 'methods' in this way. I take the question to mean that each of the different approaches in philosophy of education is to be presented by specifying its specific emphasis on specific problems that are characteristic for this area.

One further peculiarity in dealing with this topic should be explained in advance. In the German discourse, we speak of '*Bildungs- und Erziehungsphilosophie*'. I would like to retain this expression, not because of the special German concept of '*Bildung*', but because the expression contains something which the Greek term *paideia* already included, and which has entered the European pedagogical tradition, but which is not necessarily covered by the modern term 'education'. Without starting an in-depth discussion of terminological history, the differences between problems of *Bildung* and problems of *education* are important to my subject. Roughly speaking, 'education' refers to an activity in relation to young people in the process of becoming adults (sometimes also to people who already are adults), usually leaving open the direction, sense and purpose of this activity. Today, 'education' is mostly understood as aiming at something like 'the ability of independent action in a social context'. Conversely, the concept of *Bildung* – in line with its logical function – regards the problems of direction, sense and purpose as independent pedagogical ones, essentially belonging to the area of education.

In relating education to *Bildung*, thus speaking of *philosophy of Bildung and education*, we postulate (the existence of) a pedagogical dimension of education that refers to its proper dynamics of sense and purpose. The problems of this dimension must be distinguished from determinant social configurations and factors such as economic and political conditions, indeed from empirical conditions in general. A provisional specification of this pedagogical dimension can best be given by referring to the multi-faceted word 'humanity' (cf. Theodor Ballauff 2000: 18f.). An education based on *Bildung* intends humanity; it refers to those things human beings should be engaged in so as to be able to lead a life that can be considered 'human', striving towards human 'excellence' (arete). It is by no means self-evident that the concept of education is necessarily connected with these problems of *Bildung*. Today, in everyday language as well as in professional educational science, 'education' is predominantly used as if it were primarily or even exclusively a matter of technical problems related to the training of people or a matter of qualification of their behaviour, knowledge, ability and actions with respect to purposes and goals of an unknown origin that are labelled 'societal'.

The central idea of the approach to philosophy of *Bildung* and education to be presented here can be summarised using the expression 'problematic employment of Reason'. This phrase picks up on Immanuel Kant's language in the 'Critiques'. Kant referred to the 'employment' or 'use' of our Reason (*Vernunftgebrauch*) in many different ways. In the present context, the concept 'employment of Reason' implies that in a strict sense, one can only meaningfully speak of Reason in a modality of its employment. There is no distinction between a faculty of Reason on the one hand and the various ways of its employment on the other. The presence of Reason in trains of thought or their linguistic expression in ideas, theories, artistic and technical works, social institutions, etc., is without exception a corresponding (logical) modal form of its employment.

I refer to *one* of these modal forms as *problematic*. 'Problematic employment of Reason' refers to claiming the logical status of *possibility* and *relatedness* of each proposition, being aware of, and stressing its dependence on specific presuppositions. Other employments of Reason compete with this problematic type. The dogmatic employment of Reason is the most important one. It dedicates itself tenaciously to propositions of the logical status of *necessity*, *absoluteness,* and *strict universality*. The term 'Reason' (*nous*, *intellectus*) follows a terminology that distinguishes it from 'Understanding' (*dianoia*, *ratio*) and 'Sense' (*aisthesis*, *sensus*). In the modern era, using the term 'ratio' often annuls this distinction between 'Reason' and 'Understanding'. However, the problematic employment of Reason as a practical pedagogical concept does not imply that people are exclusively considered in terms of their (potential) rationality; they are addressed as beings endowed with Sense and Understanding as well.

In conclusion, I wish to remark that the title of this chapter is in fact an abbreviation. To be precise, one should speak of 'the transcendental-critical-sceptical *and* the problematic employment of Reason in philosophy of *Bildung* and education'. The meaning of this full title will become transparent in the course of this investigation.

Object and method of philosophy of *Bildung* and education

If one does not advocate a 'radical-constructivist' approach, according to which the method ultimately absorbs the object, something has to be said about the 'object' *as well as* the 'method' of philosophy. According to the tradition to be presented here, the 'object' is not a creation that is one-sidedly dependent on the 'method', nor is it a product or construct of the 'method'. To be sure, the object a posteriori always seems to be methodically constituted (i.e., it is somehow constituted and structured in consciousness and language), and independent of consciousness it seems impossible to say anything at all about any object. However, we will hold on to the distinction between 'what' and 'how', which results in the

following two questions: (1) What has the status of a problem in philosophy of *Bildung* and education ('object')?' and (2) How can it be treated, i.e., using which procedure ('method')?

In response to (1): not all kinds of pedagogical questions aim at insights stemming from the philosophy of *Bildung* and education. But all, or nearly all, are connected to problems of philosophy of *Bildung* and education, and refer back to them. Persons involved in educational-empirical or hermeneutic-historical research are not doing educational philosophy. Still, their research depends on methodological stances, conceptual and categorical stipulations, possibly also on dispositions and convictions that all imply philosophical problems – regardless of whether or not researchers are aware of them.

Pedagogical practice refers to philosophical problems also. In encouraging and admonishing her child, telling the child stories, having conversations with it or perhaps occasionally punishing it, a mother is not an educational philosopher by virtue of her educational intention. Nevertheless, her activity is related to presuppositions that refer to philosophical questions. Moreover, the so-called everyday practical views on education are frequently the simplified sediments of great pedagogical theories from the past. These sediments are conveyed by socialisation, together with their specific metaphysics, e.g., the still widespread interpretation of a human being as a monad determined by activity, whose dormant 'powers' need only be awakened.

In making decisions in educational politics or in carrying them out, politicians and administrators are not doing pedagogical philosophy either, no matter how often they refer to their 'philosophy'. Yet, they do pursue a more or less transparent metaphysical position when, for example (in view of the funding difficulties of the public education system), they 'discover' the 'self-regulation' of educational institutions (through release from the state's dominance, through competition and the market) as the institution's 'true' organising principle.

It is the task of philosophy of *Bildung* and education to recognise such presuppositional metaphysical positions and subject them to analysis and sceptical-critical discussion. According to this view, the object of philosophy of *Bildung* and education is as narrowly or as broadly defined as that of all pedagogical ideas and practices. Nevertheless, the *philosophical* task within this field remains highly specific. In contrast to the *intentio (di)recta* – which determines the affirmative knowledge of educational science as well as pedagogical practice and policy – philosophical questions arise from an *oblique* intention. It is within this pedagogical factual frame, that philosophy becomes relevant in pedagogy. In the *direct* intention of recognition and action, certain aspects remain self-evident presuppositions, supporting the validity, in particular the truth and legitimacy of concepts, categories, methods and attitudes. This is inevitable; for to operate both in *intentio (di)recta* and in *intentio obliqua* at the same time would seem to be impossible.

In conclusion, one can say that the problems related to presuppositions constitute the subject matter of philosophy of *Bildung* and education. It discusses those intellectual presuppositions on which the claimed validity of pedagogical tenets and practices depends and to which this validity is restricted (cf. Fischer 1989a; Funke 1979). Freely adapting an expression from Karl Popper, one could add that everyone dealing with pedagogical questions in science or in practice is thus at the same time caught up in philosophical problems. However, one should distinguish between being aware of these problems and aiming for their clarification on the one hand, and following a metaphysical or dogmatic position (respectively 'philosophy', alias: 'that's my philosophy') – either without noticing it or by assuming it deliberately – on the other hand. Philosophy of education and *Bildung* as presented here concentrates on the former.

In response to (2): persistent and insistent investigations with respect to the validity of presuppositions that underlie statements and actions go back at least to Socrates. Immanuel Kant introduced the term 'transcendental method' to establish a disciplined philosophical way of pursuing knowledge and intended to inquire into the problem of presuppositions by means of a scholarly procedure. This method proceeds 'critically' insofar as it draws attention to limiting our employment of Reason whenever it tends towards metaphysical extravagances, and insofar as it prevents 'errors' (cf. Kant, *Critique of Pure Reason*: B823). In particular, the transcendental-critical method sheds light on the hidden weaknesses of Reason's dogmatic-affirmative claims. In other words, it implies continuous methodological *enlightenment*.

Such enlightenment of Reason is not a task, which – as Kant still assumed – could be undertaken once and for all. There is not *one* human Reason seemingly unalterably fixed in its suprahistorical basic structure. Thus the enterprise can and should be – case by case – practised and renewed on the basis of the unforeseeable historical outcomes of Reason (associated with the achievements of Sense, Imagination and Understanding). As was stated above, a 'metaphysical position' underlies each affirmative outcome of Reason, and 'it completely depends upon oneself whether one abides by such positions in an uncontrolled and naive way, (…) not inquiring at all about their justification, treating the metaphysical position as simply non-existent, or perhaps, whether one attempts to master it in a critical fashion' (cf. Funke 1968: 71f.).

Gerhard Funke called the methodological procedure for this metaphysical examination 'hypothetical-regressive'. 'In contrast to all thetic postulations' with an explicit or concealed 'claim to finality', he considers the 'presuppositions belonging to what is already given (…) as *posed*' in a hypothetical procedure. The 'right to criticism and to raising deeper questions about reasons' is asserted 'against all dogmatism and doctrine with established content' (Funke 1979: 18f.). Here, the following three remarks seem to be important.

First remark: Philosophical inquiry relates to those presuppositions on which the claim for validity (truth, correctness) or *legitimacy* of pedagogical propositions or practices depends. *Philosophical* questions do *not* relate to the empirical conditions for the occurrence or genesis of the corresponding phenomena. This does not mean, that such empirical questions are simply considered superfluous – they just do not figure in the philosophical problem. The transcendental-critical-philosophical analysis of the presuppositions for validity in philosophy of education is neither equal to ideological criticism, which again does not imply declaring such ideology-critical analyses as being of no importance.

Second remark: Transcendental-critical-philosophical inquiry always starts with *given* propositions or phenomena. It does not proceed speculatively, but operates analytically in topical relations of the 'if…then' structure. The transcendental-critical-philosophical procedure determines the presuppositions underlying specific and *given* historical-pedagogical ideas and facts, and not presuppositions underlying 'pedagogy' in general, i.e., in an absolute and unhistorical sense. More or less extensive exegetic ('hermeneutic') and possibly empirical studies as well may therefore be quite usefully – or even indispensably – precede these philosophical analyses. Such studies could outline the facts that need to be analysed more precisely and possibly examine them in terms of a suspected ideology. Philosophical analyses subsequently follow these studies (cf. Fischer 1989a: 63–84).

Third remark: From a formal prospective, the result of such analyses is a specific kind of pedagogical *knowledge*. It contains the *specific* presuppositions and limitations of the validity of the *specific* pedagogical propositions and practices that are analysed. It also encompasses the relevant metaphysical premises that have been deemed valid, for example, those premises enabling one to expect from a certain concept of 'aesthetic education' the *emancipation* of adolescents (cf. the corresponding exemplary analysis in Fischer 1989a: 36ff.). The knowledge can also refer to the legitimacy of presuppositions justifying the use of the word '*Bildung*', (cf. Fischer 1989b). It can also refer to the questionable conditions of validity of scientific-pedagogical theories or concepts competing with pedagogy (cf. Ruhloff 1980; for the debate with competing conceptions in the social sciences, such as systems theory, see Ruhloff 1996a). It can pertain to the reasons for the incompatibility of the bureaucratic organisation of schools with the promise of *Bildung*, as Peter Vogel (1977) demonstrates, to the *possibilities and limitations of sexual education in schools* (cf. Müller 1992), and also to the metaphysical dimensions of school teaching, of didactics, of the politics of school (cf. Schirlbauer 1992, 1996) and of *Allgemeine Pädagogik*[4] today (cf. Breinbauer 1996). These and other examples determine the current status of pedagogical problems.

The pedagogical-philosophical knowledge gained through the transcendental-critical-sceptical analyses is not *directly* significant for pedagogical practice in any positive way. The results of thus conceived pedagogical-philosophical analyses do not tell mothers, teachers, educators and

educational politicians how they should act or think. Initially, they only inform them about their unproven premises concerning validity in conjunction with their actual activities, opinions, convictions, attitudes, concepts, categories and methods – thus making possible discussion and critique. For practitioners, as well as for colleagues in affirmative educational science, this can be disappointing if not a nuisance.

This 'disappointing' feature of transcendental-critical knowledge is essentially related to the *sceptical* characteristic, which has not yet been worked out. Wolfgang Fischer developed it as a critique of the original neo-Kantian approach to transcendental-critical pedagogy that aimed at a 'science of principles' (for the history of this development see Fischer 1989a; Fischer and Ruhloff 1993a). The connection between the transcendental method (Kant) and scepticism[5] comes about if and because Kant's a priorism of *pure* Reason is deemed untenable. For Kant, the (Pyrrhonically interpreted) *sceptical method* had the status of an indispensable precondition for a critique of Reason. It served to awaken Reason from its '*dogmatic slumber*', although Kant considered independent scepticism – just like dogmatism – as the death of a sound philosophy and the euthanasia of pure Reason (Kant, *Critique of Pure Reason*: B433f.; cf. Meyer-Drawe 1994).

In the pedagogical-philosophical approach presented here, 'scepticism' differs in its meaning from Kant and also from its everyday use. Wolfgang Fischer introduced the transcendental-critical-sceptical approach to present-day German pedagogical discourse. In his use of the word 'scepticism', he explicitly rejects building upon the classical 'academic' and 'Pyrrhonic' scepticism, as well as upon philosophical sceptics from the modern era, such as Michel de Montaigne, David Hume or Pierre Bayle. For Fischer, Plato's concept of scepticism as he ascribed it to his Socrates in his early dialogues seems far more fruitful for philosophy of education (cf. Fischer 1993a).[6]

According to this view, *scepticism* – in contrast to the usual *doubt* (apisteo) – stands for meticulous examination, consideration and checking. Its aim is to discover possible gaps or weaknesses in the chain of argumentation that underpins or refutes a proposition. In its radicalised Socratic form, scepticism consists above all in consequently completing a line of reasoning by tracing its constituting assertions back to their presuppositions. The general validity of claimed propositions and lines of reasoning – that determine the conceptual, categorical and methodological basis of our ways of thinking and our attitudes – is thus called into question. In *Protagoras*, Plato exemplifies this view by demonstrating how the proposition 'the good consists in pleasure' depends on the 'hypothesis' (presupposition) of a generally valid *art of measuring pleasure*, which unfortunately – in its turn – has yet to be proven.

Apart from such reflection on presuppositions, the transcendental-critical-sceptical inquiry obligates us to conclude with an insoluble conflict of opinions, after having weighed equally all arguments in a discussion on a specific topic and still finding ourselves not being able to have the scale tip in favour of one specific view. In the history of philosophy, a paradigmatic

case can be found in Kant's discussion of the thesis that the world either has a beginning or has no beginning (cf. Kant, *Critique of Pure Reason*: B462 (1. Antinomie)).[7] In the area of didactics and teaching, Theodor Ballauff (1970) exemplifies his sceptical-antithetical approach. However, his approach is not Socratic insofar as he does not dispense with didactical theories, even though they are 'sceptical towards themselves'.

In the strict theoretical-analytic version of Wolfgang Fischer, the transcendental-critical-sceptical approach in pedagogy does lead to distinct knowledge, namely, to a knowledge which demonstrates the lack of evidence for presumed knowledge (presuppositions). There are no compelling reasons though, to draw a lesson or practical pedagogical instruction from the results of a sceptical analysis. Instead, the statement ascribed to Socrates – never to have been anyone's teacher – applies to those analyses as well. At best one can expect a reorientation of thought to be the practical outcome of recognised sceptical insights. But even this cannot be considered a logically necessary consequence of sceptical analysis.

At this point we continue our chain of thought by introducing the approach terminologically introduced above: *pedagogy of the problematic employment of Reason*. Even though a sceptical approach seems to be indispensable in philosophy of education, it does not exhaust the full range of problems, as pedagogical scepticism itself concedes. In particular, it remains a desideratum to develop constructive pedagogical theories in which the tasks of education and *Bildung* are prospectively discussed and further developed in view of prevailing conditions at that specific moment in time (cf. Ruhloff 1993a, 1993b, 1994, 1996b, 1996c). The idea of *pedagogy of problematic employment of Reason* is to be seen as a response to this desideratum.

This approach focuses attention on the following consideration. In characterising our current societies as post-traditional and detached from *ethos* and *mythos*, we come to depend on preconceived theoretical views on education, teaching and *Bildung*, from which we derive a perspective. Despite the modern era, but ultimately also as a result of postulates of unity and progress characteristic of the modern era, different disguised (cf. Bry 1924) religious-ideological beliefs still tend to re-establish quasi ethical-mystical conditions in the twentieth century. After the bankruptcy of these beliefs and the collapse of dogmatic-metaphysical systems – including dogmatic rationalism – and especially because of the feared paralysing effects of sceptical subversion of ultimate pedagogical justifications, one recognises that claims to the validity of any educational statement – including statements about the organisation and performance of education and *Bildung*, about favourable and obstructive conditions, and about expectations and possible consequences associated with pedagogical practices – will only be acceptable today if provided with a problematic-reasonable argumentation.

The form of such argumentations is compatible with current models of scientific knowledge acquisition in general, as modern scholarship is assumed essentially hypothetical in character. In order for a pedagogy to be

called *problematically reasonable*, a complex of pedagogical statements should at least meet the criterion of calling attention to the premises that support its claim of validity. This enables an examination of the premises, as well as a consideration of any alternatives. A complex of pedagogical statements can be called *reasonable* if it demands a limited general validity and fulfils the criteria of logical consistency and coherence. It should also sufficiently investigate the situation and consider alternative approaches of education and *Bildung* from the past and present. One may ask how one can decide on the fulfilment of these criteria. At this point, we encounter aspects that no longer originate from pure Reason – an inevitability that is taken by up the conception of 'problematic employment of Reason'.

Dealing with practical pedagogical problems calls for taking into consideration many contextual aspects. We deal with such problems:

- in view of a historical situation and with an eye to expectations for the future;
- against the background of (historically stylised) traditional problem-settings that we either take on and vary, or that we leave behind (cf. Ruhloff 1993c);
- confronted with the political, social, legal, economic framework that makes chances of realising conceived practices more or less probable;
- being more or less thoroughly aware of the research results of educational science and of the acknowledged quality standards for scientific statements;
- being aware of our predecessors and contemporaries as adversaries or allies in our ways of thinking; by way of the 'common subject' they are at least partially related to us (even in disagreement);
- against the background of a biography encompassing our socialisation, education, *Bildung*, possibly even our own and others' academic career, which may have shaped our inclinations and aversions towards certain teachers, scholastic directions and books, resulting in disclosure of some perspectives for us and an irrevocable closure of other perspectives;
- under the spell of one or more languages, with their categorical prescriptions, potential for differentiation or lack of it;
- being in the situation of *vita brevis*, *ars longa*;
- compelled by pressure of time to act in the awareness of the inadequacy of our knowledge, or in the awareness that by doing nothing, we are still in the precarious position of perhaps causing terrible 'pedagogical' consequences.

In order to evaluate conceptions claiming improvement of pedagogical practice *sufficiently*, one has to systematically call into question one's own preferred pedagogical conception – determined as it is by the conditions mentioned above. In the sceptical approach supported here, this is to be carried out by exposing this conception to the strongest possible antithesis.

This approach assures the greatest possible degree of general validity and (objective) capacity for assent (not consent) with respect to the situation for which it is provided. Anyone who is sceptical and aware of problems will presumably be the last rather than the first to have confidence in his or her own opinion when judging the extent of the 'success' of the results.

Since we are dealing with the methodological question of the philosophy of *Bildung* and education, we need not develop the outlines of a problematic-reasonable conception of *Bildung* and education as regards content. Yet it is important to address the question whether, and how far, the synthetic-productive conceptualisation, construction and further development of tasks in education and *Bildung* (in contrast to the corresponding sceptical-transcendental-critical analysis and discussion) follow methodological rules that should be explained in advance. I think this is *not* the case as long as we restrict ourselves to the (intellectually) *productive element* of pedagogical conceptions. Pedagogical productivity is not submitted to any methodological rules that have to be laid out in advance.

This lack of method in the development of positive content does not necessarily imply that one has to or even could adopt the attitude of '*anything goes*'. Faced with presuppositions and conditions that are always restrictive and based on language and thought, on research (results) and knowledge, on history, space, social situations, and on individual biography, one can never say that *anything* goes. Nevertheless, the introduction of new practical ideas as the core of new productive types of conceptions (cf. Ruhloff 1998) does not seem to depend on methodological rules from the outset. To this extent, the synthetic employment of Reason can be considered *free*.

The intellectual scope for possible new types of conceptions for education and *Bildung* does not depend on a methodology. However, that does not imply *arbitrariness*. Especially, traditional thinkers as well as proponents of the *project of the modern era* (see Habermas) considered any semblance of arbitrariness a danger. Some of the restrictive criteria that regulate Reason and that limit the scope for productivity as *conditiones sine quae non* have already been mentioned above. The most important prerequisite – which becomes increasingly difficult to fulfil as the theoretical and empirical pedagogical complexity and plurality grow – seems to be the constitution of a *meaningful unity of synthesis* ('*Einheit der Synthesis*', Kant: B130ff. (B-Deduktion)), i.e., a coherent constitution of the pedagogical object. Although the possibility of *unity* for a universal and (at the same time) essential pedagogical conception has recently been rightly doubted, it still seems an indispensable condition *within Reason* in order to be able to present, comprehend and obtain assent for pedagogical conceptions (cf. Ruhloff 1993d).

It remains an open question to what extent renewal of theoretical rhetoric could improve the adequacy of complex pedagogical conceptions without getting into an endless and (for practical purposes) useless structure and topology (cf. Helmer 1996). In the context of the question how far an opera-

tive methodology could contribute to producing and composing new pedagogical conceptions, it is unlikely that any significant progress could be expected from renewed pedagogical rhetoric. Only in retrospect could one try to reconstruct the rules according to which formerly new conceptions – such as Rousseau's for example – came into being. But despite the presuppositions and conditions that can be expounded as favourable or obstructive, it simply seems impossible to methodologically control the production of new conceptions.

Children's rights as a topic in philosophy of *Bildung* and education

In order to exemplify the transcendental-critical-sceptical approach in philosophy of education with an issue concerning children's rights, a preliminary question seems to be whether and to what extent children's rights do have a *pedagogical* – and in particular a pedagogical-philosophical – quality at all. For neither *children* in general – i.e., without any specification – nor *law* and *rights* can be considered subjects of pedagogical theory, or a philosophical problem in themselves. I restrict myself to a rough outline of the situation, first explaining the pedagogical-philosophical status of questions concerning children's rights.

As a start to my inquiry, I want to point out that rights discourse in general, and discourse on children's rights in particular, has limiting, commanding and facilitating functions, which also affect education and *Bildung*. The UN's *Convention of the Rights of the Child* (Nov. 20th 1989) constitutes a clear example. It explicitly states the *Child's Right to Education* (art. 28). In addition, certain aspects of the aims of education and *Bildung* – like the right of the child to develop its own personality, of showing respect towards its parents, its cultural identity, language and national values (art. 29) – are established in law.

Since a major subject of transcendental-critical-sceptical version of philosophy of *Bildung* and education deals with questions about presuppositions, it will also scrutinise legislation controlling and restricting pedagogical practices. For example: which presuppositions support the claim that the child has to learn to respect its *cultural identity*? Even without starting a conceptual analysis of '*cultural identity*', this concept may strike one as an ideological fiction without any historical or empirical foundation, a fiction that was generated by social science. Up to now, no 'autochthonous' or otherwise culturally homogeneous *ethnos* has ever been proved to exist anywhere in the world, and there is 'no rational reason for an individual self-identification with a certain ethnic [and cultural] unit' (cf. Mühlmann 1984: 237).

This absence of demonstrated unitary ethnos remains, regardless of the fact that fictitious assumptions of unity and unfounded suppositions of membership also have a social effect and may have dire consequences. It would be different if gaining an insight into our own dependency on and

(blind) identification with culturally specific traditions, life patterns, horizons of interpretation – as they are introduced in socialisation – were emphasised as a task of education. In that case, the individual could show more or less respect dependent on an evaluation of each situation, and would not be left at the mercy of those undisputed authorities. It would become possible only to show respect to worthwhile solutions to problems – which does not necessarily mean that these solutions still have to be preferred in one's own situation as, for example, conditions now may have changed.

The paradigm of *personality* respectively its *development* (that defines education and *Bildung* in the UN Convention) constitutes a second example. The claimed validity of this paradigm depends (for instance) on the presupposition that each human being has by its very nature or in its quality of things as a living being something like an individual core which – irrespective of social circumstances – predisposes to a specific development, which in its turn determines the course of education. None of these assumptions is self-evident or even evident. A closer examination of the sources their proponents draw on might, for example, lead to the conclusion that this personality paradigm originated from European history. In the particular intellectual context of the Italian Renaissance, human beings came to interpret themselves according to this paradigm. Sceptical analyses of the validity of this paradigm would subsequently direct our intention to the objectively questionable *anthropocentrism* (Ballauff 1970, 2000) that characterises this paradigm and that thwarts the alternative possibility of selfless orientation in thinking.

It is true, Kant's elaborate version of the individual personality paradigm does require relinquishment of egoism and 'self-love' in favour of the moral law, but this demand is in its turn only expressed for the sake of 'the dignity of mankind'. In this respect, it expresses self-reference at a higher level, which, for example, does not allow for the justification of offering care and protection to non-human 'creatures' because of their self-justified right to existence (cf. Ballauff 2000: 103f.). Sceptically doubting this exclusive orientation of actions and desires towards the safety and comfort of human beings would however require consideration of the burden that a renunciation of this paradigm would involve. It has become an inner part of our social and legal reality, and we lack room to discuss it in detail here. For now, it suffices to draw attention to the way a transcendental-critical-sceptical approach would deal with any specific problem.

Transcendental-critical-sceptical investigation does not only include analysis and discussion of single concepts and categories; it also deals with their systematic connection within a theoretical conception, in this case a pedagogically relevant conception according to a legal theory. In view of the *Convention of the Rights of the Child*, one of the aspects to be examined is the coherence of different legal tenets. For example, one could ask whether the child's right to develop its own personality or *freedom of speech* (art. 13) and *freedom of thought, conscience, and religion* is compatible with the *parents' and (sometimes) guardians' right or freedom to ensure the religious and moral education of their children in accor-*

dance with their own convictions.[8] In deference to history, one certainly has to consider that this parental right first of all covers protection against arbitrary use of state power. But one should also acknowledge the possibility of misusing this as a springboard to reversing rights allocated to children. Furthermore, one should ask oneself whether it does not contradict the idea that has been developed since Plato but hardly ever carried out, namely, the idea of *maturity* or *emancipation* induced by education. Should educators indeed have the right – or at least not be excluded from it – to generate religious and moral conformity by means of education (even apart from the question how far conformism in conviction is compatible with morality)?

Finally, it should be pointed out that in the context of education, *Bildung* and law, I think it is a philosophical question as to how far pedagogical postulates and practices are compatible with giving rights to children. It is, in other words, a philosophical task to investigate to what extent education and *Bildung* can be a subject of law. Here I would like to recall an important ingredient in several traditional pedagogical conceptions: the (proposed and differently interpreted) love to be conferred upon young people that cannot be imposed by law and that could hardly be controlled by it.[9] This will very likely hold true for other habits and attitudes advanced in pedagogical theories and practice that cannot be reduced to *external actions* subject to legal regulation. Bearing this in mind, the legal totality of and increase in *children's rights* need not necessarily contribute to the *well-being of the child* (UN 1989: art. 3(1)). It could also go hand in hand with an externalisation of education, *Bildung* and the status of being a child. Such externalisation should be considered reprehensible, at least if it is to be judged bad (*Übel*) to regard human beings only as part of a genus (Rousseau), e.g., in conceiving them no longer primarily as thinking beings who – in spite of all dependencies – exist apart from each other, a view which seems to be part of positive statutory regulations.

