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Do Children still need to Escape Childhood? A Reassessment of John Holt and his Vision for Children's Rights

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Abstract

The work of children's liberationists have been long been critiqued for pushing the parameters of rights discourse too far; specifically, by suggesting that there are no significant differences between children and adults, including their ability for self-determination. John Holt's 1974 text *Escape from Childhood* is one such work which was deemed highly controversial for its time. This article uses Holt's *Escape from Childhood* as an overarching framework against which to examine the current state of play on children's rights as explicated through the UN Convention on the Rights of the Child. It suggests that whilst Holt has often been critiqued for being too radical, in the context of current children's rights discourse Holt's visioning is not as radical as it might first appear.

Keywords: children's rights, childhood, libertarianism, John Holt, implementation, autonomy rights, self-determination.

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Introduction

The theoretical underpinnings of childhood and children's rights have evolved significantly since the twentieth century. Children are now, by and large, recognised most fundamentally as beings rather than mere becomings (Qvortrup 1994); as human subjects in their own right, freed from the long held shackles of objectivity, silence and invisibility. The value accorded to children and young people by academia, researchers, and policymakers, has spawned a vast range of seminal texts and academic journals; degree programmes in areas such as childhood studies, the sociology of childhood, and children's rights; and children's strategies, action plans and commissioners or ombudspersons targeted specifically at this group. At the heart of these endeavours is the premise that children and young people are a distinct population group, who, because of their age, are more vulnerable than adults, may have differential experiences, and therefore warrant specific attention and/or protections. In short, that there are legitimate and 'morally relevant differences' between children and adults (Purdy 1994, p.223). This stance has been reaffirmed by the recent 25th anniversary of the adoption of the United Nations Convention on the Rights of the Child ('the CRC'); an undoubtedly celebratory cause for children's rights. In codifying and legitimising a broad spectrum of children's rights in international law, the CRC sets the minimum standards or benchmarks which states should meet across most aspects of children's lives, on the basis that childhood necessitates 'special care and assistance' (UNCRC, 1989 preamble). These codified economic, social, cultural,

civil and political rights are now accepted – in principle at least, by States parties; the entirety of the globe with the exception of the United States, who have ratified the Convention.

It might thus seem odd that, given the aforementioned discursive progress that has been made, this article revisits the twentieth century to take the musings of John Holt, a key proponent of children's libertarianism, as its focus. Holt's work, *'Escape from Childhood'*, published in 1974, is about the 'needs and rights of children'. This reference to rights at the outset is of import. Similarly to other children's liberationists such as Farson in *'Birthrights'* (1978), and Firestone in the *'The Dialectic of Sex'* (1970), Holt asserts that children should be accorded the same rights as adults; most notably in the realm of self-determination, in order to overcome the oppression that is the institution of childhood. These ideas, and those of other child liberationists have been hotly challenged for taking rights discourse to the somewhat 'extreme' in suggesting that there are no significant differences between children and adults, including their ability for self-determination (Purdy, 1994; Archard 1993, 2004; Freeman 1983, 1997, 2007; Veerman, 1992). While there appears to have been some consensus as to the pitfalls of child libertarianism, challenges in facilitating positive outcomes for all children and young people and in effectively realising children's rights are evident in today's society. High and consistent levels of poverty, the impact of austerity, and realities of marginalisation have been well documented (see for example, UNICEF 2012; Council of Europe, 2014; Save the Children 2014) and a practical consensus on how best to address these issues is ever problematic. It is precisely because of these challenges that the time is ripe for a reassessment of John Holt's *'Escape from Childhood'*, a text which was highly controversial for its time.

Freeman has long called for a reassessment of Holt's work among others such as Farson and Cohen (see for example, 1997, 2007). Whilst Holt's work has attracted significant criticism in academic literature alongside the work of other child liberationists and child libertarianism more generally, it has not been the focus of sustained attention in its own right. Nor has it specifically been considered in the context of what we now 'know' as the common language of children's rights discourse in the form of the CRC.

This paper uses Holt's *Escape from Childhood* as an overarching framework against which to examine the current state of play on children's rights. Whilst significant disjuncture over 40 years on is to be expected, the paper suggests that there are more overlaps between the work of Holt and children's rights discourse today than has been accorded, and many of the challenges outlined by Holt remain. By way of illustration the Convention and the observations of the Committee on the Rights of the Child will be drawn upon as a means of assessing the extent to which 'rights talk' and 'rights action' has developed and/or contrasts with that proposed by