Notes

1 Translator's note: In connection with a very extensive history of concept, the German word '*Bildung*' is one of the most difficult terms in educational science and philosophy. The extent and the use of the concept depends strongly on the theoretical context, e.g., on the relation to terms such as education and socialisation and what they should fulfil. Translations of *Bildung* can vary from 'culture' to 'imposition of moral behaviour'. In reference to the second introductory remark the term *Bildung* makes sure that certain questions are kept in the authority of a pedagogical dimension and lead to the investigation of what education is about as such and what it means to be human. Because of its openness and philosophical reference we leave the term untranslated.

2 Translator: Christiane Thompson

3 Translator's note: The term 'Reason' as translation of the German '*Vernunft*' is capitalised throughout the paper to enable an easy distinction between 'reason as a human faculty' and 'reason as argumentation'. The same with the Kantian terms 'Understanding' (*Verstand*) and 'Sense' (*Sinnlichkeit*).

4 Translator's note: The term '*Allgemeine pädagogik*' (generally oriented pedagogy) denotes a branch in educational science as organised in Germany. This branch corresponds largely, but not fully, with philosophy of education as it exists elsewhere.
5 Translator's note: 'scepticism' is the translation of '*Skepsis*' (maintaining a pensive position of examination) – as it is mostly used in this chapter – and of '*Skeptizismus*' (established philosophical position). 'Scepticism' should not be associated with the insistent attitude of denial.
6 For historical derivation as well as philological justification of attributing a specific scepticism to the early Platonic Socrates, cf. Fischer (1997), in particular the exegesis on the dialogue *Protagoras* (pp. 83–135).
7 For an analogous procedure with regard to a present-day pedagogical problem see for example Fischer (1993b). An improved version of the first part of this article cf. Fischer (1998).
8 Both positions have an equally legal status in the international documents. We refer to art. 18 of the *International Pact on Civil and Political Rights* from 19th December 1966; cf. *Final Document of the Vienna CSCE Meeting* on 15th January 1989, Fig. 16.7, or , art. 12 of the *American Human Rights Convention* on 22nd November 1969. In the *Convention of the Rights of the Child* it is – more compatibly – formulated that parents have the right and the duty, 'to guide the child in the exercise of this right (i.e.: to freedom of thought, conscience, and religion) in a way which is adequate to his or her development' (art. 14 (2)). – Quotations were taken in German from the edition Simma and Fastenrath (1992) then translated.
9 In its preamble the UN *Convention of the Rights of the Child* from 1989 states the acknowledged fact that the child should grow up in a family and be surrounded by happiness, love and understanding in order to be able to fully and harmoniously develop his or her personality. Apart from the idyllic character of this formulation, it should be legitimate to ask whether it is an acknowledged fact that, for example, 13–18 year-old adolescents, who according to the first article of the same Convention are still regarded as children, are, from a pedagogical point of view, best raised *in a family*, and whether it is an advantage for their upbringing and education to be permanently surrounded by happiness (even if this were possible, since it is a platitude that happiness is transitory).

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6 Philosophy of education as foundational analysis and critique

Conflicting liberal views on the right to an education for autonomy

Ger Snik and Wouter van Haaften

Introduction

One of the key tasks of philosophy of education, in our view, is research into the foundations of education, that is, the systematic analysis and critical assessment of the basic ideas and conceptual models that, often implicitly, guide educational theory and practice. In the first part of this contribution we will explain what we mean by 'foundations' and sketch the main steps in foundations research. In the second part we give an example by analysing the foundations of differing liberal perspectives on the right of children to an education for autonomy.

Foundations

'Foundations' will be our general term for basic ideas and conceptual models underlying educational theories and educational practice. Very often these ideas are implicit in the sense that the theorist or the practitioner have never clearly decided to let these ideas guide their work. Yet they play a role in determining what for the scientist or the practitioner, and for the reference groups they want to measure up to, is to count as quality in their work. They are decisive for what they will consider correct or incorrect approaches in what they are doing, and for what they regard as correct or incorrect reasons for what they are trying to achieve. More fundamentally, these ideas shape the scientists' and the practitioners' tacit ontologies, and thus the way they look at things in the everyday reality of their work. Foundations determine what can be seen as 'the facts'.

The character of foundations may be further clarified by their status as presuppositions. Not all presuppositions in discourse are foundations. In line with Collingwood (1940) we may distinguish relative and absolute or foundational presuppositions. For instance, when a teacher is asked: 'What are you going to do about the sexual harassment in the class room?' a *relative*, factual implication is that sexual harassment does indeed occur. Moreover, there is a relative, normative implication in this question, namely, that the teacher

ought to do something about it. Absolute or *foundational* presuppositions underlie such discussions. That is, they are in a more broad sense presupposed in such questions their factual and normative implications. In the above example an absolute presupposition is that persons can be held responsible for what they do. Also, there is a certain pedagogical optimism involved here: there is a basic conviction that something can be done about the situation in question. Even when the relative implication would turn out false (no sexual harassment in the class room), these absolute presuppositions would still obtain. It should be noted, however, that Collingwood conceived of absolute presuppositions as historical and changeable, a feature to which we will return.

Foundations may be characterised as the hinge points in specific conceptions of (parts of) reality. Often core terms or concepts in a debate fulfil this hinge function, but it should be emphasised that these central concepts can be, and often are, essentially contested concepts between the parties involved. They can be different in many subtly differing ways and they can be variously interwoven within their more encompassing conceptual networks. Foundations can also take the shape of pervasive images or metaphors, such as the machine metaphor in explanations of human behaviour, or the computer metaphor for cognitive processes. In other words, foundations are not necessarily (or rather: are typically not) shared by all members within a language community, nor, on the other hand, are they necessarily confined to any specific language.

Foundations influence our experience of reality in two ways. On the one hand, they open up reality to us, because its experience would not be understandable for us without some kind of conceptual organisation. On the other hand they clearly limit our perspectives. Without being fixed forever, they close off or impede other ways of looking at things. In that way, foundations will often work as 'structures of prejudice' (Gadamer 1989), literally preceding our judgements. For example, when the earth is seen as the centre of the universe, it cannot at the same time be looked upon as just one tiny little planet in just one solar system in just one of countless galaxies. And this world view in turn is strongly determinative of any astronomic theories likely to emerge and of the evidence considered acceptable for them. Similarly, conceptual frameworks may contain a certain view of man and of personhood, which in turn may be strongly determinative of our modes of theorising in the social sciences. Behaviourism based on the causality postulate yields theories and approaches different from a hermeneutic philosophy of science. Along the same lines, the foundations of conceptual systems can be said to 'create' (i.e., to both make possible and confine) not only our thinking but also our doings. Every human practice is constituted by some system of rules, more or less elaborate, organising the logical space for what are taken to be appropriate judgements and actions. This is true for highly formalised games like chess, as well as for our mostly intuitive everyday practices in education. These constitutive systems of rules can be made

explicit, and can be shown to be guided by, and expressive of, certain basic insights or supporting principles that can be seen as the foundations of these systems.

Foundations research

Now let us see what are the successive steps in foundations research. First we give a brief outline; in the next sections this will be elaborated using the example of the relations between conceptions of political liberalism and liberal education. It should be emphasised that not all steps will be always required in full.

Material analysis

The first step consists in the description and analysis of the relevant material about and from the educational practice, or textbooks, or theory in question. The description should be clear, representative and fair to the actors and/or authors involved. It should be reliable and valid, as in empirical research. The analysis begins by making explicit what may be implicit factual and normative relative presuppositions. Next, the inherent patterns of argumentation, relating premises and conclusions, are reconstructed and evaluated: Are there any missing premises? Are fallacies involved? Do the conclusions really follow?

Foundational analysis

The second step is based on the first. Now we start looking for absolute or foundational presuppositions as reflected for instance by the specific connotations of core concepts and the particular ways they are related. Foundational analysis aims at clarifying these presuppositions, which may be in the sphere of philosophical anthropology, political philosophy, philosophy of science, etc.

We can make a distinction here between variant and invariant foundations. *Invariant* foundations are inescapable; we cannot back out of them. Kant (1781/1973) is the prime philosopher who systematically tried to elucidate this type of foundation, which he sought in the conditions of the very possibility of any human experience. Examples are the (what he called) 'transcendental' forms of perception: space and time. The logical status of these concepts is special because space and time are necessarily presupposed in our knowledge of the world; we cannot perceive things but in space and time. Similarly, Apel (1973) argued that we have by our use of language to communicate with others unavoidably accepted certain presuppositions, for example, not only the principle of non-contradiction but also a basic respect for persons and their arguments. Apel calls the latter kind of presuppositions 'transcendental-pragmatic' because it is in the practice of any reasoning and

language use that we cannot but accept them. We have in fact already accepted these principles the very moment that we might set out to deny them. Presuppositions of this kind are necessary and invariant in the sense of being equally unavoidable for any human being in any reasoning. They are narrow, however, and they are few.

On the other hand, there are *variant* foundations, or networks of presuppositions underlying our reasoning in diverse fields. Differences may be synchronic and diachronic, between cultures or historical periods. For instance, different types of societies may entertain fundamentally different conceptions of education (O'Hear 1981); and societal development may also involve new perspectives on the person and his or her relation to tradition, and new views of individual growth and adulthood (van Haaften and Snik 1994, 1997). The 'transcendental-critical' project, aimed at finding a universal and invariant educational framework (Ruhloff 1979; Strauss 1982), has proven a failure.

Foundational critique

Philosophy of education should not, however, be confined to the analysis or reconstruction of variant and invariant foundations. 'For what is expected of philosophy is not to describe concepts while taking care to leave them as before, but to challenge them, rethink them, criticise or justify them' (Kekes 1980: 10). Material and foundational analyses are directed ultimately towards questions of validity; they are undertaken with an aim of evaluation. The question here is not so much whether the foregoing steps have been adequately performed, but, taking this to be the case, whether in particular the variant foundations that are revealed to be operative are *appropriate*, whether or not in comparison to rival foundations: Is this really the best possible conceptualisation of the educational situation and requirements? Is this the best relevant moral view? Is this the best conception of educational science? Foundational analysis should therefore, in a third step, lead to foundational critique ('critique' in the sense of Kant: tenacious critical investigation and carefully argued evaluation). Sometimes this may, in a next step, result in the proposal of an alternative, a 'rescription' (Steutel 1988) in which by introducing new concepts or rearranging conceptual relations the flaws of the original system may be obviated and a better, more consistent or otherwise more fruitful conceptual system introduced.

We wish to emphasise that foundational critique should not be destructive but always aim at clarification and a deepening of insight, in particular for the persons most concerned. Persistent misunderstandings in educational practice or frictions in educational theory may be an indication of conceptual contaminations at the foundational level. Foundational analysis may effect recognition of previously opaque sources of obscurity. A second reason always to present the results of the foundational analysis to the persons involved is its inherent methodological vulnerability, as it unavoidably is an interpretation and reconstruction on the part of the researcher. Interchange

may prevent, or help in rectifying, inaccuracies. Our third reason for this interchange is that it is the best guarantee that the foundational critique does not end in an ideological 'explanation' of the others' 'behaviour' (behind their back so to speak) towards a third party, in which the persons involved only figure as objects of the explanation instead of being the subjects primarily concerned. This safeguard may not always be easily practicable but it should remain a hermeneutic requirement.

Justification

The final step is the justification of the foundational analysis and critique. The foregoing remarks do not mean that the persons involved will or should always consent, but the critique should be reasonably justified. This should be done in two ways: firstly, the methods and results of the foundational analysis should be made clear; and secondly, reasons should be given for any critique based on it.

The relation between justifications and foundations is complicated. Sometimes, educational practices will be debated on the basis of shared foundations. More often, however, different viewpoints will derive from differences at a more foundational level. On the other hand, any justification makes its own presuppositions. This means that justifications in a discussion about viewpoints based on differing foundations, as well as the justification of a foundational critique or proposed rescription, may be based themselves on other underlying and perhaps 'deeper' foundations (van Haaften and Snik 1997), as will be seen in the following example.

Foundations of liberal views on the right to an education for autonomy

We will now illustrate what we mean by foundations research, by analysing some of the presuppositions of a discussion about the educational rights of the child in a liberal society. The discussion concerns the following question: Should the *state* guarantee for *each* child the right to an education for autonomy? At first sight, the answer may seem rather clear. However, opinions differ considerably regarding these matters – interestingly enough even within the liberal camp (see McLaughlin 1994; Callan 1997). The reason is, as we will try to show, within liberalism (that is, within the scope of the shared system of foundations typical of this view of the state) there are two diametrically opposed sets of foundations underlying the debate about state intervention in education. We will clarify and analyse these differing foundations of liberal thinking about the aims of education and their implications for the question of whether the state should guarantee the right to an education for autonomy for all children.

The foundations involved are determining for what are considered the rights and duties of educators (parents, teachers) and the rights of the child,

as well as the obligations of the state concerning these rights and duties of educators and children. The foundations are decisive for the conditions and the limits of possible state interventions, and thereby delineate the logical space of what can be relevant empirical, juridical, moral and pragmatic arguments, both pro and con, and both in general ('When and how should the state intervene?') and in actual practice ('What is to be done in this particular case?').

There is no disagreement among liberals that civic education is a task of the school. Even though this requirement may be interpreted in various ways, all liberals concur in their view that civic education should be obligatory, including for illiberal communities within a liberal society. However, liberals have fundamentally different views about the right of children to an education for autonomy and the pertaining duties of parents and teachers. They differ with respect to the acceptability of separate or denominational schools and to what should be the character of state schools. More generally, they differ as to what are the obligations of the state regarding education.

The *standard liberal view* (as we will call it) denies the right to an education for autonomy for every child (see Archard 1995). Parents in a liberal society should, according to this view, have the right to bring up their children in accordance with their own conception of the (morally) good life, and to have them so educated in the school to which they send their children. This means that education for autonomy is an *option*, but no more than that. Liberal parents are free, but not in any way obliged, to realise this educational ideal. The role of the state should be limited to preserving the right to a normal development for each child and furthering civic education in all schools. The state should protect and foster freedom of education. This means that parents should be granted the right to have their children educated in line with their own particular world views or religious convictions, including the right to establish private schools.

On the other hand, according to what we will call the *liberal education view* all children do have the right to an education for autonomy (White 1983). This means that all parents have the corollary duty to accept every child's right to autonomy. Any form of values education in schools should in this view be aimed at education for autonomy. The state should not only protect the right to a normal development for each pupil and advance civic education in all schools, but also see to it that each child's right to autonomy be respected.

Let us now try to find out what precisely are the foundations of these two opposed liberal views concerning the role of the state in matters of education. Our reconstruction is in two steps. Firstly, we analyse their common ground, the shared liberal perspective to which both parties appeal. Then we reconstruct the specific foundations that cause the differences.

Common ground

It is not so easy to delimit a framework of basic principles shared by the different types of liberalism. In many definitions, liberalism is identified with

what in fact is one particular historical form. Often the individual right to autonomy is taken to be one of its necessary features (see, e.g., Johnston 1996; Kekes 1997). The idea is, firstly, that only individuals can have rights, and secondly, that individual rights as such involve the right to autonomy, that is, the right to form and revise one's own conception of the good life (Rawls 1993). However, many authors from various backgrounds have noticed that this form of liberalism, with its emphasis on the right to autonomy, is the result of a historical development in which non-individualistic types of liberalism, such as 'diversity liberalism', preceded the recent more individualistic 'autonomy liberalism' (Walzer 1992; Galston 1995; Sandel 1996; Kymlicka 1995).

Non-individualistic types take freedom of conscience and freedom of religion to involve the right of *communities* to a state-independent space in which particular (religious) convictions can be freely put into practice and transmitted (Galston 1995), and the right of individuals to profess and avow their convictions within such a particular community (Sandel 1996). Clearly these two types of rights are not mutually exclusive and in actual fact they often go together. Freedom of religion implies the separation of church and state; it is the right of (religious) communities to have their own state-independent conceptions of the good life. It does not imply that individuals have the right to choose their own world view, and therefore it is compatible with the idea that a person's conception of the good life is constituted by the community of which he or she is a member. The state should protect these freedoms. The state should make it possible for communities to continue their particular way of life, and thus ought to guarantee freedom of confession. However, according to this type of liberalism it is not the task of the state to guarantee the right to autonomy. Autonomy is something that may be cherished in liberal communities. These communities have the right to maintain an autonomous way of life for individuals, just as illiberal communities have the right to further non-autonomous ways of life. The state should respect and protect both types of communities. The limitation in the exercise of these freedom rights is where the same rights of other *communities* are threatened.

In autonomy liberalism, the central principle is that *every individual citizen* has the right to form and revise his or her own conception of the good life (Dworkin 1978; Rawls 1993). This is not only the right to have such a conception but also the right to choose one. The ethics of individual rights constitute the foundation of how the relations between the citizens, and the relations between citizens and the state, are conceived in this type of liberalism. The main task of the state is to protect and to facilitate the right of all citizens to lead their own autonomous ways of life. The state should further whatever is conducive to enabling every citizen equally to exercise this right. Freedom and equality are seen as two sides of the same coin. The limitation in the exercise of this freedom right is where the same right of other *individuals* is threatened. The state should see to it that this individual right is not infringed upon. This means that the state is allowed and obliged

to interfere, if necessary even in the private sphere, when this right of individuals is violated.

We can now see that three principles are common to these two views. Together they constitute their shared liberal foundation concerning the relation between state and education. The first is that the state has to be neutral with respect to contested conceptions of the good life. It does not have the right to raise, or propagate, let alone to impose on all citizens a specific world view. In other words, the state should be non-perfectionistic with regard to any contested conceptions of the good life. The second shared principle is that citizens have the right to lead their lives according to their own convictions, as long as they do not interfere with other people exercising the same right. (Notice, however, that it is this principle mainly that is interpreted differently.) The third principle is that the state has the obligation to protect these freedom rights and to enable people to realise them.

In line with this shared liberal foundation, both the standard view and the liberal education view accept that the state does not have the right to force parents to educate their children according to a specific conception of the good life. Both positions therefore hold this much in common – that state schools should be neutral. For the rest, they completely disagree concerning the implications of liberal morality for the relations between education and the state. They differ not only in their views of liberalism, but also in their ideas about the role of conceptions of the good life in educational matters.

The standard view

The standard liberal view starts from two principles: (1) that the state has not the right to propagandise or advance (for instance in education) any contested conception of the good life; and (2) that people have the right to lead their lives according to their own convictions. It draws the conclusion, (3), that parents and communities have the right to educate their children according to their specific conceptions of the good life.

This means, firstly, that they have the right to establish separate schools in which children can be educated in accordance with that conception. In some countries, such as the Netherlands, these schools are even considered to qualify for full state financing, because the state ought not only to protect but also to facilitate exercising the right to freedom of religion. Secondly, freedom of education means that state schools should be neutral with respect to parents' particular conceptions of the good life. Children should not be confronted with world views that are contradictory to those of their parents. Some adherents go so far as to reject the idea that it would be a task of the school to confront the pupils with a diversity of world views. The reason is that many parents and many communities do not accept autonomy as an educational ideal. A state prescribing that public schools should in this way aim to further the autonomy of the children would therefore violate the requirement of neutrality.

In other words, education for autonomy can, according to the standard view, be no more than an option that (liberal) parents and communities may or may not prefer. Parents whose world view is at variance with ideals such as autonomy, critical thinking or open-mindedness should not be demanded to send their children to schools fostering an approach that goes against their conscience.

State interference with education should be minimal, according to the standard view. Education is seen as an independent sphere, only to be protected and facilitated by the state. The only further responsibilities usually granted to the state have to do with the protection of a 'normal' development of every child and the promotion of civic education.

An important part of the foundation of this standard liberal view is the *dependence principle*, that is, the notion that *all* ideals and aims of upbringing and education are inevitably dependent on conceptions of the good, perspectives about human destiny, the ultimate meaning of life (Brezinka 1992). Every conception of the good life and every community that is constituted by a shared world view has its own educational normativity. Every education involves the forming of substantive convictions and moral preferences eventually based on the ideas of virtuousness inherent in some particular conception of the good. Conceptions of the good life and educational ideals are intrinsically connected.

Notice that this dependence principle is not itself dependent on any particular conception of the good. It is an independent meta-principle, located at the base of quite diverse frameworks of educational ideas (Brezinka 1992: 553). It is shared by parents and teachers who maintain radically different notions of virtuousness – of which liberal education, with its emphasis on autonomy and open-mindedness, is just one.

The dependence principle is an important and necessary presupposition in the argument, referred to above, that parents and communities should have the right to educate their children according to their particular conceptions of the good life. Because aims of education involve value options about which the state should be neutral in a liberal society, it is the parents and the communities who have to make the required decisions. Along these lines, freedom of education is a natural implication of freedom of religion.

Usually, adherents of the standard view appeal to a non-individualistic, diversity-liberal type of liberal morality, separation of church and state, and freedom of conscience. The state is to protect communities and to enable them to maintain and transmit their particular views of the good life. Some authors, however, focus on the right to individual autonomy and defend the standard view with an appeal to autonomy liberalism (see Archard 1995). The state should not interfere with the life of individual people, and therefore also should not interfere with the way parents interfere in the life of their children (Fried 1978). The dependence principle is presupposed in either case.

The liberal education view

The liberal education view is in many ways the opposite of the standard liberal view. Here the common liberal foundation is translated into the basic principle that every child has the right to an education for autonomy and every parent has the corollary duty to respect this right. Furthermore, the state has the obligation to safeguard this right of the child to an education for autonomy in addition to its obligation to protect the child's normal development and to advance civic education in all schools.

According to this view parents are *not* allowed to impose their conceptions of the good life to their children (White 1983, 1991). The general aim of education and the particular goal of values education in schools is to maximise freedom of choice (White 1973). The aim should not be the transmission of the convictions of the parents, meaning that their upbringing would have failed when their children would critically distance themselves of the parents' conception of the good life, but introduction to the 'examined way of life', which means that their education is successful when their children are able to either accept *or* reject or revise their life-plans and conceptions of the good in a well-informed and critical way.

The liberal education view implies a different foundation of state intervention in education. It requires that education for autonomy should be the aim of values education in *every* school. This means in the first place that public education in schools ought to be neutral with regard to conceptions of the good life, and *for that reason* should be liberal. The state has no right to further any specific conception of the good. Because everybody has the right to form his or her own ideas in this respect, values education in schools should be first and foremost directed at forming the preconditions of autonomy *in all pupils*. Children therefore should be informed about various conceptions of the good in a neutral way. They should learn to think critically. They should develop intellectual virtues such as tolerance, openness and independence of mind. All of this with the aim that children will be able and prepared later on to critically devise and revise their own world views.

In the second place, this means that private schools, in which the transmission of particular conceptions is the ultimate aim of education, can be acceptable only under strict conditions – if at all. Opinions differ as to the latter. Some authors think private schools should not be tolerated; others feel they can be allowed if meeting liberal education criteria (McLaughlin 1992). The problem with the notion of freedom of education, according to the liberal education view, is not so much that illiberal parents or communities might abuse this freedom for disseminating anti-liberal ideas. Rather, the point is that the right to education for autonomy, that every child should be entitled to, is incompatible with the notion of freedom of education granting parents the right to impose their own convictions on their children. For instance, education for autonomy is incongruous with education to become a good Muslim (White 1982: 166ff.).

Two basic principles underlie this view. First, the general foundation of liberalism now is specified in the direction of an ethics of individual rights, in which autonomy is put centre stage. The right to live in accordance with one's personal convictions is interpreted as the right not only to have but also to choose one's own conception of the good life. Everybody should be granted this right, which should be protected by the state (Crittenden 1988).

The second basic principle is that there is a logical relation between the individual right to autonomy and the right to an education for autonomy. If autonomy for everybody should be furthered, then should also the preconditions that enable persons to exercise it. And if these preconditions should be realised for everybody, then education should contribute to that. Therefore, education for autonomy cannot be a mere option. In a liberal society, in which the ethics of individual rights determine the relations between all citizens as well as between citizens and the state, every future citizen must have the right to an education for autonomy. The liberal education view is a logical implication of the right to freedom of religion (Gutmann 1989).

The foundation of this liberal education view is the *independence principle*. Although it may be acknowledged that many educational systems are in fact dependent on conceptions of the good, the dependence principle is rejected in that this is not a conceptual necessity (Hirst 1974). Liberal education is claimed to be independent of any specific conception of the good. It is claimed to be neutral, just as liberal morality is claimed to be neutral with respect to particular world views. In other words, liberal education is not just another instantiation of the dependence principle, but rather reflects a particular *view on* the relation between education and specific conceptualisations of the good.

In brief, educational systems based on the dependence principle take education to mean that the world view of the child should be constituted in accordance with the conception of the good of the parents and of the community in which they grow up. Educational systems based on the independence principle accept the liberal education view that children should be enabled to form their own conception of the good life.

Foundational critique and justification

In the foregoing we have rather extensively analysed the two main foundations underlying different liberal views on the relation between the state and the educational system. We will now more briefly discuss the next steps in foundational research, in which the reconstructed foundations are to be compared, criticised if necessary, and justified if possible. We will not execute these steps in full, leaving the choices to be made here to the reader. We limit ourselves to sketching two major problems involved in foundational critique and justification, illustrating them using the various positions that can be taken towards these problems in the debate about the views on education discussed above.

The first problem concerns the comparison of foundations, *in casu* the comparison between the dependence principle underlying the standard liberal view of education and the independence principle underlying the liberal education view. The first principle asserts that ideas about educational aims are necessarily related to conceptions of the good life. The independence principle asserts that the aim of personal autonomy as supported in liberal education is neutral with respect to conceptions of the good. Clearly, these principles are incompatible. They cannot be both true. Which one is false depends on the question whether personal autonomy as such involves a conception of the good that is part of the diversity of goods.

Adherents of the standard view answer this question in the affirmative. They interpret the ideal of autonomy as one possible option in the quest for the good life. Autonomy is seen as 'just another sectarian doctrine' (Rawls 1999: 409) and liberal education as just one instantiation of the dependence principle.

Adherents of the liberal education view deny this. They acknowledge that the ideal of autonomy is incompatible with many kinds of traditional ways of life in general and with fundamentalist ways of life in particular. Yet, they do not conceive of the ideal of autonomy as being itself an answer in the quest for the good life. In their view it is an ideal with respect to the way in which specific conceptions of the good life should be developed (Crittenden 1992: 169–172; Kekes 1995: 9ff; Larmore 1996: 129; Callan 1997: 18). Autonomy is not one ideal competing with other ideals of the good life, but a 'meta-ideal' competing with other views of how particular ideals of the good life should be formed. Therefore, liberal education is not to be seen as a realisation of the dependence principle. In other words, liberal education contains a view on the relation between education and the development of a conception of the good life (namely, the idea that education should enable children to form their own conception of the good life) which is on a par with, and competing with, the perspective on the relation between education and the development of a conception of the good life that is contained in the dependence principle (namely, the idea that children should be educated in accordance with the world view of their parents).

The second problem concerns the contents of the liberal principles involved. Should the liberal state advance the ideals of diversity liberalism or those of autonomy liberalism? Which of these can be considered the 'most truly' liberal view? Both parties blame the other for illiberalism and both claim for themselves the heritage of real liberalism.

Autonomy liberals reproach diversity liberals for allowing communities to violate individual rights. Therefore, they cannot deserve the title of liberalism (Kymlicka 1995: 152ff.). Liberalism should be defined by the individual right to freedom of conscience, including not only the right to have and disseminate particular convictions but also the right to form and revise convictions of one's own. Liberalism, according to autonomy liberals, may involve curbing communities that do not respect these individual rights.

Many autonomy liberals consider the public value of autonomy beyond doubt. Usually they simply refer to the agnosticism argument that claims concerning the good life cannot be true or false. Choices based on value judgements will be 'ultimately arbitrary' and 'incapable of rational justification or criticism' wherefore in the end 'they are equally rational, and so the state has no reason to interfere in them' (Kymlicka 1997: 201).

Diversity liberals, on the other hand, cast doubt on the way autonomy liberals infer from the agnosticism argument that autonomy should be an ideal for everybody. According to them, this ideal is neither a logically nor an empirically necessary implication of the given diversity of incompatible conceptions of the good life. It is only one amongst various possible normative reactions to this fact (Larmore 1996). The diversity-liberal reaction is a more appropriate reaction, they think. In their view, autonomy liberals are not really liberal as they are forcing fundamentalist communities to accept liberal principles that contravene their (fundamentalist) conscience. The true liberal tolerates illiberal communities. Fostering diversity is considered more important as a liberal value than protecting individual autonomy (Galston 1995: 523).

Which view of liberal state interference with the educational system should be preferred? We have confined ourselves to clarifying what is involved in the debate, by laying bare the foundations of the main opposite views. The decision is left to the reader.

Conclusion

In this contribution, we have tried to explain and to illustrate what in our view is one of the primary tasks of philosophy of education. Educational theorising and educational practice are strongly value-laden, and debates in this field are often passionate and emotional. What we have tried to show is that underlying such often confused debates may be contradictory foundations that need to be laid bare, need to be reconstructed and analysed, and wherever possible criticised and/or justified in order to get a clear understanding of the real issues involved. In this way philosophy of education, however abstract at first sight, can make a very practical contribution to major educational concerns.

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7 On the structuralist philosophy of education

An analysis of the rights of the child

Yvonne Ehrenspeck and Dieter Lenzen

The structural method as an essential part of reflexive educational science

Problems regarding education and educational aims emerge in every domain of education, which is now conceived as a life-long process. In attempts to solve these problems, suggestions are made on the correct treatment of children, young people or adults and on the appropriate methods of educational action. Such considerations are formed on the basis of scientific knowledge, but also on the basis of everyday experiences, common sense and many false assumptions, which are often supported by strong convictions. These types of claims about educational processes and their correct design and accompaniment are to be found in a multitude of forms of human expression: in books on education, in common sayings, even in recommendations on an appropriate architecture for school buildings (e.g., the opinion of Waldorf-Pedagogic, that a pupil learns better in a room without perpendicular angles). The correctness of these claims can be tested, for example, using empirical methods to question teachers or to measure the learning achievement of pupils, just as the TIMMSS study did recently (cf. Baumert 1997). However, with regard to such statements resulting from empirical studies, it is often overlooked that empirical investigations do not actually allow the assumption of causality, although this is frequently suggested. It is, for example, not possible to claim that the performance of Japanese children in mathematics is more effective simply because of differences in their instruction methods. The observation of a correlation can only be followed by a further subsequent observation, where a number of variables are isolated. Normally this process is repeated until the number of variables is so small that the tested claim has an overly restricted domain of validity.

However, there is another method which is capable of investigating claims for educational processes. It analyses such claims in a completely different way and is therefore able to avoid the above dilemma. The *structural method*, which will be presented here, does not ask about the validity of claims regarding education, but instead attempts to discover their historical and structural foundations. It investigates why such claims are being and have been made

and what implications they entail. This is achieved through an analysis of the 'deep-structures'[1], the history of discourses, the myths, prejudices and ideologies, which are all to be found hidden inside of the investigated claim. For this reason, it is a method, which supplements other approaches to the investigation of reality in an important way. This method emphasises the idea that reality is a discoverable datum, but is as a reality always a constructed reality. The method is based on the observation that thinking develops in the context of ordering symbols, which open up a reality that is linguistically and culturally specific for a participant in a particular linguistic and cultural context.

Through a consideration of this issue, and with the use of the structural method, the preparation of empirical investigations could indeed be improved. Not only everyday wisdom about the correctness of educational aims and methods, but also empirically proven scientific claims are, in actual fact, discursively produced opinions, which carry a historical freight and are full of presuppositions. When the structural method is used not to investigate reality itself, but the way reality is talked about, it is possible to show that all statements are structured symbolically. In this way, scientific statements, proven on the basis of empirical research, are the result of discourses – that is to say, of a specific way of speaking about reality, which is subject to historical change. This can be clarified in an example: it is, for example, not possible to explain the historically continuously changing – in most cases empirically proven – evidence that ability is static (i.e., not changeable through new initiatives of socialisation) or is dynamic (i.e., changeable) using empirical methods. In order to understand why educational science has a static definition of talent or gift at one point in time and a dynamic definition at another point, it is necessary to use the structural method. Using this method it is possible to reconstruct the myths and conceptions that constitute the foundations of these two definitions, which will facilitate explaining why one or the other is understood as the correct description of socialisation and educational processes at a certain point in time.

The structural method can demonstrate that the definition of talent as static can be understood as having an underlying theological foundation based on the concept of the mercy of God (i.e., giftedness = ability as gift), whilst the dynamic definition of talent is based on a secular conception, according to which a person has the obligation and the right to develop his/her own talents (cf. Lenzen 1998). If the sparring opponents in this debate had had this knowledge, made available through the structural method, of the 'deep-structure' and discourse framing their own opinions, it would have saved not only a lot of ideological argument, but it would have been apparent that the choice of a definition of talent was more dependent on the existence of financial resources, economic booms or slumps and the accompanying ideological needs, than on empirical evidence. Additionally, the scarce research monies invested in psychological studies on the supposed 'nature' of ability could have been saved. More than that: many parents would have been spared disappointment, if the promises of a successful future for their children

resulting from the dynamic definition were not seen as empirical truth, but understood as flowing from the rejection of the alternative theological conception. Conversely, many children from rural, conservative-religious homes could have had the path to higher education opened to them if their supposed low and in any case unalterable ability had not been put across as to them as God-willed.

This example shows that the structural method can achieve results, which avoid ideology and instead concentrate on signs, symbols and discourses. The method highlights the fact that everyday wisdom and scientific statements, and indeed all types of human expression, involve collective common sense and, therefore, potentially harmful effects. Clarification could ensure, for example, that no one could carry out an educational act or establish an education system and in the end claim he or she knew nothing of the possible effects of their action. This is valid as much for scientific knowledge on education, as for everyday wisdom referring to education, which is based on scientific knowledge in a popularised form, as well as for so-called proverbial wisdom such as in the saying, 'You can't teach an old dog new tricks'. A saying such as this is false and contraproductive for a society subject to rapid change and with a requirement for life-long learning. Nevertheless such historical opinions on educational reality can be shown to be often more stable than the reality of educational processes themselves. It is possible to observe how these opinions are supported and followed as much today as they were in the past, even when it has been shown that they are false. New studies into ageing have shown clearly that the ability to learn can still be very high in old age; it is simply dependent on regular learning throughout a person's life. However, one can still find the opposite conception, which contradicts this finding in nearly all concepts of early learning. With the use of a structural analysis it would be clearly recognisable that this common ground, which can indeed play a role in scientific investigations, is in fact related to the theologically inspired myth of the child's '*tabula rasa*'. This conception is used to introduce so-called necessary conditions (i.e., one must start learning as early as possible if one wants to have a chance in life) in a covert attack on the carefree quality of the life of a child. It would indeed also be possible to show that the conception or demand for the carefree life of a child also transports mythological elements (cf. Lenzen 1985).

In an attempt to avoid or at least to make transparent such mistaken efforts, whether everyday or scientific, it is necessary to turn to a 'reflexive educational science' (cf. Lenzen 1996). This entails not only a reflexive investigation of empirical results in the sense of an estimation of their pedagogical implications, but also a type of estimation of the effects of pedagogical reflection itself and of pedagogical activities. This involves an analysis of symbols and signs (discourses) as representations of events and reconstructions of the operation of systems of symbol-transfer, respectively. It is important to note that discourses are, broadly speaking, stories about

occurrences, but discourses are not occurrences themselves. Discourses are mythologically framed, insofar as they attempt to deliver explanations and justifications for elementary facts of life, social institutions and societal actions. Reflexive educational science reconstructs the particular historically formed dominant myths about educational processes and clarifies the implications of such mythologically framed discourses (Lenzen 1991a: 119ff.).

The structural method has a particularly important role in the fulfilment of this task. Its goal is the reconstruction of interpretational patterns and orientation activities which underlie the various forms of human expression (gestures, rituals, texts, buildings, etc.) and are initially subconscious. Such patterns and orientation activities have often emerged over hundreds of years and are maintained in a kind of collective memory, which appears to be particularly resilient to change. They can take the form of myths (cf. Lenzen 1985, 1991b, 1991c) or even ideologies; they may however be simply prejudices. In short, they include everything that a conscious system implicitly takes on in the socialisation process and transmits to future generations.

The structural method is the investigative method of structuralism, a school of thought whose roots stretch back into the nineteenth century. In educational science, however, the method was only discovered in the 1970s (cf. Lenzen 1973; Ehrenspeck 2001). Structuralism originally resulted from the search for universal, constant structures, which could, for instance, underlie language. This essentialism was given up during the further development of structuralism. The structural method then found application in other academic fields, such as anthropology (e.g., Claude Lévi-Strauss), sociology (e.g., Pierre Bourdieu) and psychology (e.g., Jean Piaget), when an interest arose in discovering historical structures, which were not conceived of as universals but as subject to change on the basis of historical events. They might for example underlie and frame cultural phenomena, such as marriage rules, systems of the social reproduction of social classes or topological structures of competency growth in children.

The structural method is an analytical method. This analysis cannot, however, be compared to a chemical analysis. On the contrary, it has been shown that different people have arrived at different results when analysing the same subject matter. (Which, one should mention by the way, is happening more and more often in natural sciences as well.) For the most part, such differences are the product of inexact working procedures. Lévi-Strauss showed that it is impossible to reconstruct structures without 'bricolage' – without a little bit of 'tinkering'. This does not, however, imply arbitrariness; rather, it implies the testing of different models until the point at which all other models have to be thrown out because they do not fit. At this point, a provisional end to the reconstruction has been reached. It is quite clear that after several decades the same subject matter may no longer be reconstructed in the same way. This, however, has less to do with the fact that different people reconstruct in different ways than

with certain shifts in the focus of central interest. For 'structuralists' in ancient times, the analysis of the Oedipus myth had to do with the question of autochthony – in other words, with the ability of human beings for self-creation. Such a 'structuralist' would see a message, which is reconstructed correctly, but is nevertheless no longer applicable today, that human beings should be humble and not meddle with the handicraft of the Gods. The Oedipus myth interested Freud in a very different way. He focused on how the taboo on incest was coded as a societal regulation in the myth – an issue that was perhaps more relevant for Austria's *fin de siècle* Vienna.

Central concepts in the structural method

The variety of ways in which the concept of structuralism has been understood is so great[2] that it appears necessary to begin by clarifying the concept. It is impossible, however, to define the various structuralist positions as one might in the case of more homogeneous analytic approaches such as Marxism or Critical Rationalism. The followers of structuralism have never been 'bound together [by a] solidarity of doctrine or fight' as Roland Barthes expressed it once (Barthes 1966: 190ff.). Nevertheless, the different positions within structuralism can all be said to share a number of similarities:

A *structure* is understood as the quality of necessary interdependence among elements in a system. These interdependencies may be continuous or discontinuous. They are in any case definitely subject to constant, rule-abiding transformations that capture the totality of the structure without going beyond the framework of the system. This is so because a structure regulates itself, even though – as a result of the fact that observation is always momentary – it appears to be invariant and formalised.

This description of the concept demonstrates connectivity to systems theory, in spite of the fact that structuralism developed entirely independently of systems theory (cf. Lenzen 1994/1995). Formulated as sets this means:

Structure: R1, R2,…'R

System: E1, E2,…'E R1, R2,…'R

where

E = an element of a certain system x;

R = the relation between two elements y, z of the system z

Structural analysis consists in uncovering or 'reconstructing' structures of

natural (mineral, botanical, etc.) and social systems.That means that the elements of a structure are identified and the co-existential or morphological – in other words, the structural – 'laws' that mark the relations and the alterations of those relations over time are investigated.

Structures consist of two levels: the surface level and the deep level. The surface level refers to the way in which a structure appears. In the case of natural systems, it can be – for example – a stone, a plant, the horn of a bull. In the case of social systems (and especially pedagogical systems), it can be a text, a verbal expression, a gesture, a dance, a building and much more – but in all cases, a human expression that contains a meaning, a syntax, a pragmatic. These all belong to the deep level. Due to its deep-structure, which abides by rules, the symbol-creating human being brings these symbols to the surface through a transformation of deep-structures to surface-structures.

The *reconstruction* or deduction of the deep-structures underlying a given surface structure is the true task of the structural method. In doing so, it is assumed that a rule-abiding – though by no means a natural-law-abiding – connection exists between the surface-structures, the symbols in a social system, and the deep-structures of the participants in a social system. The surface-structure makes it possible to draw conclusions about what the deep-structures are, if the rules of transformation – the rules, according to which the deep-structure is transformed into a surface-structure – are known. Structural analysis, then, investigates the two types of structures and the transformation rules according to which the surface-structures are generated from deep-structures.

Whereas the simple structural analysis assumes invariant surface- and deep-structures and invariant transformation rules that bind them, the *genetic-structural analysis* goes even further and looks at the processes of change to which the deep-structures, the transformation rules, and also the resulting surface-structures are subject.

One can only assume *invariant structures* if the surface-structure that is to be structurally analysed is stable and invariant. On the basis of this premise the structural method can be used to analyse the deep-structure of a text, a building, a gesture, a piece of art – of symbol structures that are already fully developed. Claude Lévi-Strauss' work is among the most famous example for this sort of analysis – as when he reconstructed marriage rules out of tribe members' comments about life or when he reconstructed the hidden 'message' of the Oedipus myth (the impossibility of human autochthony) from its narrative surface-structure. The myth is already completed from the start; it does not change. Its 'meaning', as an invariant meaning, is the meaning that exists within it. However, according to the post-structuralist perspective (a development and 'deconstruction' of structuralism, which has been developed since the 1970s (cf. Ehrenspeck 2001) by authors such as J. Derrida, M. Foucault and J. Baudrillard), this premise cannot be held.

An invariance of deep-structures cannot be assumed since the supposed meaning is always the meaning of whoever it is who is attempting a structural analysis. So the deep-structure of the invariant surface level – for example, the myth – is in actual fact variant. It is a function of time and particularly of the 'discourse' about a particular object. Thus, the discourse about the autochthony problem or about the Oedipus myth brings about new deep-structures during the course of history. According to post-structuralists, then, it is only possible to analyse the changes in the discourse – nothing can be said about the deep-structure, because the myth itself does not contain any invariant deep-structure at all. In discourse analysis, it is only possible to research the changes in the meanings that are given to symbols at various periods of time.

This objection is valid, but it does not prohibit the structural analysis of invariant statements. A structural analysis – and this is something that is seldom noted – is namely the precondition for every discourse analysis. Only when one masters the method of reconstruction from the surface-structure on to the deep-structure is one in a position to identify the changing transformation rules, which are nothing more than the changing 'meanings'. It is therefore possible to take the post-structuralist objection seriously without giving up the structural method. The essentialist notion that was originally suggested in the concept of the deep-structure must be rejected so that – with this in mind – the terminological differentiation between deep- and surface-structure can be retained.

Variable structures are surface-structures that change with time (in contrast to the invariance of specific expressions) and accordingly, they entail variable deep-structures as well as the rules of transformation, which connect these two types of structures. Let us turn to an example of a simple structural analysis: A certain surface-structure, let us say an *incorrectly* solved calculation, was brought about by a learner, let us say by an elementary school pupil. One could attempt to reconstruct the state of learning that underlies that pupil's transformation act, or to reconstruct the learner's cognitive deep-structure. Correspondingly, the same can be attempted for a task that is later *correctly* solved by the learner. The change in the surface-structure (incorrect solution–correct solution) cannot be understood in a structural sense alone; instead, it can only be understood through an analytical induction of the change in the pupil's deep-structure. Insofar as the learning *process* that takes place can itself be understood as a transformation of a cognitive deep-structure from A to B, this process also opens itself to structuralist intervention; though, due to its character as something that is taken structurally as a *process*, it is a structural-*genetic* method or *genetic structuralism* that is most suitable.

The example shown in Figure 7.1 is taken from a real instructional situation and makes it clear that a genetic-structural analysis involves using the statements made by a human being – in this case a learner – to draw conclusions in retrospect about deep-structures and the applied transforma-

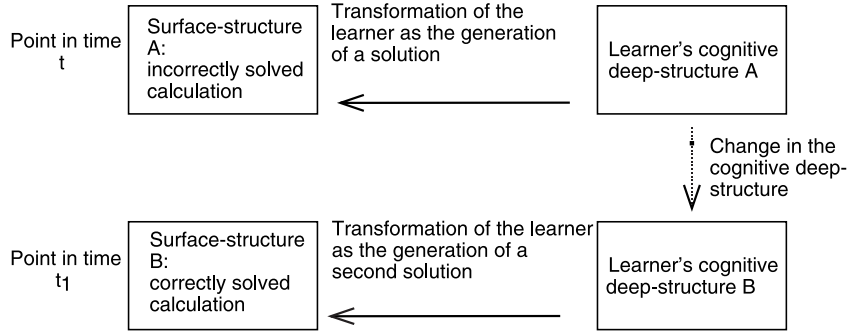

Figure 7.1

tion rules. It is important in the research on instruction (as well as in classroom instruction) that one first draw conclusions based on one particular (*incorrect*) surface-structure about specific (*incorrect*) transformation rules and about the deep-structure that must therefore be inadequate, before one starts thinking about how it might be possible to modify the deep-structures through a correction of the transformation rules in such a way as to generate *correct* surface-structures in the future. It seems as if this description is complicating something that is actually quite trivial. And yet, it is the precise description of what cognitive psychologists and biologists attempt when they reconstruct cerebral structures based on surface deviancies (for example, aphasia).

It is possible to clarify some important concepts in educational research by using these basic assumptions; but these concepts are not central to demonstrating how the structural method can be applied to the issue of children's rights, which is the actual topic of this chapter. Because they are central for assessing the value of the genetic-structural method, however, I would like to focus on these clarifications of concepts in the form of a digression (cf. Lenzen 1976),

Digression: the structural method in educational research

The human cerebral system shows signs of having a *cognitive deep-structure* that can change at every moment of its biological existence. The structural organisation of the ecological system in the natural or social environmental of a learner is referred to as *surface-structure*.

The deep- and the surface-structures are at least in part products of a transformation process: the cognitive deep-structure is an ordered storage or transformation of data experienced on the surface in the *learning process*.

The surface-structure of the natural and social reality is in fact the result of forming activity and cognitive deep-structure transformational activity produced through a human subject's *action*. Both transformation processes – action and learning – are activities of the subject.

Because the learning process is such a unique and active transformation of learning, *instruction* cannot simply be understood as the institutionalisation of the transformation process. On the contrary, instruction is the activity (of others) that does not leave the subjective process of the transformation of surface-structures into cognitive ones to coincidence. Instead, it optimises this process by offering the learner the overly complex system of the environment in systematised or selected form – in transformed – form.

In this sense, instruction itself is the production of a transformational activity, namely the transformation of an overly complex surface-structure of social and natural reality into the structure of instruction. Because didactics (often called methodology in Anglo-Saxon universities) concerns itself with the optimisation and legitimisation of this transformation process, it can be understood as being a structuralist activity. A structural, didactic theory, therefore, could be developed as a *theory of didactic transformation rules*. (The same applies to socialisation, education, etc.)

Compared to the non-instructional learning process, the *instructional learning and action process* can be schematised as a *multi-functional transformation process* in the manner shown in Figure 7.2.

It is possible to identify the interest of this book at this point: approaches that take the learning process, the didactic organisation of instruction, and the instruction itself, as being transformation processes that can be understood in a structuralist manner are to be sought in the didactic branch of educational science and brought together.

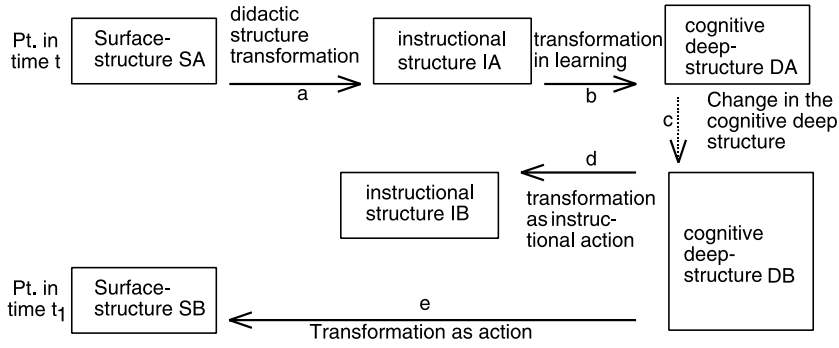

Figure 7.2

This means:

Learning as a transformation of the surface-structure or the instructional structure into the learner's cognitive deep-structure;

Didactics as a theory of rules for the transformation of surface-structures into instructional structures;

Instruction as a multi-functional process of didactic transformation – the transformation of learning and of (instructional) action.

Structural analysis of the United Nation's *Declaration of the Rights of the Child*

In 1959 the United Nations passed a *Declaration of the Rights of the Child* and, in 1989, the organisation agreed on a *Convention on the Rights of the Child* (cf. Jenkner 1992: 16–18, 52–54). Both of these texts are invariant when taken on their own. They exist, however, in an historical succession and, as such, they are components of the discourse about children's rights. Because of this, both of these texts are suited to a structural analysis and are also suited to be the topic of discourse analysis. We will begin with the structural analysis of only a small part of the older text from 1959.

DECLARATION OF THE RIGHTS OF THE CHILD
(20 November 1959)
Principle 7

The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education, which will promote his general culture, and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.

The best interest of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.

The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavour to promote the enjoyment of this right.

(Jenkner 1992)

The text consists of a variety of elements that can be classified. One of the classification groups is that of designated 'rights'. It is to be called E*R*1-n. Specifically, it is about the following:

E*R*1: free and compulsory education

E*R*2: general culture

E*R*3: basis of equal opportunity

E*R*4: full opportunity for play and recreation

In the general understanding of law, rights are the options that individuals, to whom these rights belong, have in the face of third parties. The task of the state under the rule of law is to assert these rights in the face of third parties. It is in this way that the state stands up for the rights of those who have claims on them. The state represents the interests of those who have claims to rights – in this case, children. In addition, rights are titles, which are claimed by their proprietor in order to provide him or her with a good life. Rights, therefore, must be useful for the leading of a good life.

Let us search for a second classification group for elements that give information about the utility of these rights on their surface (E*U*1-n):

E*U*1: to develop his abilities, his individual judgement, and his sense of moral and social responsibility

E*U*2: to become a useful member of society

E*U*3: directed to the same purposes as education

Finally, we will put the classifications of elements that relate to asserting rights together – or more specifically, the authorities that should assert these rights in the interest of the child (E*I*1-n):

E*I*1: that responsibility lies in the first place with his parents

E*I*2: society and the public authorities shall endeavour to promote the enjoyment of this right

The surface-structure looks as follows when it is simplified:

Rights of the child that are to help the child have a better life are to be guaranteed in the face of third parties – the other members of society. They are to be asserted by the state (and parents) as the institutionalised generalised authority of the society in the face of the society. *On the surface*

that means that the society agrees to sacrifice a part of its own quality of life in the interest of children, for example, by using some of the financial means of adults (who must sacrifice something else in return) for the education of children. Formally, this could look something like the following:

E*I*1,2 → E*R*1–4ΣE*U*children

where

→ = the means that are used

and

Σ = for the purpose of

If we consider the single classification groups on their surface more closely, however, we must conclude that E*U*children is not what is noted there, but rather E*U*. If one looks at the quality of the elements *U,* then one sees that they are all about utilities that are in the interest of the society, that all of the means – even the means of play – are formulated for societal utility. In the deep-structure, then – in other words, when we consider the quality of the elements more closely – the formula goes as follows:

E*I*1,2 → E*R*1–5ΣE*U*society

That means that a transformation from the deep level to the surface level – in the sense of the shift of utility – must have taken place:

E*U*society ⇒ E*U*children

This transformation sounds contradictory, because it comes down to the assumption of an equation between the interests of children and the interests of the society. Furthermore, it works with the notion that children should be 'useful' for the society. One speaks on the surface about rights that the child has in the face of the society, but an opposite deep-structure underlies this formulation: namely, that the authors of the *Declaration* assume the existence of rights of the society in the face of children (namely, that children must be 'useful'). The society, however, allows its own interests/rights to appear on the surface as if they were the rights of the child and it goes on to place itself – via parents and via the state – in the position of the power that is supposed to assert these rights in the face of itself, or in other words, in the face of the society. Speaking logically, we are dealing here with a *contradictio in adjecto*: that is, *the society asserts its own interests / rights in the face of itself*.

We cannot assume that this was unknown to the authors. On the contrary:

because they intend to extend their own rights in the face of children on the deep-level, the only way they can avoid the implicated contradiction of an extension of the rule of adults is by suggesting that the interests/rights of the child are identical to the interests of the society, so that it must lie in the interest of children to be 'useful'.

The transformation rule that lies at the base of this can be formally drawn as follows:

E*R*children = E*R*society

The equation goes in both directions:

> Whatever is useful to children is useful to the society – whatever is useful to the society is useful to children; it is therefore necessary that the rights of children are formulated as the duty of children to be 'useful'.

This view was the fundamental basis of totalitarian states: it is the province of fascism and communism.

We can conclude that: the *Declaration of the Rights of the Child* of 1959 has totalitarian elements. In it, there is no trace to be seen of the Western understanding of a society in which individual rights are not instrumentalised (exploited) by the society. We conclude, then, with a hypothesis that must be investigated in further historical studies – investigations that must ask how it could happen that the United Nations passed a totalitarian *Declaration of the Rights of the Child* fifteen years after the collapse of German fascism. There must have been interested parties from other totalitarian states and, more centrally, from the communist world, who were able to assert their collectivist understanding of child rearing.

The result of our structural investigation, however, does not only offer a possibility of connectivity with historical research; it also offers the possibility of connectivity with judgements about current attempts at educational philosophy. Let us look at the *Convention on the Rights of the Child*, which was passed thirty years later on 20 November 1989. It is about three times as long as the 1959 *Declaration*, and the text is as follows:

CONVENTION OF THE RIGHTS OF THE CHILD

20 November 1989

Article 28

1 States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
(c) Make higher education accessible to all on the basis of capacity by every appropriate means;
(d) Make educational and vocational information and guidance available and accessible to all children;
(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2 States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3 States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.
Article 29
1 States Parties agree that the education of the child shall be directed to:
(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own;
(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
(e) The development of respect for the natural environment.
2 No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

(Jenkner 1992: 53f.)

The casual reader will notice that this text concentrates more on school and educational rights than the earlier one. There is certainly more that can be said about this – in the context of an interpretation of the text, for example – but structural analysis is about uncovering (text) structures. What we want to find out now is whether the structures that we discovered in the *Declaration* of 1959 are different from the structures in the newer *Convention* – something that it seemed reasonable to expect in 1989, at the exact point in time when socialism was collapsing worldwide.

We will follow the same procedure here that we used in the analysis of the *Declaration* of 1959. The first question is which rights are mentioned in the 1989 *Convention*:

E*R*1: education

E*R*2: equal opportunity

E*R*3: human dignity

This catalogue does not contain any new rights that did not appear in 1959; on the contrary, it fails to mention E*R*4 (1959) 'full opportunity for play and recreation'.

We find the following elements in 1989 regarding the utility of these rights:

E*U*1: elimination of ignorance and illiteracy throughout the world

E*U*2: facilitating access to scientific and technical knowledge and modern teaching methods

E*U*3: the development of the child's personality, talents and mental and physical abilities to their fullest potential

E*U*4: the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations

E*U*5: the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own

E*U*6: the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and

friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin

E*U*7: the development of respect for the natural environment

If one were to separate the generalised formulations of the clauses in Article 29 and make each one into a separate E*U*, then the catalogue of utility is definitely longer than the one in 1959. A just differentiation would result in well over ten different elements.

Now let us look for the institutions that are named with regard to asserting the rights. In contrast to 1959, we only find:

E*I*1: state, school, (system of education)

Parents are no longer listed as guarantors that children's rights are held.

The classifications of elements hold the same relation to one another on the surface level as they did in the 1959 *Declaration*:

E*I*1 $\rightarrow$ E*I*1–3ΣE*U*

If one observes these structures on the deep level, however, it also becomes clear that:

E*I*1–7 $\neq$ E*U*children

but rather, that it

= E*U*society/country/people of different ethnic groups/natural environment/world

It is clear that a transformation has occurred here from the deep- to the surface-structure according to the following pattern:

E*U*society/country/people of different ethnic groups/natural environment/world $\Rightarrow$ E*U*children

The society once again places its own interests – and this time expanded to include the country, people of different ethnic groups, natural environment and even the entire world – behind the rights of the child. In contrast to 1959, however, this *Convention* does not even attempt to present the interests of all the non-children as if they were the interests of children. One can no longer say, then, that the same sort of transformation that held for 1959:

E*R*children = E*R*society

is still relevant here.

But what transformation rules do play a role in developing the surface level 'rights of the child' from the deep level? The answer can be found when one realises that the 1989 *Convention* contains one further classification of elements that did not play any particular role in the 1959 *Declaration*. We will call it E*m*1–5. It is the classification of means that are listed in achieving the rights of the child. The following elements belong to it:

E*m*1: make primary education compulsory and available free to all

E*m*2: encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need

E*m*3: make higher education accessible to all on the basis of capacity by every appropriate means

E*m*4: make educational and vocational information and guidance available and accessible to all children

E*m*5: take measures to encourage regular attendance at schools and the reduction of drop-out rates

If one also takes a look at Article 29.1, one will read that 'education of the child shall be directed to…' Logically, this means that education follows ends, which we have named E*U*1–7. Education, therefore, becomes the means to certain given ends.

That means that the 1989 *Convention* also contains a second transformation rule:

E*R*1(*Bildung*) = E*U*6(*Bildung*)

According to this, the *Convention* does not only suggest that the interests of the society, of the country, of people of different ethnic groups, of the natural environment and of the world are identical to the interests or rights of the child (to have education); rather, in the transition from one article to the other, it redefines this right – one that is actually an end – as a means. In interpreting this structural finding, one has to notice that the totalitarian character of the 1989 *Convention* exceeds that of the 1959 *Declaration* and that it instrumentalises the rights of the child, which were originally thought of as individual rights, for social ends. The *Convention* uses the traditional European concept of education in order to gain legitimacy, but it then degenerates it to a means in the interest of society. That means that

the United Nations does not want children in this world to be educated in the sense that the individual right to a good life – one that is good, because it takes place in a developed personality – is balanced against the interests of the society and given equal weight. All this seems to be the case, if we look only to the principles or articles cited above.

What can be learned from this example of a structural analysis of the rights of the child? First of all, it is evident that a structural analysis cannot replace a text interpretation. A semantic analysis of the way certain words are used in the UN texts, for example, would be able to discover connotations that are connected to certain terms. Structural analysis cannot replace discourse analysis either. It might be revealing, for instance, to compare legal codifications of how children are handled over a long period of history – perhaps since the beginning of codified law – in order to discover changes in the mentality of how children have been dealt with. It is very possible that various breaks would become clear where a discourse history could see significant changes in notions about the child and ways in which the child is handled. In addition to hermeneutics and discourse analysis, the history of scientific analysis of texts clearly includes other – though in part less important – methods.

In comparison to these other analytical methods, structural analysis accomplishes something that interpretation and investigation of historical changes cannot accomplish – unless they refer to a structural analysis themselves. As we have already shown, structural analysis ignores the area of meanings and connotations; however, it does produce important results – ones that are essential, for example, for being able to carry out a discourse analysis. It is not accidental that discourse analysis developed out of the history of structuralism. The findings of the above investigation that the UN statements are increasingly ignorant with respect to the rights of the child in regard to his or her education could not have been carried much further using the hermeneutic method. At best, one would have to try to find out what is meant by '*Bildung*', but the text does not offer any definitions, which means that this line of analysis would come to an end very quickly. It is only through the identification of classification groups of elements, through the reconstruction of a formal model on which the text is built, through the assumption of two levels, that it becomes possible to see that a suggestive text – one that appears certain of approval, because it protects the rights of the individual – actually does something very different on a second level: it denies the rights of the individual (the child) in that these rights can be subordinated to very different ends every time they are put into operation. It becomes clear that the dimension of ends is mixed with that of means in the concept of education. It is only by revealing this conjecture, however, that we gain a clue to understanding what the United Nations apparently meant by '*Bildung*'. And what they meant is in any case *not* what the European tradition, developed over two and a half millennia as an unity of individual and social requirements via the medium of '*Bildung*', made into a central characteristic of the concept of education.

The frequent claim – particularly popular in non-European countries – that UN declarations are nothing other than an imperialistic gesture that assert European norms on a global level, cannot be applied to this text according to the structural analysis. The concept of education that is used in the above articles of the declarations does not contain anything of the philosophical tradition of education and '*Bildung*' that has its roots in Europe; instead, pragmatic concerns have coloured this version of education – and probably even this is saying too much.

What can one do in a philosophical educational sense with the result of such a structural analysis? We believe that structural analysis of this sort is a necessary, but not sufficient methodological instrument for grasping what in the above case proved to be a rather important global regulation of educational concepts. In the context of rapid globalisation that also affects the systems of education (the process of European unification is a prelude to this), it is necessary to develop shared notions of education. If a 'global text' about education and the rights of the child allows the rights of young individuals to be deployed for societal ends, and if this fact is not transparent on the surface level of the text, then one can expect that massive differences will turn up in the way that such a declaration is applied in various nations. This is likely to happen, because those who agreed to the text will interpret it differently – some (the Europeans, for instance) will refer to the surface level in their application, which suggests a well-intended awareness of children's rights, while others in other parts of the world, for instance in the United States of America or in Asian nations, will allow for a complete instrumentalisation of children based on the same text.

For a correct understanding of relevant cultural expressions, and UN declarations belong to this category as well, a complete text analysis and a locating of the text within a discourse analysis – in other words, a combination of methods that includes elements of hermeneutics, structural analysis and discourse analysis – is essential for the above reasons. This also means, however, that analyses of a *purely* structural character would not be meaningful in the context of philosophy of education – in the same sense that purely hermeneutic or historical discourse analytic work would not be meaningful either. Instead, all three methods are separate parts of a concept of 'reflexive educational science'. They deliver instruments that make it possible to take a second look at the far too optimistic reduction of educational science into a science of action, and they make it possible to protect the potential victims of educational measures from mistakes that come from a non-existent, partial, contradictory, stifled, or at least forgotten, understanding of a European tradition of thought.

Notes

1 Claude Lévi-Strauss uses the expression 'profound structure' in place of what we called 'deep-structure' here.
2 On the different varieties of the concept, cf. Lenzen (1994/1995: 1485ff.).

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8 Antifoundationalist foundational research

Analysing discourse on children's rights to decide

Frieda Heyting

Constructivism, antifoundationalism and foundational research

The term 'constructivism' refers to a range of epistemological views which share the idea that scientific knowledge, and knowledge in general, should be understood as resulting from a process of human construction. Constructivists consider knowledge to be a product of 'assembling better instruments for prediction and control of the environment' (Rorty 1998a: 76), rather than a representation of the intrinsic nature of reality (cf. Goodman 1978; Rorty 1980). Having no means at our disposal for comparing our descriptions of reality with the mind-independent version of it, we are thrown back on our man-made perspectives and vocabularies of perceiving and describing the world, indissolubly bound to our own interests and needs.

'Facts are creatures of their descriptions' according to Goodman (1987: 81). Since there are many different perspectives from which we can describe the world, every situation can be described, according to Goodman, in many different correct ('right') ways. Or, as Rorty states, we can have recourse to many different vocabularies for description. For example, the world of 'molecules' differs from that of 'values'. In addition to this, those different descriptions cannot be considered as two partial descriptions of one and the same 'external' reality. In fact, no description can be reduced to 'the' reality (Rorty 1989: 11f.). In this sense, constructivists assume that there must be many worlds, each of them an artefact of its own description (Goodman 1987).

In the absence of any mind-independent access to external reality, we cannot bypass our dependence on vocabularies and perspectives. Consequently, as vocabularies and perspectives are of human origin, every description of reality must be considered 'conventional' (Goodman 1987). Not surprisingly, this leads many constructivists to the study of either individual or social processes of knowledge development, sometimes equating these processes with constructivist epistemology itself.

One tradition, reasoning from the genetic epistemology of Piaget, investigates the psychological and biological prerequisites of knowledge.

Glasersfeld is an important contemporary representative of this tradition (Glasersfeld 1984, 1999). A second tradition stems from a sociological rather than psychological interest in knowledge production. It stresses the socially conditioned character of knowledge construction (Knorr-Cetina 1981; Latour and Woolgar 1979). Both traditions have produced constructivist theories of learning and teaching (Harris and Graham 1994).

Such constructivist traditions, although they may sometimes seem to imply this, do not render superfluous the study of philosophical questions concerning the nature and justification of knowledge. Nelson Goodman and Richard Rorty, for example, are primarily interested in these philosophical questions (Goodman 1978; Rorty 1980). My argument will also be restricted to philosophical questions, and will mainly concern questions of justification evoked by the antifoundationalist epistemology of constructivism.

I will pay special attention to two issues raised by constructivist epistemology. One issue concerns a conception of justification and a related conception of foundations that is compatible with – antifoundationalist – constructivist epistemology. What limitations does a antifoundationalism impose on foundational research, and what possibilities does it leave? The second issue concerns the danger of cultural relativism often presumed to result from constructivist epistemology. I will illustrate both issues with examples from children's rights discourses. My main example will deal with the right of children to participate in decisions concerning their own medical treatment.

Foundations and the structure of knowledge

Constructivism rejects foundationalist positions. Traditional foundationalism relies heavily on the so-called 'regress argument', which Post summarises as follows:

> If every justified belief could be justified only by inferring it from some further justified belief, there would have to be an infinite regress of justifications; because there cannot be such regress, there must be justified beliefs that are not justified by appeal to some further justified belief. Instead, they are non-inferentially or immediately justified; they are basic or foundational, the ground on which all our other justified beliefs are to rest.
>
> (Post 1992: 209)

Rorty (1980) discusses three kinds of arguments that are considered non-inferentially justified: statements about sense experiences (in empiricism); statements about the intuition of clear and distinct ideas (in rationalism); and statements about the conditions of the possibility of knowledge (in transcendental philosophy). Foundationalism presupposes that there are two kinds of statements: statements that can be directly accepted as justified,

and so enter into the justification of the second kind of statement, i.e., statements that can only be indirectly accepted (cf. Dancy 1985: 53ff.). In this view, knowledge has a hierarchical structure and foundations are considered the most basic building blocks supporting the whole structure.

The idea of definite and self-justifying foundations no longer seems convincing today. Popper (1974: 111), for example, compares the foundation of theories with the piles that support a building on swampy ground: they are driven down until they can support the structure, but they never reach firm ground. Though no longer advocating the possibility of self-justifying grounds, current forms of foundationalism still consider knowledge to be hierarchically structured. The most basic argument is considered fallible and only *relatively* epistemologically privileged. For that reason, Lehrer calls such views 'fallible foundationalist' (Lehrer 1990: 63f.). They are still characterised by regression, though in a weaker form (Dancy 1985: 57). 'Good' foundations should still have a special – though not absolute – relation to truth.

In scientific contexts, sense experiences are now considered the best candidates for fallible, yet epistemologically relatively privileged, foundations. Dancy (1985: 66ff.) documents extensively the reasons why empiricist epistemological privilege is untenable, but in principle, antifoundationalism affects all kinds of epistemological privilege, including weak versions (cf. Rorty 1980). If we compare foundations with criteria for finally settling any issue, then the problem at stake is similar to the so-called 'problem of the criterion'. Applying it to empiricism, Moser, *et al* (1998: 153ff.) summarise as follows. How can one consider particular observations as criteria for deciding upon the justification of knowledge (respectively, as foundations of knowledge) without having at one's disposal a general method of observation? This critique also applies the other way around. Neither particulars (observations) nor universals (methods, theories) can be attributed – relative – epistemological privilege. Particulars and generals seem to presuppose each other. However, foundationalism does not allow for such 'circular' solutions. Foundationalist justification – in its strong as well as its weaker versions – presupposes a *linear* structure and one identifiable basic foundation, be it only a relatively privileged one (Bonjour 1986).

Constructivists reject the idea of (relative) epistemological privilege. They have consequently to reject linear inferential justification. In addition, if foundations have any significance in constructivist justification procedures, they have to be endowed with the same epistemological status as any other statement. This results in a replacement of hierarchical, linear structures by 'horizontal' ones, in which statements mutually justify each other. In this context, Audi (1988: 188ff.) introduces the idea of justifying *patterns*. Moser *et al*. (1998: 82) also reject the regression thesis, replacing hierarchical structures with holistic, systemic conceptions of justification. Antifoundationalist conceptions of justification – which should be distinguished from theories of

truth – amount to the inferential relating of beliefs to other beliefs in the overall context of a coherent system (Bonjour 1986: 120).[1]

The meaning of 'foundations' that results from the above argumentation, then, must be horizontal and systemic. Foundations are still indispensable to justification, but they themselves are no less in need of justification. In this sense, the foundation of beliefs more closely resembles relating them horizontally to a network of other beliefs than deriving them hierarchically from a 'most basic' foundation. From this perspective, foundations are those beliefs that anchor specific positions to the surrounding network of knowledge (and vice versa), thus accounting for their plausibility. Vicious circles can be avoided because 'the justification of particular beliefs depends finally not on other particular beliefs, as in the linear conception of justification, but on the overall system and its coherence' (Bonjour 1986: 121).

Consequently, foundational analysis should reveal the anchorage of beliefs – as expressed in specific positions and arguments – in a structure of surrounding beliefs, thus making them accessible for dispute. The foundations of a specific position can accordingly be reconstructed by answering the following two questions. Which – basically implicit – beliefs could account for the idea that this specific position is apparently considered plausible? Secondly, which – also basically implicit – beliefs can account for the idea that the arguments to substantiate this specific position are considered convincing? The anchoring belief does not need any special epistemological status and can itself be subjected to foundational analysis at any moment. Foundational analysis consists, then, in the reconstruction of contextual presuppositions.

This 'contextualist' (Annis 1986) approach to foundational research can be illustrated by De Ruyter's (1993) discussion about justifying government intervention in family education. Her proposition is that such intervention is allowed if the circumstances of the child concerned may endanger the development of an autonomous person. De Ruyter's main argument in favour of this proposition refers to the fundamental human right to be or to become an autonomous person.

In a hierarchical model of justification, the appeal to this human right would be the most basic argument, and consequently endowed with (relative) epistemological privilege. It would be the task of a foundational critique to scrutinise the tenability of this privilege. In an antifoundationalist, horizontal or contextual model, additional subsidiary arguments come to the fore. For example, De Ruyter considers personal autonomy a prerequisite for democratic participation, which in its turn should be an aim of education. Answering the question as to which presuppositions are required to make these and similar arguments persuasive reveals a complex of contextual beliefs. These depict human beings as individuals who (should) make decisions by themselves, democracy as a means of coordinating those autonomous decisions, and the state as a body safeguarding the conditions for this system. This cluster of presupposed beliefs may also explain why De

Ruyter finds the withholding of democratic rights from children justified on account of their (as yet) lacking competence, despite the fact that the democratic ideal itself entails everybody's right to participate, irrespective of competence (cf. Freeman 1992). The plausibility of De Ruyter's position and argument depends on this cluster of presuppositions.

To recapitulate, antifoundationalist foundational research reconstructs the presupposed contextual beliefs that account for the plausibility of specific propositions. These presuppositions are taken for granted, not necessarily as a basic conviction, but – in this instance – to uphold the proposition and its matching arguments before a specific audience.[2] This version of foundational research approaches linguistic theories of pragmatics and rhetoric. There is in fact a close resemblance between concepts stemming from epistemology and linguistics. Stalnaker's pragmatic presuppositions and Ginzburg's 'common ground' resemble Goodman's use of 'fact' in that they all constitute an unquestioned basis that enables dispute and discourse in general (Ginzburg 1997; Goodman 1987; Stalnaker 1999). In her analysis of the child's linguistic construction of cognitive representations, Fleisher Feldman (1990) uses a similar pair of concepts. She distinguishes between the 'epistemic' (that which is under discussion) and the 'ontic' (the taken-for-granted context that makes this discussion possible) just as Goodman (1987) distinguishes between 'facts' (the discussed) and 'values' (the optional, conventional background) (Heyting 1997). Foundational research investigates the mutual relationships between that which is explicitly discussed and that which is implicitly taken for granted.

Belief systems and their foundations

Foundational research is not exclusively restricted to singular propositions and arguments. It often concerns whole systems of systematically related statements such as 'educational statements' or 'pedagogical ideas on authority'. In order to deal with such cases, we must be able to define the epistemic (the 'discussed') and the ontic (the 'taken-for-granted') at system level. On this issue, I follow Margolis (1995), who deals with the epistemological position of whole discourses. According to Margolis, a discourse presupposes a 'natural language domain' that is not itself under discussion but is presupposed as a clear-cut part of the totality of possible utterances (the 'universe of discourse'). This language domain represents the ontic level of a discourse.

Though language domains – as presupposed discourse domains – restrict the potentially plausible utterances in a given discourse within limits, we cannot positively point them out as such. As an effect of the indefinable boundaries of the universe of discourse, discourse domains cannot be considered closed systems either (Margolis 1995: 154). Consequently, we cannot decide at face value which possible statements

belong to a specific domain and which do not (an instantiation can be found below). Nevertheless, not all statements are allowed in any concrete discourse, only those considered as belonging to the specific domain of the discourse. Without this selectivity, discourse would degenerate into chaos.

This means that the contextual language domain is artificially closed in specific discourses to allow a limited range of statements. In this way, specific, artificially closed, versions of language domains function as presuppositions in actual discourses. They provide the presupposed 'game-board' (Ginzburg 1997: 413) on which the actual discourse takes place. These language domains are not overtly reflected (they are treated as 'ontic'), and in that sense they *function* as if they were 'naturally' closed.

Margolis (1995: 157) observes a – foundationalist – tendency nevertheless to regard language domains as naturally closed systems, for example, by appealing to first principles, insistence on the neutrality of particular philosophical options, reference to 'exceptionless' laws of thought, etc. However, according to him, such claims should be rejected because of their appeal to epistemological privilege. Consequently, he concludes that 'all thinking, including legitimation, is "horizonal"' (Margolis 1995: 166), dependent on the specific closure of the language domain as implied in the specific discourse. For this reason, he calls the presupposed version of a language domain 'mythical'. Discourse relates to the mythical as values to facts (Goodman) and as the epistemic to the ontic (Fleisher Feldman).

According to the above, antifoundationalist version of foundational research on systems of statements should concentrate on the specifically defined language domains that discourses implicitly presuppose. However, some problems remain unsolved. For example, discourses do not present themselves as such either. It is rather the researcher who puts them together from separate statements that in his or her view belong to the same contextual language domain or predefined part of it. This means we need a theoretical device to define and mutually delimit language domains in order to identify discourses as such. For example, in my analysis of De Ruyter's argument about the right to intervene in family education, I identified her argument as belonging to an educational discourse by distinguishing it from a political line of reasoning. Such distinctions should be further explained at a theoretical level.

For the sake of completeness, it should be mentioned that the researcher makes still other theoretical assumptions in analysing discourses in view of their presupposed language domains. For example, a certain conception of logic and correct argumentation will inevitably come into play as well (cf. Margolis 1995: 83f.). I will not discuss all of them. For the foundational researcher, it is just as impossible to discuss some issues without assuming others as it is for anyone else. Though not everything can be under discussion at the same time, a device to identify language domains would appear crucial.

Social systems as language domains

In the theoretical definition of language domains – as contexts for discourses to be analysed – the social systems theory of Luhmann (1984, 1995) can be useful. This theory seems especially designed to define contextual language domains and to make the identification of discourses possible. In the first place, Luhmann defines social systems as communication systems, to be distinguished in the light of the exchange of *meaning*. This makes social systems theory potentially compatible with the above-mentioned group of linguistic and epistemological theories. As social systems theory considers the boundaries of social systems to be boundaries of meaningful communication, without predetermining exactly which linguistic expressions belong to them, social systems are comparable to Margolis' language domains.

A second consideration in favour of social systems theory concerns the contextual definition of social systems. Social systems are by definition systems-in-context. Luhmann conceives of social systems as parts of the all-embracing system of society, just as Margolis relates language domains to the universe of discourse. Throughout this society (universe of discourse), social systems (language domains) are seen as mutually related by definition.

A third consideration concerns the impossibility of defining the boundaries of the encompassing system. The boundaries of the all-embracing society cannot be determined any more than the boundaries of Margolis' all-embracing universe of discourse. According to Luhmann (1997: 89), society has no substance of its own, just as Margolis' universe of discourse has no characteristics other than being the 'context of all contexts' (Margolis 1995: 154).

As social systems (or language domains) do not exist in isolation but only as mutually related parts of an embracing system, foundational research will not only reconstruct the (specific character of the) presupposed language domain in a specific discourse, but it will also reconstruct the way this discourse relates its presupposed domain to other domains – as my previous example related the educational to the political and the ethical domain. Our required theoretical instrument for the definition of language domains and for the identification of discourses results from Luhmann's explanation of social systems and their mutual relations.

Luhmann considers the boundaries of meaning, which separate social systems, as expressions of different social *functions*. He characterises society accordingly as a functionally differentiated communicative system. Consequently, social systems (domains) can be related in three ways. First, the relation of the system to the embracing whole is called a 'functional relation'. Second, because the perception of other social systems (language domains) always depends on the function-specific perspective of the current system, Luhmann calls the relations between different social systems (domains) 'performance relations' (*Leistungsbeziehungen*). Third, the relation of a system to itself – the ways in which the domain is described in discourses taking place within its own boundaries – is termed a 'reflexive relation'.

An example: the right of children to decide on medical treatment

Since the 1980s, the right of children to participate in decisions on their own medical treatment has been the subject of debate. In the Netherlands, this resulted in new legislation in 1995. According to this legislation, children between 16 and 18 years of age may independently agree on treatment; children between 12 and 15 have the right to participate in the decision, together with their parents. I will give below a short analysis of this question as an educational debate, according to the theoretical framework sketched above. The material consists of a sample of publications in scientific journals, collected in a project by Hemrica (1998). These have been re-analysed for the purposes of the following example.

Firstly, in order to recognise a discourse as 'educational' and to reconstruct its specific presupposed version of the contextual language domain, the educational language domain in general (the educational social meaning system) should be defined according to its function in society (or the universe of discourse). As discussed in greater detail elsewhere (Heyting 1992), I maintain that educational discourses fulfil a specific *reflexive* function in society, pertaining specifically to whichever kind of 'better' participation from new generations we strive for in the specific kind of 'better' future society that appears desirable to us. This function can be seen as a specific reflexive function to society, because the educational domain describes the improvement of society itself from the perspective of the future participation of its members.

If we wish to analyse the discussion of children's rights to participate in medical decisions as an instance of educational discourse, we have to reconstruct it as a discussion about the promotion of the child's 'better' decision-making in 'better' social contexts. In the thus-reconstructed discussion, a number of points are worthy of attention. Firstly, the reflexive and future-oriented character of educational discourse emerge, since 'better' decision making is specified in terms of competencies to be acquired in education. As regards content, many discussants mention competence in abstract reasoning as a prerequisite for correctly balancing the pros and cons (Braake 1987; De Ville 1997; Doek 1998; Hermans 1986; Koocher and De Maso 1990; McCabe 1995; Oberman 1996; Scherer 1991). Secondly, and in addition, good decision making is said to require an 'adult' – i.e., long-term – perception of time (De Ville 1997; Doek, 1998; Holder 1989; Koocher and De Maso 1990). Thirdly, discussants think that 'good' decision making demands autonomy, which is understood as the ability to decide independently of circumstances and of other people (Doek 1998; Koocher and De Maso 1990; McCabe 1995; Scherer 1991).

Most authors introduce without any further explanation these cognitive competencies that children should have acquired before taking part in medical decisions. The required ability for autonomous decision making is also the only one to be discussed in the context of required *social* abilities. As mentioned above, good *cognitive* decision making appears to imply that

children are capable of making decisions independently of parents and friends. However, according to some discussants children should simultaneously possess the *social* competency to come to a decision in close connection with friends and family, though ignoring their comments on physical appearance (Doek 1998; Wright Clayton 1997).

None of the authors discusses the connection between the two types of abilities – cognitive and social – and their possibly conflicting demands. Wherever the two are related, the cognitive dimension seems to dominate. For example, some authors think familial harmony important, but this opinion is underpinned with reference to its effects on the likelihood of a 'right' decision, which is again understood in cognitive terms (Brands and Brands-Bottema 1991; McCabe 1995; Oberman 1996; Wright Clayton 1997). Finally, some authors mention the moral ability to relate the decision to a personal goal in life as a requisite to 'good' decisions. (De Ville 1997; McCabe 1995; Oberman 1996; Wright Clayton 1997).

The profile of 'right' kind of decision making that arises from the discussion is introduced as self-evident, thereby rendering further discussion unnecessary. It is treated as a legitimate source for justifying educational positions, as the anchorage of dominant views in this discussion. In addition, it is striking that the absence of each of these conditions is put forward as a defence for withholding the decision-making rights of children. Just as the arguments in the example on government intervention were meant to justify the denial of children's democratic rights, the educational argument about decision rights now primarily specifies under what conditions these rights should be withheld from children.

The content of these views on children's rights to decide in medical issues can only be understood from a specific version of the educational discourse – the presumed educational common ground in this discourse. It reveals a view of education as a process aiming at autonomy and rationality. In other versions of the educational domain, the same arguments would be unconvincing. This specific cluster of views reflects the general function of the educational domain in representing and keeping alive certain ideals about individuals in society, despite the fact that many adults cannot live up to those ideals in practice. In other domains or social systems, a similar line of reasoning would be equally unconvincing, as illustrated by the impossibility of defending the withholding of children's democratic rights from a political perspective. This leads to the next level of analysis: how does this discussion about children's decision rights reflect a specific version of the educational domain as related to other social systems or language domains?

As demonstrated above, this discussion relates the educational domain to the universe of discourse (society as a whole) – thus fulfilling its reflective function – by maintaining certain ideals such as autonomy, rationality and familial harmony as portents of a desired future, irrespective of existing social reality. The discussion also relates the educational domain in a specific

way to other language domains or social systems. I shall deal mainly with legal and medical instances of these. To be able to do this, these legal and medical domains must also be defined as language domains, i.e., as partial systems of society, according to their own social functions. For the sake of brevity, I simply adopt Luhmann's definitions. According to Luhmann, in the medical domain, events derive meaning from the perspective of the distinction between illness and health. In the legal domain, the attribution of meaning is dominated by assessment of the (un)certainty of normative social expectations (Luhmann 1984: 509).

The judicial system enters this discussion when authors discuss the question whether allocation of decision rights in medical issues should follow fixed age limits. In this part of the discussion, the problem of settling normative social questions unequivocally (how can we decide when exactly a child is rational or autonomous enough?) contributes to the character of the discussion. Hermans (1986), for example, argues in favour of fixed age limits to facilitate the enforcement of decision-making rights in everyday practice. This is a clear example of an argument that belongs to the legal domain. In Hermans' argument, the legal domain even takes precedence over the educational: though he explicitly recognises that children develop at different rates, the prospect of complex decision processes and ambiguous social expectations is decisive for him.

However, the vast majority of authors reject such argumentation. When confronted with legislative problems they try rather to incorporate as many educational arguments as possible and are ready to tolerate legal complexity and vagueness in the interests of educational opportunities. However, in this process, the *necessity* for an unequivocal statutory regulation is not questioned, it is rather taken for granted. Only Roscam Abbing (1986) radically considers the gradually developing judgmental competencies of children more decisive than legal safety. To sum up, in this particular discussion, a version of the educational domain is presupposed that is related to the legal domain in such a way that its intentions are recognised and incorporated on the one hand, while on the other hand judicial considerations are subordinated to educational ones.

The educational domain is related to the medical one in this discussion in a quite different way. By far the majority of authors appear to subordinate educational (as well as legal) arguments to considerations of health (Doek 1998; Hermans 1986; Holder 1989; McCabe 1995; Roscam Abbing 1986; Scherer 1991; Wright Clayton 1997). Whenever medical risks are involved, all educational arguments in favour of decision-making rights are cast aside. Consciously running medical risks – of all kinds, not only life-threatening ones – is considered by definition irrational, and sometimes even seen as proof of cognitive failure due to a short-term perspective or undue concern about physical appearance (Doek 1998; Holder 1989).

None of the authors systematically weighs up educational and medical risks, let alone gives priority to the educational risks. More than that, in this

discussion, the educational risks in being ill and submitted to medical treatment are hardly mentioned at all. Only Wright Clayton (1997) mentions the risk that those children who are not consulted may lose their decision skills. If participation of children is considered at all in relation to medical risks, this mainly concerns situations in which the child has to be persuaded into the medically 'correct' treatment (Roscam Abbing 1986). In summary, it may be stated that this discussion reveals a version of the educational discourse domain that is related to the medical one in such a way that it suspends itself in favour of the latter in the event of any health risk emerging. The medical concept of risk functions as a dominating and unquestionable presupposition and, in this respect, the educational domain is subordinate to the medical.

Foundational critique

Foundational research is not necessarily restricted to the analytic reconstruction of presuppositions and presupposed versions of language domains (social systems). In many cases, it also pursues a critical appraisal of those presuppositions. However, from the antifoundationalist perspective, it hardly seems possible to formulate the criteria for such an appraisal, let alone justify them. Postulating such criteria and considering them justified would in fact amount to making an appeal to epistemological privilege. If foundational critique is feasible, it should hold on to the 'horizonal' (Margolis 1995), 'symmetrical' (Audi 1988) or 'system-oriented' (Moser *et al*. 1998) structure as explicated above.

According to such system-oriented procedures, justification does not refer to 'final' arguments, and consequently critique cannot do so either. Both refer rather to a complex and differentiated horizon of knowledge that is itself disputable in every respect. Such procedures may avoid privilege; one may wonder whether they lead to arbitrariness. To solve this problem, Margolis suggests an appeal to history. According to him: 'Legitimation cannot escape the dilemma of privilege or arbitrariness, except by historicizing its own regulative function' (Margolis 1995: 166). It seems as if – in order to avoid arbitrary postulation of criteria – the historical-cultural context now takes the place of epistemologically privileged foundations, depicting itself instead as a last court of appeal.

Rorty too appeals to culture, to the local and temporal 'we' of present Western societies, in order to substantiate his ideas on democracy. Lyotard (1985) – though endorsing antifoundationalist views himself – strongly rejects any kind of appeal to culture for justificatory ends. He compares Rorty's views to those of the Nazis, who also claimed the superiority of their own 'we', simultaneously providing themselves with a justification for not expecting other (read: less developed) 'in-groups' to understand the legitimacy of Nazi views. According to Lyotard, this example clearly demonstrates why an appeal to culture cannot provide a good reason for

holding any view. The tenor of this controversy between Rorty and Lyotard (Lyotard 1985; Lyotard and Rorty 1985; Rorty 1985) prompts a further explication of the relation between antifoundationalist foundational critique and cultural relativism.

I believe there are two reasons why – from a antifoundationalist point of view – culture cannot provide grounds for justification. Firstly, if we consider culture as the last court of appeal in matters of justification, we actually attribute epistemological privilege to whatever culture dictates. Such a position is indefensible from a antifoundationalist view and may be dangerous as well because it rules out the possibility of explaining standpoints to representatives from other cultures if they do not already share the same basic ideas. If Rorty had meant his appeal to culture in that way, Lyotard's critique would have been convincing. However, this is not the case. In his reply to Lyotard, Rorty (1985) makes it clear that he does not claim any epistemological privilege for Western cultures. However, Rorty's appeal to culture could still be problematic in another way, which is a second reason why culture cannot provide criteria for either justification or critique.

According to some authors, culture primarily limits the ways in which people can understand and interpret things. In this view, the 'horizonal' function of culture means that one cannot look across its borders, and consequently any justification will be restricted to its own jurisdiction. Without necessarily regarding one's own culture as 'the best', one is nevertheless bound hand and foot by it. Feyerabend, for example, once supported this kind of relativism (cf. Preston 1997: 191ff.). However, this kind of cultural relativism does not appear to be tenable either. Feyerabend eventually rejected it, stating as follows: 'Other armchair views did not fare so well. I am referring to my "relativism", to the idea that cultures are more or less closed entities with their own criteria and procedures' (Feyerabend 1995: 151). Margolis contributes a related argument. Like Feyerabend, Margolis (1995: 167, 174) stresses that cultures should not be seen as 'closed'. Comparing cultures to universes of discourse, he points out the impossibility of designating their boundaries. Consequently, it is impossible to use them as contexts of justification. The possibly culturally influenced limitations of our imaginative powers should not be confused with the use of criteria for justification or critique.

Only if we mistake an artificially 'closed' representation of a culture for that culture itself can culture be supposed to function as a context of justification (cf. Margolis 1995: 171–172). According to Margolis, Rorty misses this last point (Margolis will be refuted below). Whenever justification appeals to culture – or to other limitless entities like 'society' or 'universe of discourse' – it is in fact an artificially closed version of it that is invoked and mistakenly passed off as 'the' culture. This explains why democracy represents 'the' American culture for some people and the Ku-Klux-Klan 'the' American culture for others. General appeals to 'culture' or 'us' always hide a presupposed specific definition of the entity at stake. This insight opens up

new leads to a constructivist view of critique, which can remain 'horizonal' without being perverted into cultural relativism.

To return to our example, it will be impossible to find any grounds justifying one single correct standpoint on the rights of children to participate in medical decision making. However, after reconstructing presuppositions and presupposed versions of language domains in foundational analysis, these basic assumptions that we take for granted are opened up for critical discourse, which will prevent them from becoming fossilised. This allows for two forms of critique, firstly a critique on grounds of form, and secondly a critique with respect to content.

Critique on grounds of form will detect gaps, inconsistencies and loose ends in the presuppositions once they are made explicit. This kind of critique is not specific to constructivist views.[3] In our example, the omission of reflection on educational risks could be considered a lacuna in the justifying of standpoints in the analysed discussion. An inconsistency could be found in the argument about autonomy, which is stressed in a cognitive context and rejected in a social (familial) context. Prioritising autonomous rational judgement without any further argument could be considered a loose end – it could be too rashly transferred from the medical domain.

A antifoundationalist view of critique with respect to content seems less obvious. Essentially, it should take advantage of the optional rather than the obligatory character of each justification – without ever passing a final judgement. This view of critique stresses its dynamic rather than its decisive powers. Critical discourse now concentrates on the replaceable character of the basic assumptions that were revealed in foundational analysis. Rorty (1998b) also supports this view of critique. Rejecting cultural relativism because it wants to 'reduce "better" to consensus' (Rorty 1998b: 59), he stresses the possibility of 'getting beyond our present practices by a gesture in the direction of our possibly different future practices' (Rorty 1998b: 61). At the same time, however, he warns of erroneously confusing 'the possible transcendence of the present by the future with the necessary transcendence of time by eternity' (Rorty 1998b: 61). According to this view, critique can propose possible alternatives – to be tested and revised in future discourses – in order to transcend actual practice. It can lay a current consensus on the table; it cannot definitively preclude any dissent.

In our example, the educational duty of parents and therapists to support children in their difficult task of medical decision making could be a possible alternative for the presupposed necessity of making autonomous rational competencies prerequisite for granting decision rights to children. Furthering socially embedded decision making could be an alternative to the isolated and cognitively interpreted view of decision making that our foundational analysis revealed. A conception of risk, finally, that takes into account both developmental and medical dimensions of the future of the children involved could be an alternative to the purely medical conception that resulted from our foundational analysis.

Between epistemological privilege and arbitrariness lies the possibility of meaningful and critical discussion. Though such discussions may intend 'to maximise the tenability of the systems we endorse' (Elgin 1996: 145), we should be aware that none of them 'affords a permanent resting-place. The task is endless' (Elgin 1996: 220). Against this background, it becomes obvious why it is, according to Margolis, that we should consider matters historically in order to solve the dilemma between privilege and arbitrariness. By taking a historical perspective, we can avoid mistaking our own version of culture for either 'the' universe – which leads to privilege – or a prison of judgment – which leads to arbitrariness. A historical perspective stresses the possibility of changing one's criteria, not because people can do so at will, but because people can learn, can make mistakes and – to a certain extent – can correct them (Elgin 1996: 205).

Short epilogue on the foundations of constructivism

In conclusion, this historical, rather than cultural, relativist view of justification and critique prevents antifoundationalism from being self-refuting. Its 'horizonal', contextualist view of justificatory relations does not presuppose the rejection of (relative) epistemological privilege to be 'true', thus ascribing this principle epistemological privilege itself. Rejecting epistemological privilege is nothing more or less than a momentary starting point, an attempt to try and avoid the epistemological problems foundationalist approaches seem to evoke. It is used until a 'better' one, appearing more plausible to a community of philosophers, emerges from philosophical discourse. This makes philosophy itself historical, able to profit from discourse and feedback, rather than being fallaciously circular (cf. Walton 1995).

This is how Rorty explains his position in the face of criticism from John Searle, who apparently fears that leaving 'mind-independent truth' will convert academic departments into political power bases (Rorty 1998a: 68). Rorty certainly intends nothing like turning philosophy over to the most powerful by rejecting the notion of 'mind-independent' truth. However, he does oppose the idea that academic freedom – or any other positive social value – could be saved by being given epistemological justifications. According to Rorty, giving social justifications for social positions would be 'more honest and more clearheaded' (Rorty 1998a: 69); he distances himself thereby from what Quine called 'a stubborn old enigma of epistemological priority' (Quine 1986: 223).

Of course, such a view will condemn us to endlessly continuing discourses, simply because we are robbed of ultimate correctness. On the other hand, in the light of the imperfection of available evidence, such a course of action might be the wisest. From this perspective it seems prudent to maintain 'that the point of edifying philosophy is to keep the conversation going rather than to find objective truth' (Rorty 1980: 377).

Notes

1 However, this idea of contextual justification must not be confused with a coherence theory of truth, because it states nothing about the nature of truth-claims themselves (Bonjour 1986: 132ff.; Moser *et al*. 1998: 83ff.). Bonjour opts rather for an argumentation along the lines of correspondence theory, but going into this would lead us too far from the subject. His main arguments consist of requiring input from the world (be it causally, not epistemologically) and concluding that a system without such input cannot be expected to be coherent.

2 We can be sure only of the author's or speaker's actual formulations. Whether he or she 'really' believes the presuppositions that account for the plausibility of his or her propositions cannot be deduced. This need not be the case. Educational texts, for example, are often strongly adapted to the presumed presuppositions of the children whom one is addressing.

3 One must remember that the rules of logic and other procedures for practising this kind of critique themselves are not immune. This makes critique on grounds of form not *principally* different from critique with respect to content.

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9 How can philosophy of education be critical? How critical can philosophy of education be?

Deconstructive reflections on children's rights[1]

Gert Biesta

> Some one will say: Yes, Socrates, but cannot you hold your tongue, and then you may go into a foreign city, and no one will interfere with you? Now I have great difficulty in making you understand my answer to this. For I tell you that to do as you say would be a disobedience to the God, and therefore that I cannot hold my tongue, you will not believe I am serious; and if I say again that daily to discourse about virtue, and of those other things about which you hear me examining myself and others, is the greatest good of man, and that the unexamined life is not worth living, you are still less likely to believe me. Yes I say what is true, although a thing of which it is hard for me to persuade you.
>
> (Plato, *Apology*: 37e–38a)

> Deconstruction, if such a thing exists, should open up.
>
> (Derrida 1987: 261)

Introduction

If philosophy of education has reason to exist, it is because it has to perform a critical role *vis-à-vis* education and *vis-à-vis* the study of education. Philosophy of education is not there to provide ultimate answers, let alone to lay the foundations for education. It exists to raise questions and to institute doubt. In doing so, philosophy of education remains loyal to the main thrust of Western philosophy which, ever since it has lodged itself in Western culture, has conceived of itself as a critical enterprise.

Socrates is without doubt the main icon of the critical style of philosophy. By a constant questioning of received opinions, he tried to reveal that these could not be sustained as easily as was assumed. Plato translated the Socratic approach into a distinction between knowledge (*epistémé*) and belief (*doxa*). This was not only a formalisation of the Socratic style. It also installed a division of tasks – and thereby a distinction – between the common man, who could only achieve *doxa*, and the philosopher, who could have *epistémé*, i.e., knowledge of an ultimate reality beyond mere convention and decision.

Plato's distinction not only provided a justification for the superior position of the philosopher in the *polis*. It also articulated a specific understanding of the *resources* for critique. For Plato it was the knowledge of ultimate reality, i.e., of the world of Ideas, which provided the philosopher with a *criterion* so that *krinein* – distinction, separation, decision, judgement – would become possible. In a similar vein Aristotle stressed the indispensability of a criterion: 'there must be certain canons', he wrote, 'by reference to which a hearer shall be able to criticise' (Aristotle, *De Partibus Animalium*: I. 1, 639a, 12).

While Western philosophy has travelled many different routes since Socrates, Plato and Aristotle, the critical temper has not been lost. Rather the critical motive has become *the* central concern for modern philosophy, especially from the time that philosophy had to renounce its claim to a higher form of knowledge about the natural world as a result of the emergence of modern science (see Rorty 1980).

A crucial step in the development of the critical face of modern philosophy was the *generalisation* of the idea of critique. Pierre Bayle, the other philosopher from Rotterdam, was among the first modern philosophers who broke with the idea that only texts could be the object of critique (see his *Dictionaire Historique et Critique* from 1715). From then on institutions like church and state, and society more generally, became possible targets for critical examination (see Röttgers 1990). This culminated a few decennia later in Kant's claim that the age of Enlightenment, 'is the true age of critique', a critique 'to which everything must be subjected'. [2]

Kant's three *Critiques* still stand out as a major attempt to articulate what it could mean for philosophy to be critical. But Kant has not said the last word. His idea of critique as a tribunal of reason was, for example, challenged by Hegel and Marx from a perspective in which a much more historical orientation came to the fore. These two orientations – reason and history – have continued to play a central role in the two main critical traditions of twentieth-century philosophy: Popper's critical rationalism and the critical theory of the Frankfurt School.

In this chapter, I want to explore the opportunities for philosophy of education to perform its critical role. How can philosophy of education be critical? And how critical can philosophy of education be? To find an answer to these questions I will discuss three 'modes' of critique which I will refer to as *critical dogmatism*, *transcendental critique*, and *deconstruction*, respectively. My aim is not only to provide a systematic account of these modes. I will also argue that the second mode of critique tries to overcome the main problems of the first one, while the third mode tries to solve one of the central problems of the second one. Implied in my reconstruction is, therefore, the claim that the third mode of critique – deconstruction – provides the most sophisticated answer to the question how philosophy of education can be critical. At the end of this chapter I will turn to the question how critical philosophy of education can be if it opts for a deconstructive approach. In this context I will take up the issue of children's rights.

Critical dogmatism

I propose to define critical dogmatism as any style of critique in which the critical operation consists of the application of a criterion. The operation is *critical* in that it gives an evaluation of a specific state of affairs; the operation is *dogmatic*, in that the criterion itself is kept out of reach of the critical operation. The criterion, in other words, is applied from the 'outside'.

Although I refer to this style of criticism as 'dogmatic', there is as such nothing objectionable to this approach. That is to say, there is nothing objectionable to critical dogmatism *as long as one recognises and accepts its dogmatic character*. Hans Albert has even argued that critical dogmatism is the only way in which critique is possible. In what has become known as the *Münchhausen Trilemma*, Albert argues that any attempt to articulate foundations – and in critical dogmatism the criterion is the foundation of the critical operation – inevitably leads to trilemma, that is 'to a situation with three alternatives, all of which appear unacceptable' (Albert 1985: 18). The trilemma forces one to choose between three options. The first is an infinite regress, because the propositions that serve as a fundament need to be founded themselves. The second is a logical circle which results from the fact that in the process of giving reasons one has to resort to statements that have already shown themselves to be in need of justification. The third is breaking off the attempt at a particular point by *dogmatically* installing a foundation (see Apel 1987a: 251). Since in looking for foundations neither the first nor the second option yields any satisfactory result, Albert's conclusion is that the only possible foundation for critique *is* a dogmatic foundation. This in turn implies that the only possible form of critique *is* critical dogmatism.

It is not difficult to see that this conclusion raises some problems. If dogmatism appears at the heart of the critical enterprise, if, to put it differently, critique is made possible by dogmatism, then it seems that the critical operation is immediately subverted by its own justification. Isn't it, after all, the whole point of critique to oppose dogmatism? How, then, can critique be 'effective'; How can critique be critical, if its ultimate foundation is merely conventional?

Although I do not want to suggest that the application of dogmatically installed criteria has never had any positive effects, I do want to argue that the justification of this mode of critique is unsatisfactory. Is it possible circumvent the paradox of critical dogmatism? The next mode of critique claims it can.

Transcendental critique

The transcendental style of critique should be understood against the background of the way in which philosophy had to reconsider its position as a result of the emergence of modern science and the scientific world view. From then on philosophy could no longer claim to provide knowledge of the

natural world, nor could it claim to provide knowledge of a more fundamental reality (metaphysics). It thereby lost its role as a foundational discipline. It was Kant who put philosophy on a new track – the *transcendental* track – where it became the proper task of philosophy to articulate the *conditions of possibility* of true (scientific) knowledge (and, within the Kantian project, also of true metaphysical knowledge, i.e., knowledge of the synthetic judgements a priori; see Kant 1956).

Although transcendental philosophy opened up a whole new field for modern philosophy, Kant's programme was almost immediately criticised for the reflexive paradox it contained. It was Hegel who pointed out the problematic character of the attempt to acquire knowledge of something of which the existence had already to be presupposed in order to be able to acquire any knowledge at all. One of the main reasons why Kant did not perceive this paradox had to do with the framework in which he operated, viz., the framework of the philosophy of consciousness. For Kant, the '*Ich denke*' (I think) was 'that highest point to which we must ascribe all employment of the understanding, even the whole of logic, and conformally therewith, transcendental philosophy' (Kant 1929: B134).

Karl-Otto Apel's transformation of philosophy

The work of Karl-Otto Apel can be seen as a re-articulation (or transformation; see Apel 1973, 1980) of transcendental philosophy, one which tries to circumvent the dogmatic element in Kant's position by making a shift from the framework of the philosophy of consciousness to the philosophy of language. The main difference between Kant and Apel lies in the latter's recognition of the fact that all knowledge is linguistically mediated. While Kant assumed that the acquisition of knowledge is an individualistic enterprise, Apel argues that our individual experiences must be lifted to the level of a language game in order to become knowledge. The link between experience and language is, however, *not* established automatically. The question of the validity of our individual experiences has to be answered by means of *argumentation*. Because argumentation only makes sense within a language game, within a specific 'community of communication', Apel concludes that this community is the condition of possibility of all knowledge.

Apel's 'linguistic turn' results in the recognition of the a priori of the community of communication. This community is '*das Letzte, Nichthintergehbare*', i.e., that what cannot be surpassed (Apel quoted in van Woudenberg 1991: 92). Because we can never get 'behind' or 'before' the actual use of language in a specific community of communication, any reflection on language in formal terms can only take place in, and hence is only made possible by, a specific language game, i.e., in a specific community of communication. The pragmatic dimension of language is therefore the most basic dimension, for which reason Apel refers to his position as *transcendental pragmatics*.

Although Apel establishes a strong link between transcendental pragmatics and really existing communities of communication – a manoeuvre which seems to give his project a strongly conventionalist basis – he introduces a critical element which is meant to enable him to go beyond mere convention. This is the idea of the *ideal community of communication* or the *transcendental language game*. Apel claims that a participant in a genuine argument is at the same time a member of an actual community of communication *and* of a counterfactual *ideal* community of communication, a community that is in principle open to all speakers and that excludes all force except the force of the better argument. Apel argues that any claim to intersubjectively valid knowledge implicitly acknowledges this ideal community of communication, as a meta-institution of rational argumentation, to be its ultimate source of justification (Apel 1980: 119).

Reflexive grounding

The idea of the ideal community of communication provides a criterion which makes critique possible. What distinguishes Apel's position from critical dogmatism is that this criterion is *not* installed dogmatically but by means of a process to which Apel refers as 'reflexive grounding' (*Letztbegründung durch Reflexion*'). With respect to this process, Apel claims that he can circumvent the dogmatic implications of the Münchhausen trilemma. How should this be understood?

The first thing to acknowledge is that the first and third option of the Münchausen trilemma – infinite regress and dogmatism – hang together. Both follow from the fact that Albert thinks of the process of foundation in terms of *deduction*. It is evident that if we talk about foundations in a deductive style, i.e., if we raise the question of the foundation of the foundation, we immediately enter an infinite regress, which can only be stopped arbitrarily. Apel admits that if we understand founding in this deductive sense, we will never find foundations. But, so he argues, this does not mean that we should give up the idea of foundation as such, but only that we need another way to bring foundations into view. [3]

Apel's approach starts from the recognition that the conditions of possibility of argumentation have to be presupposed in all argumentation (otherwise they would not be conditions of possibility). From this, it follows that one cannot argue against these conditions without immediately falling into a *performative contradiction*. This is the situation where the performative dimensions of the argument, i.e., the act of arguing, contradict the propositional content, i.e., what is argued (as in sentences such as 'I claim that I do not exist', or 'I contend – thereby claiming truth – that I make no truth claim'). This implies *that all contentions that cannot be disclaimed without falling into a performative contradiction express a condition of possibility of the argumentative use of language*. The principle of the avoidance of the performative contradiction, which is the principle of *performative consistency*, thus is the

criterion which can reveal the ultimate foundations of the argumentative use of language, i.e., those propositions that do not need further grounding because they cannot be understood without knowing that they are true. [4]

Although Apel articulates the method and the criterion by which the ultimate foundations of the argumentative use of language can be revealed, he doesn't say much about what these foundations actually are (see van Woudenberg 1991: 134–135). Yet what the application of the principle of performative consistency can bring into view are precisely the foundations, or, as Apel calls them, the 'meta-rules' of all argumentative use of language. These meta-rules, which include such things as that all communication aims at consensus, that all communication rests upon the validity of claims to truth, rightness and truthfulness, and that these claims can in principle be redeemed, outline the *ideal* community of communication (see van Woudenberg 1991: 134–135). [5]

Transcendental critique

Apel's transcendental pragmatics provides an attempt to articulate the criteria for critique in a non-dogmatic way. The importance of Apel's position lies in the fact that he goes beyond the individualism of Kantian transcendental philosophy. Apel brings the transcendental approach into the realm of argumentation and communication. More than simply another conception of critique, Apel's position suggests that critical dogmatism – at least insofar as it concerns the dogmatic, or what Popper calls the irrational choice for a rational form of life – is an untenable position, because 'any choice that could be understood as meaningful already presupposes the transcendental language game as its condition of possibility' (Apel 1987a: 281). Only, therefore, 'under the rational presupposition of intersubjective rules can deciding in the presence of alternatives be understood as meaningful behaviour' (Apel 1987a: 281).

Apel stresses that it does not follow from this that every decision is rational, but only, that *a decision in favour of the principle of rational legitimation of criticism* is 'rational a priori' (Apel 1987a: 282). Reason, so Apel argues, in no way needs to replace its rational justification, for 'it can always confirm its own legitimation through reflection on the fact that it presupposes its own self-understanding of the very rules it opts for' (Apel 1987a: 282).

These remarks reveal that for Apel transcendental critique is motivated by the principle of rationality. After all, so we could say, the 'sin' of the performative contradiction is a sin against rationality. In this respect, rationality gives transcendental critique its 'right' to be critical. Transcendental critique suggests a style of critical thinking that is primarily aimed at spotting performative contradictions. It can therefore be understood as a specific form of internal critique, where the main critical work consists of the confrontation of a position or argument with its often implicit conditions of

possibility, in order to reveal whether such a position or argument is rational or not.

The main advantage of the transcendental style of critique lies in the fact that it brings into vision a critical programme that does not rest upon an arbitrary, dogmatic choice for criteria. In doing so transcendental critique outlines a stronger and more consistent critical programme than critical dogmatism. It will be clear, however, that the strength of transcendental critique rests upon the validity of the transcendental style of argumentation. It is at this point that the third mode of critique raises some important issues.

Deconstruction

The writings of Jacques Derrida can be understood as yet another reaction to the Münchhausen trilemma. Like Apel, Derrida rejects the possibility of grounding by deduction. Like Apel, Derrida seeks a solution along the lines of the second option of the trilemma, i.e., the option of the reflexive paradox. But unlike Apel, Derrida doesn't try to escape the paradox by means of a transcendental movement. He rather chooses to stay within this paradoxical terrain in order to explore its critical potential. In doing so he not only offers yet another way to think about critique, he also provides a critique of the transcendental approach in that he questions the possibility to articulate conditions of possibility in an unambiguous way. In this respect Derrida moves the discussion about critique again one step forward.

Deconstruction and the metaphysics of presence

Derrida argues that the history of Western philosophy is a continuous attempt to locate a fundamental ground, an Archimedean point which serves both as an absolute beginning and as a centre from which everything originating from it can be mastered and controlled (see Derrida 1978). Since Plato, this origin has always been defined in terms of *presence*. The origin is thought of as fully present to itself and as totally self-sufficient. This 'determination of Being as *presence*', Derrida holds, is the matrix of the history of metaphysics. The 'metaphysics of presence' (Derrida 1978: 281) includes a *hierarchical axiology* in which the origin is designated as pure, simple, normal, standard, self-sufficient and self-identical, in order *then* to think in terms of derivation, complication, deterioration, accident, etc. This, so Derrida argues, is '*the* metaphysical exigency', that which has been 'the most constant, most profound and most potent' (Derrida 1988: 93).

Derrida wants to put the metaphysical gesture into question. He acknowledges that he is not the first to do so. But unlike Nietzsche, Freud, Heidegger and all the other 'destructive discourses', Derrida argues that we can never make a total break, that we can never step outside of the tradition that has made us. 'There is no sense', he argues, 'in doing without the

concepts of metaphysics in order to shake metaphysics. We (…) can pronounce not a single destructive proposition which has not already had to slip into the form, the logic, and the implicit postulations of precisely what it seeks to contest (Derrida 1978: 280).' While Derrida definitely wants to shake metaphysics, he acknowledges that this cannot be done from some neutral and innocent place outside of metaphysics.[6] What is more to the point, to put it simply, is to say that Derrida wants to shake metaphysics by showing that it is itself always already 'shaking', by showing the impossibility of any of its attempts to fix or immobilise being through the presentation of a self-sufficient presence, by showing, in sum, that metaphysics is always already '*in deconstruction*' (Bennington 2000: 11).

Deconstruction is therefore not something that is applied to the (texts of the) metaphysical tradition from the outside. Deconstruction is not a method, Derrida stresses, 'and cannot be transformed into one' (Derrida 1991: 273). Deconstruction rather is 'one of the possible names to designate (…) what occurs [*ce qui arrive*], or cannot manage to occur [*ce qui n'arrive pas à arriver*], namely a certain dislocation which in effect reiterates itself regularly – and everywhere where there is something rather than nothing' (Derrida and Ewald 1995: 287–288).

Différance and deconstruction

One way in which Derrida articulates the occurrence of deconstruction is through the 'notion' of *différance*. Derrida develops his ideas about *différance* in the context of a discussion of the structuralism of Ferdinand de Saussure (see Derrida 1982: 1–28). Saussure had argued that language should *not* be understood as a naming process, a process of attaching words to things, but that it should be seen as a structure where any individual element is meaningless outside the confines of that structure. This means that language only consists of differences. These differences, however, are not differences between positive terms, i.e., between terms that in and by themselves refer to objects outside of the system. In language, there are only differences *without* positive terms. From this insight, two conclusions follow.

Firstly, the idea of differences without positive terms entails that the 'movement of signification' is only possible if each element 'appearing on the scene of presence, is related to something other than itself' (Derrida 1982: 13). What is called 'the present' is therefore constituted 'by means of this very relation to what it is not' (Derrida 1982: 13). This contamination is a necessary contamination: for the present to be itself, it already has to be *other* than itself. This puts the non-present in a double position, because it is the non-present which makes the presence of the present possible, and yet, it can only make this presence possible by means of its own exclusion. What is excluded thereby, in a sense, returns to sign the act of its own exclusion. And it is this apparent complicity which 'outplays the legality of the decision to exclude' in the first place (Bennington 1993: 217–218; see also Derrida 1981: 41–42).

If this is what deconstruction can bring into view, we can already get an idea of its critical potential, because at the heart of deconstruction we find a concern for the 'constitutive outside' of what presents itself as self-sufficient. This reveals that deconstruction is more than just a destruction of the metaphysics of presence. Deconstruction is first and foremost an *affirmation* of what is excluded and forgotten. An affirmation, in short, of what is *other* (see Gasché 1994).[7]

Deconstruction is justice

There is, however, a complication, which has to do with the question *how* deconstruction can bring that what is excluded into view. For if there are only differences without positive terms, we can no longer articulate the differential character of language itself by means of a positive term (such as 'differentiation'). Difference without positive terms implies that this dimension must itself always remain unperceived, for strictly speaking, it is unconceptualisable. For this reason Derrida concludes that the 'play of difference', which is 'the condition for the possibility and functioning of every sign, is in itself a silent play' (Derrida 1982: 5).

If we would want to articulate that which does not let itself be articulated and yet is the condition for the possibility of all articulation – which we may want to do in order to prevent metaphysics from re-entering – we must acknowledge that there can never be a word or a concept to represent this silent play. We must acknowledge that this play cannot simply be exposed, for 'one can expose only that which at a certain moment can become *present*' (Derrida 1982: 5). And we must acknowledge that there is nowhere to begin, 'for what is put into question is precisely the quest for a rightful beginning, an absolute point of departure' (Derrida 1982: 6). All this is expressed in the new word or concept – 'which is neither a word nor a concept' (Derrida 1982: 7) but a 'neographism' (Derrida 1982: 13) – of *différance*.

The reason why Derrida introduces that 'what is written as *différance*' (Derrida 1982: 11) is not difficult to grasp. For although the play of difference is identified as the condition for the possibility of all conceptuality, we should not make the mistake of thinking that we have finally identified the real origin of conceptuality.[8]

The predicament can be put as follows: because we are talking about the condition of possibility of all conceptuality, this condition cannot belong to that what it makes possible, i.e., the 'order' of conceptuality. Yet, the only way in which we can *articulate* this condition of possibility is from within this order. Because the condition of possibility is always articulated in terms of the system that is made possible by it, it is, in a sense, always already too late to be its condition of possibility (which implies that the condition of possibility is at the very same time a condition of impossibility; see Gasché 1986: 316–317).

At this point, the critical potential of deconstruction returns in an even more radical way. The point is that because conditions of possibility are

always already contaminated by the 'system' that is made possible by them, this 'system' is never totally delimited by these conditions. In this respect we might say that *différance* is a quasi-transcendental or quasi-condition of possibility. As Caputo (1997: 102) puts it, différance does not describe fixed boundaries that delimit what can happen and what not, but points a mute, Buddhist finger at the moon of uncontainable effects.

Following this line of thought, it becomes clear that deconstruction tries to open up the system in the name of that which cannot be thought of in terms of the system, and yet makes the system possible. This reveals that the deconstructive affirmation is not simply an affirmation of what is known to be excluded by the system. Deconstruction is an affirmation of what is wholly other (*tout autre*), of what is unforeseeable from the present. It is an affirmation of an otherness that is always to come, as an event which 'as event, exceeds calculation, rules, programs, anticipations' (Derrida 1992: 27). Deconstruction is an openness towards the unforeseeable in-coming (*l'invention*; invention) of the other (see Caputo 1997: 47). It is from this concern for what is totally other, a concern which Derrida sometimes refers to as *justice*, that deconstruction derives its right to be critical, its right to deconstruct – or, to be more precise, its right to reveal deconstruction. [9]

From critique to deconstruction

If we look at the three critical 'programmes' that I have discussed above, it is not too difficult to see the profound difference between deconstruction and critical dogmatism. As Derrida points out, 'the instance of *krinein* or of *krisis* (decision, choice, judgement, discernment) is…one of the essential "themes" or "objects" of deconstruction' (Derrida 1991: 273), for which reason he even concludes that 'deconstruction is deconstruction of critical dogmatism' (Derrida 1995: 54). Derrida tries to show in many different ways that there is no safe ground upon which we can base our decisions, that there are no pure, uncontaminated, original criteria on which we can simply and straightforwardly base our judgements.

The distance between deconstruction and transcendental critique is perhaps more difficult to grasp. Yet I want to argue that deconstruction, while in a sense staying remarkably close to the main intuitions of the transcendental pragmatics, also puts a serious challenge to this programme. Apel and Derrida agree on the fact that we are always on the inside of language and history, so that the language game that made us who we are, that gives us the possibility to speak in the first place, is, in Apel's words, '*nichthintergehbar*' (unsurpassable).

Difficulties arise as soon as we want to say something about that which makes our speaking – and more specifically in the case of Apel: argumentation – possible. Although Apel hesitates to give a positive description of the conditions of possibility of the argumentative use of language, he at least believes that these conditions can be identified in a positive way by means of

the principle of performative consistency. This eventually leads him to the meta-rules that constitute the ideal community of communication.

Derrida is much more radical in his rejection of the possibility of identifying and articulating the conditions of possibility of our speaking in any positive and unambiguous way. This is the whole point of *différance*, which is nothing less than an attempt to express the inexpressible, to point out the predicament that a condition of possibility has to be 'outside' of the system that is made possible by it in order for it to be a condition of possibility, and yet at the very same time can only be articulated from the 'inside' of the system that it has made possible. *Différance* is, therefore, at the very same time inside and outside – it is both origin and effect – for which reason it can only be understood as a 'quasi-condition of possibility', that is, a condition of possibility which does not delimit what can happen.

The crucial difference between transcendental critique and deconstruction, I wish to argue, lies precisely here. If I see it correctly, Apel has to assume that the conditions of possibility control the system that is made possible by them. After all, it is only on the basis of this assumption that a performative contradiction can arise. What Derrida brings to the fore is that conditions of possibility can never be articulated independent of the system, that they can never be articulated from some safe (metaphysical) ground position outside of the system. And it is precisely because of this that they cannot have total control over the system. What is possible, one could say, is therefore always more than what any conditions of possibility allow for. Deconstruction wants to do justice to this unforeseeable excess.

Deconstruction can be seen as offering yet another mode of critique (though it should by now be clear that after deconstruction both the idea of a conception and the idea of critique have to be understood differently, just as the 'after' of 'after deconstruction' is not simply an after) in that it envisages another way to go beyond the present and the given, another way, in short, for judgement to become possible. Unlike critical dogmatism, this judgement does not come from some allegedly safe ground. Unlike transcendental critique, it does not come from the inside – as a form of internal critique through a test of performative consistency. Deconstruction suggests that *both* resources of critique are not as pure and self-sufficient as is assumed. The critical work of deconstruction, we could say, consists in revealing the impurity of the critical criteria, it consists in revealing that they are not self-sufficient but need something other than themselves to be(come) possible. *Not*, as is so often claimed about deconstruction in particular and post-modern and post-structural thought more generally (see for a recent example Hill *et al*. 1999), to subvert the very possibility of critique, but rather to open up critique for its own uncritical assumptions – albeit *not* from some higher position or higher form of insight or knowledge (see also Biesta 1998a). Not, in other words, to destroy, but rather to *affirm* what is out of sight, excluded, forgotten.

How critical can philosophy of education be?

I have explored three ways in which philosophy of education might perform its critical role. Implied in my reconstruction of these three positions is the claim that, from a philosophical point of view, deconstruction is the most sophisticated of these three positions. If this, within the scope of this chapter, can stand as an answer to the question how philosophy of education can be critical, we may now move to the question how critical philosophy of education can actually be. What, in other words, does the foregoing discussion have to offer to philosophy of education?

What first of all should be acknowledged is that both critical dogmatism and transcendental critique are well established in educational philosophy. Critical dogmatism can, for example, be found in those instances where critical work relies on a definition of what counts as education. Richard Peters' definition of education is a good case in point, since for Peters 'education' does not refer to an activity, practice or institution, but to *criteria* that are 'implicit in central cases of "education" ' (Peters 1966: 45). Another example can be found in the work of educationalists who see themselves as children's advocates. Such an approach often results in a critical style where pedagogical practices and theories are criticised on the basis of the conviction that the child represents a value of its own, a value that must be respected in educational theory and practice (see, for example, Langeveld 1979; Beekman 1982). Critical dogmatism can also be found, so I want to argue (see also Biesta 1998a), in the work of those who take 'emancipation' as the primary criterion for the evaluation of educational theory and practice (for example, Mollenhauer 1973; McLaren 1995).

What all these examples have in common is their reliance upon the evidential character or, more specifically, the 'truth' (see Masschelein and Wimmer 1996: Ch. 1) of the criterion that is used to take a critical stance. While there may be good arguments for the adoption of the criteria mentioned above – and I wish to stress once more that I don't want to question that some good has come and will remain to come from the application of these criteria – the line of argumentation will eventually arrive at a point where no more can be said than 'This is how I see it', 'This is what I believe in', or 'This is what history tells me'.

Transcendental critique – more specifically related to a defence of rationality as an intrinsic aim and standard of education – also has a respectable history in educational philosophy (see, for example, Scheffler 1973 and others who have defended rationality as an intrinsic educational aim and standard). In the work of Harvey Siegel the principle of performative consistency figures prominently in his (transcendental) defence of rationality in and for education (see, e.g., Siegel 1988, 1997). The main – and to my mind decisive – difference between critical dogmatism and transcendental critique is that the latter provides a more sophisticated and philosophically compelling justification of the critical criterion. Both positions do rely,

however, upon the same conception of the critical *operation* in that in both cases the critical operation consists in the *application* of the criterion.

What does deconstruction have to offer philosophy of education? One thing is clear: deconstruction will *not* provide philosophy of education with a new critical *method*. Deconstruction is not a method and cannot be transformed into one. Deconstruction, in Derrida's own words, is one of the possible names to designate what occurs or cannot manage to occur, namely, a certain dislocation which reiterates itself regularly everywhere where there is something rather than nothing. Does this mean that deconstruction simply occurs and that, for that reason, it can take care of itself? The answer has to be both yes and no.

On the one hand, we can say that for deconstruction to take place we do not need deconstructors. Or, to approach this issue from the other side: even if we would want to, *we* cannot deconstruct anything. But this does not mean that there is nothing to do – not in the least because the dislocation called deconstruction has a tendency to hide itself and make itself invisible, at least in the ways of thinking that we, in the Western philosophical tradition, are most familiar with. Bennington (2000: 8) refers to 'what has become famous as "deconstruction" ' as a *demonstration*. It is not, he writes, 'that Derrida (actively) deconstructs anything at all, but rather that he shows *metaphysics in deconstruction*' (Bennington 2000: 11).

While the writings of Derrida do not provide us with a method, they do make us – or at least can make us – *sensitive* to this dislocation, for metaphysics in deconstruction. They can make us sensitive for that which cannot be thought of in terms of a system and yet that which makes the system possible, i.e., for the 'constitutive outside' of any system, any decision and any criterion. Derrida's demonstration of metaphysics in deconstruction thus summons us to be *vigilant* for the occurrence of deconstruction.

The sensitivity to metaphysics in deconstruction also brings with it a *responsibility*, for the whole point of the demonstration of deconstruction is to expose the injustice brought about by good intentions, by noble criteria, by laudable ideals, by visionary utopias. Not, as I have stressed, for their destruction but for their betterment. This is not only important for the deconstruction of critical dogmatism. Deconstruction is also – and explicitly – concerned with the constitutive outside, with the 'other' of rationality. Contrary, therefore, to Siegel's contention that 'the philosophical enterprise does not have as its goal the bringing about of social justice' (Siegel 1995: 22), I want to argue that deconstruction also implies a constant vigilance for the possible injustice brought about in the name of rationality.

An example: the rights of children

If we now turn to the example of children's rights in order to get a better appreciation of what a deconstructive approach might achieve, we must bear in mind that deconstruction is not a method that can simply be applied to

the case of children's rights. It rather has to be understood as a specific form of questioning meant to open up, meant to affirm, what is out of sight, excluded and forgotten. This is what eventually motivates any attempt to demonstrate the 'occurrence' of deconstruction. The question then is whether deconstruction occurs in children's rights, and if so, where and how.

A possible answer to this question can be found in the alleged universality of children's rights. On the one hand it is clear that the idea of children's rights only makes sense – or to be more precise (see below), can only be effective – if we assume that these rights are universal, i.e., that they apply to *all* children in *all* situations. It makes no sense to talk about children's rights if we would at the very same time say that these rights only apply to a specific group of children, e.g., white children, rich children or able children. In such a situation, it would be inappropriate to talk about rights; we would simply be talking about privileges. While it is therefore necessary for the very idea of children's rights to claim that they are not connected to specific groups or specific cultures, it is also clear that these rights have not always been there, that they have a specific history, that they are the outcome of a specific struggle, which took place in a specific historical, social and political context. One could of course argue that we now have arrived at a stage where we finally know what children's rights are. But the problem of that would be that it forecloses to possibility to change and to improve (our current conception of) these rights.

It is precisely here that we find a deconstructive 'moment' in the discourse on children's rights. On the one hand, it is necessary to claim that children's rights are transhistorical – otherwise they won't be rights. Yet at the very same time – and deconstruction occurs in this concurrence – it is necessary to claim that children's rights are historical. The point is that we need both claims in order to give meaning to and be true to the intention of children's rights. If we would only claim that children's rights are historical (e.g., Western, middle class or modern), they would lose their force. But if we would only claim that they are transhistorical, so that the only thing to be concerned about would be their implementation in national laws and policies (see, e.g., Osler and Starkey 1996: Ch. 2), we would lose the opportunity to see and to say that what we are implementing is perhaps not right, is perhaps doing injustice to some children. We would lose the opportunity, to put it differently, to improve children's rights. It is, therefore, for the very sake of what we want to secure with the idea of children's rights – viz., that justice will be done to all children – that we need to claim that these rights are *both* universal and contextual, that they are *both* transhistorical and historical. Deconstruction occurs in this very moment in which the condition of possibility of children's rights appears to be their condition of *im*possibility. The point is that we not only cannot escape the deconstructive 'nature' of children's rights, but also that we should not try to escape it, since neither a 100 per cent transhistorical, nor a 100 per cent historical, understanding of these rights would be able to capture what is at stake.

In practice, this means that we should not only be concerned with the implementation of children's rights – something which has been on the rise since the adoption of the United Nations *Convention of the Rights of the Child* in November 1989 – but that we should also continuously be engaged in raising questions about the status of the rights that are implemented, perhaps even more so now that they have become solidified in a United Nations Convention.

One author who has contributed to the latter task is Judith Ennew (see Ennew 1995; Ennew and Milne 1989). Ennew argues that the *Convention of the Rights of the Child* takes as its starting point 'Western, modern childhood, which has been "globalised"; first through colonialism and then through the imperialism of international aid' (Ennew 1995: 202). Ennew is not alone in pointing to the fact that the image of childhood, to which the *Convention of the Rights of the Child* refers is a *modern* image. As Franklin observes, this conception of childhood, which dates from the sixteenth century and stresses the innocence and frailty of children, 'forcefully ejected childhood from the worlds of work, sexuality and politics, and designated the classroom as the major focus of children's lives' (Franklin 1995: 7). Such a historicisation of the conception of childhood should, as such, not pose a problem for the Convention, as long as it can claim that the present condition of children is adequately captured by this modern image. Yet, it is at this point that Ennew pushes the issue one step further.

Ennew argues that there are children – so-called 'street children' (the very label already indicates that 'real' children should not be on the street) – who do not 'fit' the image of the Convention. Consequently, these children not only do not 'benefit' from the rights that the Convention is assumed to safeguard. In some cases, these rights even work *against* the interests of these children. An example of the latter can be found in the emphasis on the importance of families in the Convention. This emphasis, Ennew argues, is based on the modern conception of families 'as private arenas for the correct performance of childhood' (Ennew 1995: 211). But the effect of this is that there is no provision in the Convention 'for respect and support to be to be paid to children's own friendships and support networks' (Ennew 1995: 211).

> 'In the case of street children, who usually belong to and contribute to a supportive group of children, this gives a potentially harmful edge to rehabilitation programmes. The friendships and close relationships in these groups are important for the emotional and physical well-being of members. They are strengths to be built on, rather than ties to be broken'
>
> (Ennew 1995: 211–212)

Ennew suggests that instead of looking through the eyes of the 'Northern' conception of childhood, we should look at street children as the people they are, young people 'who work for themselves, care for themselves and do not, in fact, ask society to rescue them' (Ennew 1995: 210). Do these

young people have any specific rights 'that challenge the hegemony of Northern childhood' (Ennew 1995: 210)? Ennew believes they have, and suggests several rights that, indeed, sit uncomfortably in the approach of the Convention, such as: the right not to be labelled; the right to be correctly described, researched and counted; the right to work, and to do so in fair conditions and for fair wages; the right to have their own support systems respected; the right to appropriate and relevant services; the right to control their own sexuality; and the right to be protected from harm inflicted by 'caring' social agencies (see Ennew 1995: 211–213).

Although Ennew neither refers to Derrida or deconstruction, her approach to the issue of children's rights provides a good example of the kind of work that follows from the acknowledgement of the deconstructive 'nature' of these rights. Ennew reveals that what presents itself as universal and inclusive in fact has an outside which is excluded from this universality and inclusiveness. She argues that this exclusion is very strong in that, from the point of view of the Convention, street children almost appear to be 'unnatural children' (Ennew 1995: 210). Ennew challenges the conception of children's rights expressed in the Convention. She does this, however, in the name of the very rights that the Convention tries to secure. Her critical work does not consist in simply showing that the rights of the Convention are typically Western or typically Northern. She exposes their historical character in order to do justice to the children that are excluded from this articulation of (their) rights. She claims rights for those children. Her approach thereby confirms that we need the vocabulary of rights as universal rights, but that at the very same time we must acknowledge the historicity of these rights and the structural possibility of exclusion brought about by them. The point here is that deconstruction does not claim that we can know what the outside of our current conception is. It only claims that this outside is not merely contingent but that it is a structural and hence necessary outside.

Ennew's approach to children's rights provides an example of the imagination and commitment that is characteristic of a deconstructive 'style' of critique. There is, of course, nothing which forces philosophy of education to adopt such an approach – except, perhaps, when one recognises that Derrida has crossed a 'critical' threshold and that once one has crossed this threshold with Derrida it might well be impossible to go back. As Emmanuel Levinas has put it:

> May not Derrida's work cut into the development of Western thinking with a line of demarcation similar to that of Kantianism, which separated dogmatic philosophy from critical philosophy? Are we again at the end of naïveté, of an unsuspected dogmatism which slumbered at the base of that which we took for critical spirit? We may well ask ourselves.
>
> (Levinas 1991: 3)

Notes

1 Over the past years I have explored the line of argument of this chapter in several different settings. I would like to express my gratitude to all who have been willing to discuss my explorations with me.
2 'Unser Zeitalter ist das eigentliche Zeitalter der Kritik, der sich alles unterwerfen muss.' (Kant quoted in Röttgers 1990: 892).
3 In a sense, we could say that Apel uses the middle option of the trilemma, the logical circle, to find his way out (cf. Sas 1995: 506–511).
4 In Apel's own words: '*(dieses) Kriterium…ist in der Lage, unbestreitbare Präsuppositionen der Argumentation als reflexiv-letztbegründete Sätze aufzuzeichnen: d.h., Sätze, die keiner Begründung aus etwas anderem bedürfen, weil man sie nicht verstehen kann, ohne zu wissen dass sie wahr sind*' (Apel 1987b: 185).
5 Apel's point, to put it briefly, is that one cannot deny the characteristics of the ideal community of communication without falling into a performative contradiction. For this very reason all argumentation – which, as Apel argues, can only have force within a specific community of communication – is bound to the characteristics of the ideal community of communication.
6 Precisely for this reason, deconstruction is not antifoundational or post-metaphysical – at least not in the straightforward sense of these words.
7 Although I present these ideas in the context of a discussion about language, they have a larger significance than the field of language alone. For a brilliant application of these ideas on issues concerning politics and political theory, see Honig 1993.
8 Strictly speaking, there is only one way to avoid this mistake, which is by acknowledging that the differences that constitute the play of difference 'are themselves *effects*' (Derrida 1982: 11). This means, then, that in the 'most classical fashion', that is, in the language of metaphysics, we would have to speak of them as effects 'without a cause' (Derrida 1982: 12).
9 Over the past years a whole body of literature on Derrida's rather idiosyncratic use of the idea of justice has been published. Besides Derrida 1992, see also Derrida 1999; Critchley 1999; Biesta 1998b.

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10 Children's rights and education

A hermeneutic approach

Alfred Langewand

Preliminary remarks

Hermeneutics originated at the beginning of the modern age in three main contexts. Within European humanism it developed as the art of resolving philological problems that arose in the reading of classical works, e.g., where the textual corpus transmitted from Antiquity was uncertain. With the beginning of the implementation of generally binding legal norms, it arose with the juridical problem of applying general legal principles appropriately to specific concrete situations. And in the context of disputations during the Reformation and Counter-Reformation, in particular following the end of the European civil war between 1618 and 1648, it acquired the role of a means of deciding upon the 'correct' interpretation of the Christian Bible.

With regard to its historical origins, hermeneutics was a form of reflection on a crisis of the understanding of disparate things and, simultaneously, was the attempt to master this crisis. Even today, this more or less holds true. From the seventeenth and eighteenth centuries through to the nineteenth and twentieth, the main change overcoming hermeneutics was its transformation from an art of understanding into a philosophical discipline making the same kind of foundational claims as had been made formerly by the transcendental philosophy of the German classical tradition. Chiefly representative of this 'foundational-ontological turn' are the works of Martin Heidegger and Hans-Georg Gadamer. Within the educational sciences, 'hermeneutics' primarily signifies reflection upon and illumination of the concepts we use in daily life or in science to talk about things. It investigates the judgements that we have already made when we turn to things. To this extent, hermeneutics is an analysis of the 'pre-judgements' we bring to the consideration of things. Since these pre-judgements are only in relatively few cases our own individual inventions, hermeneutic analysis also means the analysis of the nexus of the historical origins and the context of the concepts we apply. The goal of hermeneutic analysis is to come to terms with the matter with which we are concerned. Edmund Husserl's slogan for this goal of inquiry was: 'Back to the things themselves'.

There are divergent opinions on the question of what hermeneutics is and what it can do, even within hermeneutics itself. It thus makes sense to clarify at the outset what these divergences are within hermeneutics, and I should like to draw attention to two in particular.

Firstly, considering the hermeneutic debate only during the course of the twentieth century, there are – to simplify – two currents of opinion as to whether or not hermeneutics is a method. Those in favour of this view include Wilhelm Dilthey within philosophy, Emilio Betti in the philosophy of law and Eduard Spranger within educational theory, to name only the best known. Those who deny that hermeneutics is a method include Gadamer in philosophy and all those who follow him. Most proponents of the latter work within the tradition of Martin Heidegger's *Being and Time*. It was Gadamer himself who had originally introduced this divisional line in his *magnum opus* of 1960, *Truth and Method*. Indeed, this book title coming from a disciple of Heidegger must naturally be read as meaning 'Truth *instead of* Method'. According to Gadamer, not only is understanding as a method not an alternative to explanation in the natural sciences (or in the social sciences insofar as these are oriented to natural scientific models of explanation) but, further, hermeneutics is not even a doctrine of method as once conceived by Dilthey.

E. Betti first subjected the position represented by Gadamer within hermeneutics to critique. More or less fully operating within the Dilthey tradition, Betti proposes methodical canons, or fundamental rules, which are to secure the objectivity of the understanding. To date, this debate internal to hermeneutics has not been settled. It probably cannot be brought to an end unless it can be shown that understanding in the sense of knowledge (Betti) can also be understanding in the sense of education (Gadamer), and how this can be so. My own view is that, in comparison with the methodology of description and explanation within the natural sciences, one cannot speak of understanding as a method, nor indeed of hermeneutics as a methodological doctrine.

What understanding means, can be most quickly illustrated by going into some of the complexities. The activity of translating is an eminently hermeneutic activity. When, for example, Franz Kafka in *The Castle* writes of the church spire which was built 'mit höherem Ziel' in contrast to the lower houses surrounding it, his expression in German is open to very many different interpretations (or, if one forgoes a conscious interpretation, the everyday understanding of the expression will remain in play, and thus remain problematic in a reading of the novel). In the first English translation of 1930 by Edwin and Willa Muir, Kafka's phrase is rendered as 'loftier goal'. Clearly, this translation is simultaneously an interpretation expressing a very specific understanding of Kafka's fiction. Indeed, the Muirs' translation of *The Castle* is permeated with religious and metaphysical connotations, like Edwin Muir's own poetry. Kafka can be understood in this way, but he does not have to be. The point is that each interpretation follows from some such pre-understanding. It is precisely this context in which

understanding is expressed which is not itself reducible to method. Another example would be the ninety or so different translations of Shakespeare's 66th Sonnet into German ('Tyr'd with all these for restfull death I cry…'). Does anyone really think there is a single method of understanding by which we would be able to distinguish the adequate from the inadequate translations of this sonnet? Understanding is the condition of 'method': it is not itself a kind of method, nor is it an alternative to method.

The example of translating Kafka goes to show that prior to all possible aspects of method, the matter in question has already been pre-judged, pre-understood – in this case, as is known, through the influential interpretation of Max Brod. Understanding is not independent either of the interpretative situation or of the interpreter him/herself. And the understanding cannot remain identical over time in the historical experiences we have when working with the text and its interpretations. In the particular case of Kafka's work, today we regard the 1930 translation as being somehow one-sided.

With the concept of method, however, we usually combine three convictions:

- that, in respect of fact, methods can grasp the matter in hand;
- that, in respect of the social, methods are neutral and are not themselves influenced by the person applying them in a certain situation;
- and that, temporally regarded, methods remain constant and do not undergo alteration from one application to the next.

Now, understanding does not meet even such very vague conceptions of what method is. Our factual understanding is bound up with a pre-understanding which has already opened up the matter in hand in advance of all subsequent investigations. This factual pre-understanding always contains a self-understanding on the part of the interpreter. And both pre-understanding and self-understanding are in turn inextricably entwined with the historicity of understanding. The process of understanding is circular from the very beginning. Hermeneutics draws attention to the fact that no strict separation is possible between interpreters, 'methods', the situation of application and the matter to be understood. There is a circular relation between pre-understanding and understanding, a circular relation between understanding and application and a circular relation between understanding and the historical situation, as well as the historical anticipation of a specific situation.

Thus, understanding is not a method. Rather, understanding and pre-understanding are *conditions* for the development and application of methods. And methods can only be deployed where areas of the lifeworld have already been understood. Hermeneutics is therefore not a theory of method, nor a methodology. This does not, of course, imply that understanding and hermeneutics completely lack order, that they are chaotic, random. This

already follows from the brief remarks above on pre-understanding and its historicity. For we can as little step outside the historical situation in which we find ourselves as we can remove ourselves from the lifeworld. 'Historicity' is not determined methodologically. It is experienced in concrete interpretation and in reflection.

To reflection belongs the attempt to become clear about a situation in which certain questions, problems or states of affairs have come about. It also involves opening up the historical context to which the topic belongs, or which it opposes, over and above the specific situational context itself. And the question of practical relevance will also have to be borne in mind, be this obvious and direct, or hidden and enigmatic. Such aspects of the understanding do not allow themselves to be methodised. Even the sequence of understanding cannot be determined in advance, once and for all. In this respect, hermeneutics follows Husserl's call at the beginning of the twentieth century to 'return to the things themselves', but in such a way as to sharpen the idea of a phenomenological historiography into the thesis of the radical historicity of all understanding.

This debate on whether understanding is a method and hermeneutics a doctrine of method has also been accompanied by another debate within hermeneutics, which also reveals a lack of agreement between the protagonists. This is the question of whether or not hermeneutics is a practical discipline, as has traditionally been claimed of disciplines such as ethics, political science and educational theory. In this debate, the lines of engagement of both parties to the argument are less clearly defined. Gadamer himself claimed the title of a 'practical science' for hermeneutics. But it is also clear to him that hermeneutics can probably be a *practical* science – i.e., a science oriented to ethical, political, legal or educational action – only if what is to be understood through analysis is itself, in some undefined sense, 'normatively appropriate', whether ethically, politically, legally or educationally. With regard to the issue of children's rights and education, this means that – strictly speaking – hermeneutics cannot discuss the question of whether children have rights, ought to have rights or whether such rights can even be claimed. Hermeneutics, at least to date, has not developed any instruments for answering such normative questions and taking such decisions. In this discussion, hermeneutics must remain silent. Moreover, it must listen. Why this is so is related to hermeneutic work and its insight into the historicity of all that is understood and all understanding itself. What hermeneutics can do, however, in cases where talk of children's rights make sense, is to show what function children's rights can have for educational practice.

If we ask what can be expected from a hermeneutic analysis, I think such an approach has to address the following three aspects:

- the understanding of the context in which an issue is taken up for the first time or anew;

- the implications embedded in the issue, here meaning principally in the case of children's rights the conceptual and historical implications; and
- the practical meaning of the issue being treated.

This in turn means that hermeneutics should at the very least

- undertake a contextual analysis of the issue, since issues do not just fall out of the sky but are themselves embedded in a complex reality;
- attempt an analysis of pre-judgements and presuppositions, since reality is saturated by historical preconceptions, just as is hermeneutic analysis itself; and finally
- initiate a practical analysis of the significance of the issue, because one of the fundamental convictions of hermeneutics is that reason, whatever this may be, can only be concrete reason. The assertion that truth is concrete – a risky proposition first advanced by Karl Marx – has subsequently been taken up and claimed by hermeneutics for itself.

On the historical context of the children's rights movement

The children's rights movement emerged at the beginning of the 1970s in Anglo-American countries. From the outset, it has been connected with the anti-schooling stream of thought in the West, though in point of fact there was no necessary connection between the two movements. Though it was not the first time that children's rights had been claimed from the educational side, this time it pointed forward to an outcome which was formative of rights: the *Convention on the Rights of the Child* passed by the General Assembly of the United Nations on 20 November 1989.

It could be asked why it was precisely at this moment that a discussion began to develop concerning children's rights. There are no simple answers to this question. But it well assists comprehension if we try to bring back to mind the historical situation in which this discussion arose. If this is done, the following states of affairs at that time become apparent.

- At the same time as the discussion about children's rights began, debates were also taking place in other areas of social life in Western nations which did not indeed originally appear to be related in terms of contents with the children's rights movement but which were, however, responding in similar fashion to felt deficits in the everyday life of the West. To shed some light on the issue of children's rights, three of these complex debates may be mentioned. Like the children's rights debate, they were formed in relation to the so-called student movement of the late 1960s. These are

- the women's movement which began to develop again after a moratorium of almost half a century
- the anti-psychiatry movement which was active on the Continent, particularly in Italy and Great Britain, and
- the environmental and animal rights movement.

The women's movement opposes the disadvantaging or degradation of women in society, the anti-psychiatry movement protests against the institutional isolation of the 'mad' from the 'normal', and the animal rights movement and the environmental movement campaign against the use of animals in scientific experiments and in the food industry in particular and against the exploitation of nature in general.

If one tries to bring out the common features of these protest movements, it could probably be said that all of these, including the children's rights movement, come together to assert a discontent with civilisation, or to assert – often trenchantly – a distinct reservation against the predominant, superficially 'rational' way of life in Western societies. In the societies of the former Eastern Bloc, this reaction appeared after some delay and was to be directed against state obstruction. All four movements, to put it another way, have raised a fundamental objection to historically determinate 'reason' at the end of the twentieth century. This dominant 'rationality', to characterise it in overstated terms, is:

- masculine and chauvinistic in tendency, from the point of view of the women's movement
- normalising, from the point of view of the anti-psychiatry movement,
- perversely anthropocentric, according to the fundamental conviction of the environmental movement, and species-centric in the eyes of the animal rights movement; and
- adult-centric, from the viewpoint of the children's rights movement.

If you therefore happen not to be male, adult and a normal *animal rationale*, then you have every reason to suffer under the dominant form of reason, either for yourself or for the sake of others.

It would be necessary and tempting to analyse in detail and through examples the form of this dominant reason, and then to check whether there is also something common to this four-fold objection to the dominant rationality and of what it consists. Feminist philosophy and the animal rights movement, insofar as I can judge, have already initiated the most important steps in this direction. On the other hand, such a way of looking at a critique of reason platform shared by all four movements is still far too premature. But what of the issue of children's rights and education in particular?

If we want to understand what the claim of children's rights can mean, we must ask at the outset what was and remains the precise form of reason with respect to the child and its rights which led to children's rights first

becoming an issue for philosophy and educational theory at such a late point in time. The initial, as yet completely atheoretical, answer we need only state: for initially children's rights was not a genuine thematic of either philosophy or the philosophy of education, meaning here institutionalised disciplines. The issue was first and foremost a practical issue, one belonging to the educational lifeworld.

Let us address the question of the form and content of determinate historical 'reason' against which the children's rights movement has turned. What the educational, feminist, anti-psychiatry and environmental protests against the ruling concept of reason have in common is that they protest as particular voices against a reason understood as universalist. Reason is only putatively universal. It is philosophically understood as such but in fact it is historically connected to the exclusion of the particular. Children count, morally and in terms of rights, as being just as immature as animals and lunatics. It is thus not surprising that the debate on children's rights and education has points of contact with the so-called post-modernist debate. For if 'post-modernity', beyond all the fashionable twaddle, primarily means undertaking the attempt to draw the attention of a reason presenting itself as universal to those particularities it has excluded and defending the latter against their 'rational' extraterritorialisation, then children's rights and education is a theme much more closely related to the often-disputed diagnoses of post-modernism than might at first appear to be the case.

Historicity

Philosophically considered, the rationality to which the children's rights movement is opposed is neither pure reason nor ahistorically guiltless. It bears the defining marks of its history, and is itself historical. I want to go on to show that the form taken by this rationality which has been handed down to us has a contradictory structure from the point of view of educational theory. I also want to show that the children's rights movement, if taken seriously philosophically, represents an objection to this inherited, contradictory form of rationality, possibly leading us to search for a somehow different concept of reason. To what extent, then, is the dominant rationality – from the point of view of the children's rights movement – structured in an educationally antinomian or contradictory way? As an initial answer to this question, a small anecdote.

In the middle of the seventeenth century there was a member of a religious brotherhood called Jean Garat who came from the Dordogne in south-west France. On a visit to Limoges, he was shown his little nephew lying in a cradle. Garat was so upset at this sight that he fled from the house in panic, as if he had just seen a wild beast rather than a small infant. Instead of 'O, how sweet!', or 'Isn't he lovely!', or a more matter of fact 'Just like his

mother and father!', or more reserved 'O Lord, how small he is!', Garat's hair stood on end (evidently, the 'small child schemata' of our contemporary behavioural scientists had little place in the seventeenth century). H. Bremond, who mentions this anecdote in his monumental *Histoire litteraire du sentiment religieux en France*, points out that Garat, otherwise a pious Catholic and rationalist, was overly sensitive to small children – in fact, he didn't want anything to do with them. But is this alone the reason for his panic-stricken flight? Especially since shortly thereafter Garat joined a pious society for the veneration of the infant Jesus!

What did Garat see when he looked at his nephew? A child, of course, we would want to say, suspecting that Garat is just one more example in that long line of unworldly philosophers and theologians who become upset by everything that doesn't fit the grid of their own theoretical frameworks. But let us try to shed a little more light on the behaviour, viewpoint and reaction of this man so that he doesn't entirely remain the idiosyncratic monster of his century. I will put forward two possible background motives for his behaviour.

First motive: anthropology

The first motive results from what was for Garat an unquestioned anthropological tradition combining two conceptions of nature and the place of man in the world which, analytically speaking, do not necessarily belong together. The first conception is that man is a rational animal (*animal rationale*). Man has much in common with other animals, but one thing is his alone: reason. Reason here is the *differentia specifica* of man as opposed to other animals. Whatever is or could be animal within man, it is reason that ennobles him, and it is through the use of reason that he can discipline, order, raise, even educate his animal nature. This conception is the common philosophical heritage not only of the seventeenth century – it was already ancient and honoured in that century – and its basic conceptual equipment derives from the pagan, classical philosophy of ancient Greece.

The second anthropological conception of nature and man's essence is historically connected with that of the *animal rationale*. It asserts, roughly speaking, that everything that lives has a soul, be it plant, animal or man. The soul of a living being expresses itself as a potential for power. In this way, for example, plants have a potential for nutrition, growth and movement; besides these powers, (some) animals have the additional potential of imagination and desire; but it is man alone who has the additional potential of reason, the potential to think and to judge.

In terms of this anthropological conception, there is an ascending series of organisms at whose pinnacle stands man. This order differentiates three aspects. The plant–animal–man sequence is conceived materially as an addition of potential. The sequence is also considered normatively as an ascending series of value (with the *plus ultra* of reason as its conclusion). And

it is viewed temporally as a sequence of developmental steps. This means that man, who brings together all the potential of plant and animal within himself (plus reason), also develops in his ontogenesis along this material, normative order of gradation.

According to the anthropological conception of man as a reasoning animal, we know that man possesses reason, not animals. But neither does the child. In this conception of the order of living things, we also know why this has to be so. Man, for whom the highest position is reserved, requires a little time.

When Jean Garat looked at his nephew, we are forced to conclude that he did not see a person, but a creature just like an animal. To overstate: he saw the animal in the child. And then, presumably, he saw himself in the child. He was once like this: small, totally in need, absolutely defenceless, useless and ignorant.

Second motive: religion and theology

The Aristotelian conception of man as part of the animal kingdom lasted well into the twentieth century. In Aristotle's mature and chief work, the *Nicomachean Ethics*, animal and child are mentioned together as belonging to the same species and as not distinguishable in kind. Augustine later spoke of children as 'little animals'. The rationalism of early modern Europe then attempted to reinforce this conception and position of the child as opposed to reason, not by juxtaposing the luminosity of reason against the animality of the brute beasts, but by mentioning in the same breath the mad, the suicidal and the child as counter-instances.

Besides these anthropological conceptions, all of which were developed in the pagan philosophies of Greece and Rome, a second, specifically Christian motive, plays a central role in the response of Jean Garat to his baby nephew. Childhood, according to this Christian conviction, is consequent upon Original Sin, a direct result of transgressing the divine prohibition to eat from the Tree of Knowledge instead of the Tree of Life. Had Adam and Eve not sinned, humans would presumably not have been born, or at least not in the way that we know. Augustine wrote: 'Henceforward it was God's will that through sin and punishment the initial condition of these little animals, as the newly born can be characterised, should be one of childish helplessness and frailty of mind and body' (*De Civitate Dei*: Book XIII). Childhood, the condition of man as little animal, is the continually recurring and, to the torment of adults, always visible *factum brutum* of the original sin of man, his radical corruptness and depravity. What can be read as holding for the most significant figure of early Christianity and Father of the Church can also be read as holding for early modernity. In the *Discours de la Methode* of 1637, the founding text of rationalism, René Descartes complains that 'since we have all been children before being men, and since it has long fallen to us to be

governed by our appetites and by our teachers (who often enough contradicted one another, and none of whom perhaps counselled us always for the best), it is almost impossible that our judgements should be so excellent or solid as they should have been had we had complete use of our reason since our birth, and had we been guided by its means alone'. And Augustine sounds as if he was an author belonging to the pagan, pre-Christian world: 'But who would not recoil and, faced with the choice of whether to die or be a child again, would not rather choose death?'

Given such conceptual preconditions, the fact that neither a philosophy nor a paedagogy of children's rights has developed hardly requires explanation. From the outset, the concept of right was itself bound up with the concept of the *animal rationale*. Even in the nineteenth century with Fichte, who treats of educational theory in the context of natural law, the paedagogical determination of the child is not that of having rights but of having duties: the duty of unconditional obedience and absolute submission to the will of the parents (which surely means: to the will of the father).

It could, of course, be said that today we no longer speak of rights and children within the terms of the Christian-rationalist tradition. But I regard this as an error. A glance at the philosophy of law and right in the work of, for example, J. Habermas or B. Gert indicates that, from the point of view of educational theory, nothing has changed between Aristotle and Hobbes on the one hand and the discourse theory of right on the other.

One side of the educational antimony of reason thus goes: children are not, in the strict sense, able to be the subject or bearer of rights because they lack something essential. Themselves incapable of reason, education must thus first guide them towards reason. The other side of the antimony goes: children should not be subject of rights because they themselves do not require such rights. It is education that should save them from this adult fate.

Here we have the basic conviction of the 'obverse side' of the traditional concept of reason, a conviction that has been continually developing since the seventeenth century. It is the conception which, arising out of the mystical theology of the late seventeenth century, was introduced into educational theory in secularised form by Rousseau. It was then repeatedly propagated both by the Romantics from the end of the eighteenth century onwards and by a major part of the educational reform movement of the twentieth century. This counter-conception to the rationalist concept of reason and the older concept of childhood only arises when and insofar as the adult suffers from him/herself and from his/her world, when s/he begins to feel estranged and uncomfortable under the skin; and when s/he recognises – and this is decisive – that reason not only cannot heal his/her own suffering, but that it is reason itself which makes he or she suffer.

Viewed historically, this is exactly the point of introduction of the 'alternative' concept of reason and childhood. Viewed sociologically, it was paradoxically the nobility of the seventeenth and early eighteenth centuries who prepared the way for a different conception of childhood. Concerned

about the proper kind of Christian piety to be adopted, the nobles paved the way for this essentially pagan concept of childhood. Not only did they suffer from the rise of new economic concepts and conceptions of action (interests, systems, etc.), which put their worldly orientation to the test. They also suffered massively from their own 'rational-reasonable' form of life insofar as it proved, under closer scrutiny, to be thoroughly unreasonable. Morals and virtue, in the diagnosis of the French moralists of that era, have the sole purpose of concealing self-love and vanity. Reason, they agreed, is central, but it is the centre of egocentricity, not the organ of Christian brotherly love. Reason is an instrument of the self-infatuated ego. In social terms, it alienates virtue. In religious terms, it alienates humility. Piety and reason thus come into opposition. Under such conditions, it did not take long for childhood to be discovered by the later seventeenth and eighteenth centuries as the exemplary condition of humankind.

Take the fact that children play, in the sense of the older conception of reason. But now, under altered conceptual conditions, doing useless things means that the child is not entrapped in vain narcissism. The fact that the child does not think about tomorrow, i.e., has no thoughts (in the old sense), now means that the child lives – as the saying goes – without a worry or a care in the world. The fact that the child is non-rational, i.e., non-predictable, now means that the child trusts the positivity of the world. The fact that the child is spontaneous, i.e., immoderately passionate and yet defenceless (in the old sense), now means that the child is authentic. In short, under new conditions, the child is always itself, the adult is always other than him or herself.

What is important to grasp here is that in this 'other' conception of reason and childhood, the child's relationship to rights is just as unimportant and educationally nonsensical as for the earlier rationalist conception. Significantly, although the initially mystical conception of childhood and rights, which was then given an educational turn by Rousseau, was developed through the critique of the older forms and contents of traditional reason, any access to rights remains closed off, philosophically speaking. The educational antimony of traditional reason is that either one was not able to have rights because as a child one was (still) non-rational, or one did not need to have rights because one was (as yet) not alienated as a child. The child falls outside the realm of right, either because it cannot yet exercise reason or because it should not exercise reason too early. (This framework is outlined in Table 10.1.)

Those wishing to deal seriously with the issue of children's rights from the point of view of educational theory are thus well advised to study the snares within the traditional conception of reason, together with the snares within the traditional conception of childhood. If and how it is possible, in the strict philosophical sense, to talk of children's rights at all is not at all clear. But we can still attempt to show hermeneutically which functions have to be linked with children's rights and what practical significance these have.

Table 10.1 The educational antinomy of traditional reason

	Rationalistic thesis	Internal valuation		*Romanticistic antithesis*
(1) Concept of man (adult)	animal rationale	+	-	animal rationale alienatumque
(2) Concept of child	animal inrationale	-	+	animal inrationale non alienatumque
(3) Consequence for legal status of children	no rights: they can't have rights because of (2)	-	-	no rights:they don't need to have rights because of (2)

Practical truth

The educational antimony of traditional reason will remain virulent as long as the preconceptions shared by both theses of this antimony remain unnoticed. The rationalist and the romantic concepts of childhood have three presuppositions in common.

1 It is possible and sensible to philosophise about the child without entering into the child's own self-understanding. This is the conviction of both the rationalist concept of childhood, when it conceives of the child only as a deficient, unreasoning being, and of the romantic concept of childhood, where the child is understood only as a self-sufficient being. In both cases, 'methodologically' regarded, the result is an objectivist concept of the child – I, as adult, am to determine philosophically what is to count as 'the child'.
By contrast, a hermeneutic philosophy of education and children's rights has as its first principle that no interpretation is reliable which bypasses the self-understanding of those whose behaviour is to be interpreted, as opposed to including it as constitutive of the interpretation. Any form of hermeneutic philosophy will recognise that 'childhood' is not a mere 'anthropological' state of affairs but always, even primarily, a historical concept. In respect of the theme of education and children's rights, hermeneutic analysis thus has to recognise and acknowledge that the child *learns* that it is a child. The gap, the difference that the adult interpreter, as philosopher, creates between himself and the child, belongs to the content of his or her own reflection. The alternative to this would be objectivism.
2 It is possible and sensible to philosophise on rights when one is oriented only to the criteria of adult communication and thus have to regard all actual transitional phases prior to adulthood as strictly (and 'rationally') extraterritorial, beyond bounds. (Here, it should not be forgotten that what Kant termed 'difficulties of transition' are the product of the type of criteria deployed.) The result, again viewed 'methodologically', is a

conception of rights bereft of development or history, and which are understood independently of the conditions of their appropriation and rational rehearsal. I, as adult, determine (philosophically) who is the bearer of rights, i.e., only those who are already adult (rational, capable of reflection and discourse, etc.)

By contrast, a hermeneutic philosophy of education and children's rights has as its second basic principle that such transitions are concrete and cannot lie beyond right and reason simply because they are transitions. Right and education, regarded hermeneutically, are practical and concrete concepts for the normative accompaniment of transitions. To think of these concepts philosophically means to elucidate the conditions of their practical possibility. And this means that 'right', as 'education', cannot be determined without the process of experience, which has to be made in and through its appropriation. In this sense, hermeneutics is always a reflection on the conditions of appropriation of practical concepts. What is excluded in the traditional, static concept of reason is the insight that transitions themselves are reasonable, or can be understood to be so. In the traditional concept, *ratio* and *transitio* mutually exclude each other. If it is true that the well-known attempts to systematise a teleology of human nature (neo-Stoicism) or a teleology of history (Hegelianism) have failed, the concepts of 'right' and of 'child' have to be compatible with the concept of a practical reason which permits transition.

3 It is possible and sensible for a form of human practice (e.g., education) to be conceived either as a means to achieve a different human practice (that of a social life regulated by law), so that both stand in a relation of pure rationality of ends (calculated rationality), i.e., rationalism, or where one of these is marginalised as a *terra incognita*, i.e., romanticism. Both of course issue in the same result. Rationalism and romanticism fall victim to the denial of the historicity of their object.

If it is true, however, that a meaningful analysis can as little exist by abstraction from self-understanding as an analysis without reflection on the conditions of the practical appropriation of rights, then the approach of a hermeneutic philosophy of education can only set out from the idea of a congruence of conditions for the practical possibility of children's rights and education. These can stand neither in a relation of means and end to each other in the sense of calculated rationality, nor in the relation of extraterritorial enclaves. The necessity of an integral conceptualisation is thus a further fundamental conviction of the hermeneutic philosophy of education.

What functions can children's rights have in education?

In the Romantic concept of childhood, children's rights would simply be inappropriate, in a practical sense. This would be to ascribe to the child something which is incompatible with the child's way of life, and not only

for that period in which children have no cognitive understanding of what 'rights' mean. Here, children's rights would not just be inappropriate; they would also be disruptive. They would disturb the child with things, which go against the child's way of life.

In the rationalist concept of education, children's rights would be either useless and dangerous, where children do not understand rights, or – conversely – extremely useful, even if they do not understand them. In the latter case, children at least get to know something of the reciprocity of rights and duties from the *habitus* of adults they encounter, even before they are capable of this reciprocity themselves. We speak to children even before they themselves have learnt how to speak. Accordingly, John Locke in his *Letters on Education* recommended that adults talk rationally to children, a recommendation which Rousseau, in his *Émile*, branded a kind of educational crime. Starkly counterposed, the Romantic would be committed to protecting the child from rights, whereas the rationalist would be committed to protecting rights from children. In the context of children's rights, the concept of the child would be violated, from the Romantic point of view; from the rationalist point of view, the concept of right would be rendered void.

Hermeneutics proceeds from the conviction that people cannot adequately be understood by ignoring their own self-conception. Children conceive of themselves as children when they come to know that this is what they are. Likewise, children only have rights if they themselves know that they have them. Given the circumstance that children have to learn that they are children and that they might have rights, the philosophical problem of children's rights presents itself quite differently from how problems of rights are normally analysed and discussed within philosophy. Normally, problems of right are concerned with *contents*, their *justification* and their appropriate *application*. But with the issue of children's rights, things look quite otherwise. The communicative structure as well as the self-understanding of children and adults is fundamentally altered through the introduction of children's rights. For here, the consciousness of right *emerges* through the introduction of the concept of right, and not directly in one single instant.

Even if the child already had rights 'by nature', in the sense of natural law, this would be immaterial, from a hermeneutic point of view, as long as these rights were determined only from the perspective of the observer. Even when, in educational practice, adults see children as the originally bearers of rights, this is immaterial as long as the child itself knows nothing about it. The central educational question from the hermeneutic point of view is thus: What does the *communicative situation* look like in which the concept of right is introduced in terms comprehensible to the child, as a practically meaningful and real concept, and in which communication between adult and child is reciprocally practicable? It now becomes clear just how far 'problems of transition' are central to the issue of children's rights. The concept of

right itself cannot structure the transitional situation from non-conscious possession of rights (or non-possession) to the possession of rights. The structuring of educational situations is, however, one of the many tasks of education. At this point, there thus follows of necessity the *primacy of education over right*, just as it is obvious, e.g., for Aristotle in the *Nicomachean Ethics*, that it is only through education that can there be a solution to the problem of how and under what conditions rights can be maintained over time.

If we talk about structuring situations for the introduction of rights, we do not imply that the educator should simply tell the child that it has rights. The point here is that the educational situation must itself exhibit an interactive form, which is at least not contrary to the concept of right. A concept of right which proceeds from reciprocally shared and corresponding rights and duties suggests a form of educational communication which does not exclude such reciprocation from the outset. To consider what positive form the educational situation should take is a question for the theory of education.

It should also here be mentioned that another issue, hermeneutically regarded, belongs within the context of children's rights and education. It is not necessarily part of the concept of right that the type of sanctions in respect of the violation of another person's rights is itself discussed. Whether the problem discussed is treated as one of rights or as a moral problem is dependent on whether it is internal sanctions (internal to the person/'conscience') or external sanctions (expected/enforced by others) which are assumed. Discussing the relation between the concepts of rights, childhood and education without the concept of the moral would appear to be extremely difficult.

From the hermeneutic perspective, the relation between children's rights and education should be discussed, first and foremost, as a problem of transition. Since we are what we are and never exist without an understanding of ourselves, it thus follows that there can be neither 'childhood' nor 'right', practically speaking, without the corresponding self-understanding. In education, we must therefore discriminate between the educational structures prior to the introduction of rights, during the introduction of rights and subsequent to their introduction. With the concept of right alone, the first two phases could at best be outlined negatively; they could be positively outlined only within the framework of a theory of education. In respect of the third phase, determinations of rights alone are as insufficient as in civil society more generally, where the question of how we want to live together is not answered merely in terms of principles of rights.

The hermeneutic treatment of the relation between children's rights and education is certainly unusual in that it differentiates considerably our daily discourse concerning children, education and rights. The 'child' and 'rights' are, for hermeneutics, elements in a self-understanding, which is itself historically variable. It has been shown that even the discourse of 'natural

rights' has a communicative sense and is not based upon a *factum* of *natura humana*. Everything that is to be real for the acting persons must pass through the eye of the needle of *communication and self-understanding*, unless one of the participants, fearing the unavoidable reflection characterising educational communication, so determines educational conditions that they remain inaccessible to each other. This latter was the strategy of Rousseau. It still awaits its in-depth refutation even today.

Faced with the fundamental question of whether children actually do have, or should have, rights at all, hermeneutics remains silent.

Further reading

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11 Rights of children and future adults

A cultural educational perspective

Wilna A. J. Meijer

Introduction

A 'cultural educational theory' (Dutch: *cultuurpedagogiek*) puts the issue of cultural transmission at the centre of educational reflection. There are two sides to this issue. The first is the question of culture *as context* of education, and of educational theory as reflection on this relation. This requires, as I will argue, that history of education and theory of education go together more closely than has become customary since the 1960s. Education and ideas on education (i.e., educational theory) vary in time and culturally. It is therefore necessary, in order to understand education and educational ideas, to incorporate the historical and cultural context in the discussion. The second question on the relation between culture and education concerns culture *as content* of education. This refers to the educational question of which parts of the existing culture ought to be passed on to the new generation. This second question brings the educational theory–practice problem into focus. Analogous with the argument that theory and history should go hand in hand when it comes to education, it can be argued that educational thought and action, theory and practice, ought to be linked.

In this chapter, I will first explore the relation between theory and history of education. Then I will dwell on the relation between theory and practice of education. These two relations that are of central importance to a cultural educational theory are themselves again entwined. In the analysis of educational concepts (i.e., the theory of education), the importance of historical and cultural context is emphasised; that does not, however, only concern the context of origin and development of these concepts, but also the contemporary context of educational thought and action. And this historical and cultural context is the arena in which educational action is set.

In a final section, I discuss environmental education as a case of the approach of a cultural educational theory. Clearly, both the aspects of culture as context of education and culture as content of education are present in this case: environmental pollution and the prevailing social and political awareness of it as a global societal problem induces, among other things, reflection on environmental education and its aims and contents. The case of

environmental education also is our contribution to the theme of this volume: children's rights. A cultural educational approach will not start reflection on a theme from non-educational concepts, such as, in this case, ethical or juridical concepts of rights. The starting point is deliberately chosen in classical educational thought and concepts. The case of environmental education shows that the classical concept of the *relative autonomy of education* may help to criticise the reduction of education to a sheer instrument for political aims. Through this, the right of children and future adults to be educated to emancipated, self-reliant and responsible involvement and participation is defended.

The relation between theory[1] and history of education

Up until the 1960s in fundamental educational research in the Netherlands, theory and history went hand in hand. Consideration of educational concepts was interwoven with historical inquiry. This was for instance manifested in the so-called history of ideas: surveys of the ideas and ideals of 'great thinkers', from Plato via Erasmus and Comenius, Rousseau, Pestalozzi, Fröbel and Herbart, to Dewey and Montessori (see, for example, Vloemans 1949; Van der Velde 1964; Van der Meer and Bergman 1975). Langeveld, a prominent exponent of the 'geisteswissenschaftliche Pädagogik' in the Netherlands, publicised about the 'dialogue between system and history', thereby giving rise to debate in the field of fundamental educational research on the subject of the nature of the history of education (Noordman 1978: 193). Langeveld argued, in a way typical of the 'Geisteswissenschaften', in favour of a 'problem-historical approach' which would not produce a 'warehouse of historical facts', but which would 'show the essential possibilities of educational thought' (Langeveld 1959: 5). Inquiries in the field of history of education would then revolve around systematic educational issues ('questions of education'). 'With a tentative, maybe even a *vague* question, but nevertheless one which penetrates the essence of education, one sets forth and in interchange with history one returns more mature, richer, more specific and diverse in one's questioning' (Langeveld 1959: 12).[2]

Since then, however, history of education has loosened its bonds with systematic educational theory and emphasised rather empirical historical research into the social and cultural reality of education in the past (cf. De Wolf 1971). Educational theorists went their own way also. Some concentrated on the philosophical analysis of educational concepts. Rather than towards history of education, this kind of educational theory tended to look towards empirical-analytic research as an inspiration for its analysis and definition of educational concepts (cf. Stellwag 1970, 1973; cf. in the German language area: Brezinka 1971). Also, an orientation towards philosophy, philosophy of science and especially linguistic-analytic philosophy gained ground in philosophy of education (cf. Spiecker 1974). Theory and history of

education separated ways. Whereas history of education, as part of social history, studied past practices of upbringing and education without paying much attention to educational ideas and ideals or concepts, philosophy of education limited itself more and more to the analysis of educational concepts without bringing historical cultural context – and therefore real educational practice – into play.

The traditional bond between 'theory and history' of education and educational thought was also modified by critical theory which became popular towards the end of the 1960s. It is true that a critical theory (contrary to Anglo-Saxon linguistic-analytic philosophy) conceives thought and ideas in close connection to history and praxis. However, according to critical theory, on this score educational theory does not differ from other social sciences. The relation between educational theory and practice is not reflected upon starting out from the specific nature and task of educational practice (in distinction to other practices, such as juridical or medical practice). Critical educationists tend, rather, to choose a non-pedagogical problem and theory as point of departure, the theory in this case being critical theory, which studies the sciences as a political phenomenon. A theory of science must be a theory of society. The fundamental assumption underlying Habermas' theory of knowledge interests is, for instance, that there is no pure scientific knowledge, but that all knowledge is utilised in (political) action (Habermas 1968). Critical educational theory serves the knowledge interest of emancipation. This critical commitment to practice and the political goals of emancipation and liberation are shared with other social sciences (see, for instance, for psychology: De Boer 1980). The critical reserve of a 'hermeneutics of suspicion' is the befitting attitude towards educational ideas and practices passed on to us from the past. Consequently, the traditional bond between educational theory and history of education has to be reviewed. Sociological and social philosophical notions take their place.

From the 1980s onwards, the necessity of bringing theory and history of education closer together after their having grown apart since the 1960s has been emphasised from different sides. Benner is one of the German philosophers of education representing this development. In the 1960s German '*Pädagogik*' (educational theory) released itself from its own tradition, in which theorists such as Schleiermacher and Herbart developed their ideas on '*Pädagogik*' as a *practical theory*, and accommodated itself to current models of scientific theory as one of the social sciences (Benner 1994: 151 ff.). In this way, specific educational questions and fundamental educational ideas were forgotten. There is only one way to redeem them: by once more taking the educational tradition as a starting point. And so, it is not surprising that in a number of his publications Benner describes his approach as '*problemgeschichtlich*' (problem-historical; see, e.g., the subtitles of Benner's monographs: Benner 1990, 1991, 1993) and that he includes ideas of classical educationists such as Herbart and Von Humboldt in his present-day theoretical educational reflection. This building forth on pre-twentieth

century classical educational theory was also characteristic of Benner's earlier work, e.g., his 1973 overview of approaches in educational theory (*Hauptströmungen der Erziehungswissenschaft*), and of the work of several other German and Dutch authors as well – both educational historians and educational theorists, who set themselves the task of accomplishing cooperation between theory and history of education (cf. Oelkers 1989a, 1989b; Tenorth 1992, 1994; Rang 1989; Imelman 1989; Imelman *et al*. 1990; Meijer 1999).

Theory of education should not become totally preoccupied with questions of a meta-theoretical nature. In this context, it is worthwhile to fall back on the idea of the '*Geisteswissenschaften*', that systematic educational theory and the history of education should be practised in mutual conjunction. Systematic educational theory is not possible without the historical reconstruction of fundamental educational (hence object-theoretical, not meta-theoretical) concepts, in other words: without paying attention to the historical and cultural developments in which educational thought and action have taken shape in mutual interaction. By the same token, history of education is not possible without concern for educational ideas, which have formed and developed in interaction with educational practices of all kinds (i.e., upbringing, school education). One the one hand, history of education must amount to more than a history of ideas, which interprets the writings of 'great thinkers on education' without discussing the societal and cultural context. But on the other hand, history of education ought to be more than mere social history: the history of (for example) institutions such as the family, the school, of adolescence, of motherly love and of fatherhood, etc. The history of education should on principle give heed to the interaction between theory and practice, of pedagogical thought and action; it should in other words also involve educational ideas when charting the history of education. This would mean a history of education, which simultaneously contributes to reflection on the theoretical underpinnings of education, and not merely be a branch of history. Instead of being, on the one hand, 'only' social history of the social reality of upbringing without paying attention to the history of educational thought, or, on the other hand, 'only' history of educational thought and ideas without paying attention to the social and cultural context of the developing ideas, this approach, which could be named a 'problem historical approach', explicitly focuses on the dialectic in the development of educational thought and educational practices and institutions. It makes a difference to the history of education to emphasise this dialectic; it also makes a difference to the theory of education, which is the main theme of this chapter.

According to Benner, from the 1960s onwards it has been customary to view theory of education as meta-theory, viz., as philosophy of educational science. Frequently, this has meant distinguishing a number of paradigms or meta-theoretical currents and subsequently attempting to reintegrate the forms of thought and research distinguished. The integration of empirical-

analytic and historical-hermeneutic research, or otherwise of quantitative and qualitative research respectively, has, for example, become one of the main themes of fundamental educational research. Attempts at achieving integration, such as that undertaken by critical educational theory (cf. Miedema and Biesta 1989), may have yielded a social scientific research model but not a philosophy *of education*, a 'systematic educational theory'. An educational theory, which limits itself to meta-theoretical issues, is, by its very definition, deficient as an object theory. In his outline of the object-theoretical foundational concepts of education, Benner chooses a historical angle. This is consistent with the above view on the relation between theory and history in fundamental educational research. Whereas historically (or rather: in our, Western, European history) education was initially conceived as part of political praxis, geared towards the reproduction of society, in modern history the specific nature and task of educational practice is stressed and the *relative autonomy of educational thought and action* comes into sight. According to Benner, the most significant general educational conceptions of the twentieth century are set within this modern pedagogical tradition.

> Die ältesten Versuche einer objekttheoretischen Bestimmung des Pädagogischen begriffen die pädagogische Praxis als einen Teil der auf die Erhaltung des Staats und der Gesellschaft gerichteten politischen Praxis und verstanden die wissenschaftliche Beschäftigung mit pädagogischen Fragen als angewandten Teil der Philosophie, insbesondere der Erkenntnistheorie und der praktischen und politischen Philosophie. Die systematischen Pädagogiken der Neuzeit betonen dagegen die Eigenart und relative Autonomie pädagogischen Denkens und Handelns und legen diese auf das Verhältnis von Pädagogik, Erkenntnistheorie, Ethik und Politik aus.
>
> (Benner 1989: 366)[3]

Instead of limiting itself to analytical philosophy, philosophy of science or social philosophy, philosophy of education should be oriented towards classical pedagogical concepts in relation to the context of their historical and cultural origins. The issue of cultural transmission, of '*Bildung*' and general education, are at the heart of this. Currently there is a renewed interest in the classical educational issue of the relation between culture and education. I discussed this elsewhere as the revival of 'cultural educational theory' (Meijer 1999: 100ff.). This approach places the relation of culture and education, culture as context and as content of education, high on the agenda (cf. Hamilton 1990; Imelman 1989, 2000; Mollenhauer 1983; Meijer 1995a, 1999). In the reflection on education as cultural transmission (i.e., culture as content of education), the connection between theory and practice of education is essential. In the next section, I will turn my attention to that connection, and again I will try to do this in continuity with the tradition of educational thought. Here I draw attention to the acknowledge-

ment of children's rights as integral part of this historical development of educational theory-cum-practice. It will be argued that the concept of the relative autonomy of education as related to the institution of general schooling is the educational route to defend the right of children and future adults to education and emancipation.

The relation between theory and practice of education

In the above section it was argued that historical knowledge of education and educational ideas and their social and cultural context is of importance in theory of education. I would now like to show that such a cultural educational approach also caters for an appropriate perspective on the relation between theory and practice, because of its acknowledgement of historicity. This view, and this may complete the acknowledgement of historicity, does not choose a meta-theoretical model of (social) science in general as a starting point, but ties in with the tradition of educational theory. Classical educational conceptions of education as a practical discipline, e.g., those of Schleiermacher and Herbart, can help us to avoid the deficits of normative educational and technological conceptions of the theory–practice relation. Educational practice is a reality which has developed in the course of cultural history. That also applies to the questions and aspirations, ideas and ideals of individual educators and educational institutions. Instead of accepting these as fixed norms and expecting no more from a scientific theory than supplying means to realise given norms, a cultural educational theory will tend to put the given ideas and ideals into cultural historical perspective. In doing so it relativises those ideas and ideals. This alone is of practical educational significance. The educator who is able to put his or her own ideas and actions into perspective will not hold his/her own views and norms as the sole standard for the new generation; s/he will realise that s/he, too, is but a child of his times. The basic assumption of historicity which the cultural educational approach shares with '*geisteswissenschaftliche Pädagogik*' implies the insight that it is not up to the adults of today to lay down the future for the new generation. We might rephrase this in terms of children's rights: this new generation, i.e., the present children and future adults, has the right to be educated to emancipation. They ought to be enabled to deal self-reliantly and responsibly with their future situation and the problems and opportunities that they will face – and that the present adult generation cannot even know of, let alone deal with beforehand.

The approach of cultural educational theory is consonant with the classical idea of educational theory being a practical theory. Practical theory must, however, be distinguished from normative educational theory, which prescribes how practitioners, i.e., educators, should act. Such a linear application model is inconsistent with the basic notion that both educational theory and educational practice have developed historically and culturally and are historically and culturally variable. Educational practice and its

problems and questions therefore require constant redefinition and charting. Cultural educational theory would therefore state that the sole contribution educational theory could make to educational practice would be in the form of *insight* into the specific nature of present practice and its specific questions and problems in relation to the contemporary historical cultural context.

As pointed out before, educational theory prior to the twentieth century is frequently rejected in our day, and is considered as outdated normative theory; it is then denounced for having constantly perceived of education as the realisation of educational aims deduced from normative ideologies and world views (Meijer 1999). In that connection one often refers to Herbart's statement that educational theory is based on ethics and psychology: ethics determining the educational aim and psychology supplying the means (see, for example König and Zedler 1983: 116ff.; Miedema and Biesta 1989: 50). It would be beyond the scope of this chapter to elaborate in detail on the interpretation of the work of Herbart. It suffices to say that the case under consideration singles out a certain passage from the context of Herbart's complete oeuvre and interprets it incorrectly. It concerns a phrase in the second section of the *Umriß pädagogischer Vorlesungen.*[4] The interpretation of the passage from the *Umriß* that I object to presupposes a conception of ethics, which is not to be found in Herbart's work. On the subject of his ethics or practical philosophy, Herbart does not intend to supply any aims or norms for action at all, but he rather offers frameworks and directives for practical judgement. In other words, no one is exempt from passing his or her own practical judgements. In our context, it is perhaps even more important that the conception of educational theory as applied psychology – often attributed to Herbart – is at odds with numerous passages from Herbart's work. For instance in his *Allgemeine Pädagogik*, first published in 1806, Herbart already suggested that educational theory ought to concentrate more on the '*einheimische Begriffe*' (indigenous concepts) and the specific questioning of the pedagogical theory and practice (Herbart 1986: 278).

The relation between educational theory and practice, in favour of which Herbart is in fact arguing, seems to have lost none of its usefulness in the light of a present-day cultural educational theory. Educational theory does not rob educational practitioners of their own judgement of their situation, but offers them insight with which they can improve their judgement. Herbart uses the concept of *tact* to describe this relation between educational theory and practice (cf. Oelkers 1989a: 61 ff.). The educator's tact joins theory and practice together. Tact consists in the power to judge situations of action. As every action situation is necessarily historical and therefore unique, it is not possible to deduce from theory, how to act in a certain situation. The situation itself always has to be judged on its own merit and in the light of its specific problems. Educational tact is the practician's theoretically formed power of judgement. Theory does not produce ready-for-use recipes which educators might apply blindly, but sharpens, schools and directs the perception and interpretation of one's own situation. The

educator is never exempt from judging the practical situation, because no theory has ready-made answers for future historical situations on offer. Educational practice should not be considered the counterpart of educational theory: theory-less, meaning-less and reflection-less. In this context, another idea from nineteenth century classical educational theory is still perfectly usable: Schleiermacher's idea of the dignity of praxis (*Dignität der Praxis*, cf. Meijer 1999: ch. 2). This leads to a different starting point for educational theory in comparison to other social sciences: educational practice is not merely empirically given, waiting for science to develop concepts and theory about it, on the contrary; it has, as a practice, already its own characteristic questions and problems (such as the educational question of what should be transmitted to the following generation). Practice is not only *gegeben* (given), but also *aufgegeben* (a task).

Educational practice, being permanently subject to historical cultural change, continually demands reflection, i.e., educational theory. Instead of perceiving the relation between theory and practice as a matter of linear application, the classical educational view perceives the relation between theory and practice as a dialectical one: a '*Wechselverhältnis von vorgängiger Praxis und aufklärender, die Praxis weitertreibender Theorie*' (a mutual relation of preceding practice and explaining, practice-promoting theory) as Blankertz (1982: 113) paraphrases Schleiermacher. Such a dialectical relation between theory and practice expresses the idea that education and educational theory are historical and cultural phenomena. Theory thinks existent practice through and reflects on its specific questions and problems. The eventuating understanding will contribute to changing practice. Changed practice, in turn, produces material for further theoretical reflection, etc. Theory and practice, alike, are, in mutual relation, part of the ongoing tradition (cf. Oelkers 1989a: 74). Both the 'norms' and the 'facts' of the educational situation are historical variables (Imelman 1992: 27 ff.; cf. Imelman and Meijer 1985), and that is why a linear-deductive model of application of theory or science on practice falls short.

Hence, educational practice is not a meaning-less, theory-less and reflection-less starting-point for educational theory, but conversely theory of education must not be separated from the problems and responsibilities of educational practice. Due to ongoing historical and cultural changes, new educational questions will continuously present themselves. To give some illustration of how one might incorporate current practical educational questions on a theoretical educational plane, I add an example: the actual problem of the environmental crisis. For the educational practice of general education, that problem raises the educational question of what aim and content of environmental education ought to be. This case of environmental education presents us with an opportunity to put one of the classical educational fundamental concepts to the test, to determine its potential relevance, value and usefulness for the present day. Educational theorists from the tradition of the '*Geisteswissenschaften*' developed this concept of the 'relative

autonomy' of education and educational theory. Educationists from the tradition of critical theory, in turn, were suspicious of that concept, because they feared it would sever education from its societal connections and misguidedly avoid social conflict material and social criticism. I would like to attempt to show through our *casus* that the critical educationists' fears are unjustified. The concept of the relative autonomy of educational practice and theory has in fact critical educational potential and serves to protect the right of the children and future adults to be educated to emancipated and responsible involvement and participation. This right is sacrificed when education is instrumentalised for reasons of environmental policy.

A classical educational defence of the right to education in the case of environmental education

In the Netherlands, some have such high hopes of environmental education that no less than radical cultural change is anticipated:[5] the new generation is expected to exhibit such concern and love of nature and demonstrate a degree of environmentally friendly behaviour as are often lacking at the present time. Such changes in behaviour and attitude are seen as the aim of nature study and environmental education. In this case, the relative autonomy of education is at stake: in other words, the question whether education is guided by its own inherent aims and values, such as the right of children and future adults to education and emancipation. The involvement and concern of individuals and organisations sympathetic towards the current societal problem of damage to nature and environmental pollution supply the norm for nature education and environmental education. However commendable this concern for nature and environment as such may be, the norm in itself is foreign to education. The inherently educational norms of promoting emancipation and responsible involvement are at risk of being buried under the promotion of care and concern for nature and the environment as the higher norm.

Frequently the school setting is considered a hindrance to furthering the latter higher aim. In prevailing educational school practice of separate subjects, classes and periods, it would be more or less impossible to get the message across. It may well be justified to have higher expectations from week-long projects or from making environmental concern a constant point of interest for the entire school. Instead of 'just' imparting knowledge, one would then also be particularly addressing children's feelings and actions. In this manner, *participation* is made the heart of environmental education. In doing so, a paradoxical reversal is achieved of that which originally characterises education. When, in the course of history, society became too differentiated and complex to enable children to get to know society just by participating in daily life and the work of the adult generation, education became a separate concern and task. Important aspects of life in society began, increasingly, to be enacted behind the scenes of day-to-day life. The

work of breadwinners, for instance, disappeared beyond the horizon of the remaining family members. To enable the new generation to become acquainted with the world anyway, the transmission of knowledge and culture became a matter of careful planning. The time is past that children grew into adult tasks and responsibilities as a matter of course, by participation in daily life. Educational institutions, such as schools, and professional educators, such as teachers, have been brought into existence. The school is an institute in which new generations are afforded the time and space to learn and to prepare themselves for life. That is a luxury; the fact that the classical word '*scholè*' means 'free time' is revealing. Children are exempt from working for their livelihood. The school is an asylum (*vrijplaats, Freistatt*). It is not until later that full responsibility for one's life has to be accepted. At school, one can prepare oneself for adult life with all its current complexity: as worker, consumer, citizen, etc. This 'free space and time for learning' is part of what the right to education and emancipation – repeatedly mentioned in the above – amounts to. The school as an asylum does, however, immediately open the door to a characteristic danger, namely, that of estrangement from life and unworldliness. It is therefore understandable that arguments in favour of 'learning by doing', of learning through participation in 'real life', may be heard at regular historical intervals. In environmental education too, one can discern this note.

A clear example is the idea of 'environmental campaigns' in education. Nature and environmental organisations would like this: in this way children would learn to contribute to the solution of environmental problems and problems in nature by learning environmentally friendly behaviour. Campaigns like this offer the opportunity of direct participation in the solution of concrete environmental problems. *Learning by living*, by experiencing, by acting oneself, count as an 'ancient wisdom', which is dug up at regular intervals and constantly treated as being topical. The current catchword in the Netherlands in this context seems to be 'participation'. An 'open connection' between school and society is argued (cf. De Winter 1995). The school ought to offer opportunities for practice and bringing into practice real social responsibility. 'Environmental campaigning' is a case in point. De Winter sides with the idea of 'land of youth' (*jeugdland*) as described by the historian of education Lea Dasberg (1981). In our history, children have been increasingly excluded. To protect them from the evils of the adult world they were shielded from it and directed to a separate land of childhood and land of youth. But how can they, socially sidelined as they are, ever attain active commitment? This idea of 'youth land' reminds us in some respects of the classical educational idea of educational autonomy. In one crucial respect, they are not completely analogous, however, and the concept of 'land of youth' seems to draw an erroneous caricature of educational autonomy. 'Land of youth' is essentially a merely negative affair: children are shut out; one wishes to keep them far away from the harshness and evils of adult existence. Although this conveys well-meaning intentions: one wants

to protect children from evil, the outcome is negative: when children are kept small, they will never grow up. The concept of educational autonomy, on the other hand, implies that the educational field of action has its own ends and meaning and its own task and responsibility. The ends are not negative: keeping children away from the adult world, but positive: introducing children to the culture which has become too complex and obscure for children to automatically become sufficiently at home. The aim is also to introduce them in such a way as to ensure that in the future they will be able to deal in a self-responsible way with the insights and skills and other cultural attainments they are introduced to by the current adult generation. Without a doubt, in the future these insights will prove outdated in some respects. Tradition should always be regarded critically and the adults of the future will have to say goodbye to aspects that prove inadequate for their times and issues. Awareness of historicity is obviously educationally essential.

In the meantime, it is certainly justified to conclude that education must be wary of becoming unworldly. We had our reservations as far as 'learning by living' was concerned, but the idea of *non scholae sed vitae discimus* is definitely an ancient wisdom which has not lost its currency. When learning is only aimed at the reproduction of scholastic knowledge in a school context in order to pass exams and ultimately to obtain school certificates, then there is something fundamentally wrong. The 'solution' of more or less getting rid of the barrier between school and society and allowing learning to take place through participation and social action falls into another extreme. When such reasoning is followed through to its ultimate consequence, we end up with an appeal *à la* Illich (1971) to 'de-school' society. Hence, one loses sight of the strengths of the school, which form the complement of the risk of unworldliness. In order to gain a good understanding of the problems concerning the deterioration of nature and the environment, more knowledge and insight is needed than can be acquired by participation in environmental protection campaigns. Such campaigns are, by definition, directed towards certain concrete and current problems. Knowledge is only relevant as far as it informs action in this concrete, current, momentary and often local *casus*. The enthusiasm of action has an extremely undesirable drawback from an educational point of view. Activism and topicality are hardly ever in tune with the critical distance and quiet necessary for critical reflection and well thought out judgement. Instead of getting rid of the school and delivering the new generation to 'full life' in society, allowing them to be swayed by the issues of the day, school should take advantage of its status of 'asylum for study' by systematically and thoroughly promoting acquisition of knowledge and insight, including knowledge of the societal problems of the day, such as those pertaining to nature and the environment, though these, in all their complexity and relative recency, are certainly not the easiest to comprehend. So, if critical distance and reflection are much needed somewhere, it would be in regard to

such complex current issues. Of course, there is nothing against active commitment towards nature and the environment. But the appeals to such involvement must not lead to the evaporation of the distance between school and society. This very critical distance helps to safeguard people from a misguided form of commitment: blind commitment, which is obviously blatantly at odds with the educational value of responsible involvement.

Education should not allow itself to be used as an instrument for healing the societal ills of the environment, public health, criminality, etc. Those who believe that this is what education ought to be about are in fact transferring the current problems within society to the future and are shifting something which is primarily the responsibility of the present adults onto the new generation. It is principally wrong to consider environmental education as a solution strategy for the environmental crisis, health education as the strategy for promoting public health and lowering the costs of the health service, 'character education' as a means to preventing criminality, etc. Such ends of political, medical and juridical policy warrant searching for alternative means. Educationists, educators and teachers should refuse to take on general problems of society such as environmental pollution, smoking and other problems threatening public health. It is not where they belong.

Perhaps such refusal seems rather negative. In fact, the outcome of such a distrusting attitude towards a policy, which is perpetually burdening education with new tasks for which it is not in the least equipped, is positive: the school can once more determine itself by what it is good at, by its reason for existence. From the seventeenth century onwards, educational thought and practice, the educational idea of general education and its professional practice have developed together. As I have already said, one of the central insights since then has been that educational practice has its own end and meaning and must not solely be placed in service of other societal domains. This end, which is inherent to education, is to prepare the child, the pupil, the new generation, for autonomous, responsible involvement in society. To this end they need to be introduced to knowledge, understanding and skills with which in the future (their future, in which they are the current generation and the now current adult generation ceases to be) they will live, think, plan and act self-reliantly and responsibly.

Educationally speaking, the new generation must be prepared and equipped for an open future, which is unforeseeable. And we, the current generation, should not interfere with this, because it is their future and not ours. The central educational question then becomes: what to pass on to the next generation? What is worthwhile transmitting? Today's environmental policy, public health policy, etc, will probably lose validity in the future, and so such policies, lines of conduct and moral standards can never form the heart of education. Instilling knowledge, insight, and skills – the best we have at the moment, up to date and relevant – so that pupils learn to understand their world, learn to understand it better and better, its

problems *and* its development, its history – that is the best equipment they can get to prepare them for an open, unknown future. And educators, in all modesty, have their hands more than full with the fulfilment of this task of introducing young people to such knowledge, insight and skills. In schools, everything should revolve around teaching and learning – and not around tobacco determent policy, environmental conservation or whatever extra-educational concerns one might think of.

Education should strive to teach the members of a new generation to think for themselves, to form responsible judgements and to act in a responsible way – in other words: the aim is promotion of autonomy and responsible involvement. The adults of the future would not be sufficiently equipped with only the ready-made views and rules of conduct construed by the adults of today. They will have to be able to think and judge their own – at the moment still opaque – situation, the problems and solution perspectives pertaining to *that* situation. A broad field of vision will be to their advantage. That is exactly what general education seeks to bring about: broadening horizons, learning to look further than they originally did, and learning to look further than the issues of the day. Those who do not surrender the school to the latest social fashion and powers, but rather use the school's critical distance to concentrate fully on the real work of general education – to the systematic and thorough acquisition of knowledge, insight and skill – only they acknowledge the right of the child to be educated and the right of future adults to critical autonomy and responsible involvement.

Notes

1 Within fundamental educational research, we distinguish theory and history of education. In this case, 'theory' is not understood as an empirical (scientific) theory, but rather as the philosophy of education, which deals with the fundamental concepts of education. When, in this chapter, I speak of 'theory' (or: 'educational theory' or 'systematic educational theory'), the terms are used to convey this 'fundamental' meaning.

2 'Met een voorlopige, een mijnentwege *vage* vraag, maar met een vraag, die binnendringt in het wezen der opvoeding, gaat men op pad en in een uitwisseling met de historie keert men rijper, rijker, bepaalder en veelzijdiger vragend weer terug' (Langeveld 1959: 12).

3 'In the oldest attempts to define the subject of educational theory, educational practice is seen as a part of political practice, aiming at the reproduction of state and society. Scientific study of educational issues was considered part of philosophy, especially theory of knowledge and political philosophy. More recent systematic educational theory rather stresses unicity and relative autonomy of educational thinking and action, explaining the relations between educational theory, theory of knowledge, ethics, and politics from that point of view' (Benner 1989: 366).

4 This is Herbart's late work, which has in fact frequently been misunderstood. Caselmann (1962), for example, observes a gap between this extremely systematic work and the earlier work of what he calls 'the unsystematic Herbart' (which he appreciates more). Nowadays, however, it is without doubt that Herbart's oeuvre constitutes a strong unity (see, e.g., Benner 1993).

5 See for a thorough study on environmental education in the Netherlands: Praamsma 1997. Cf. also: Meijer 1992, 1995a. In the context of this chapter, I speak only of environmental education at school.

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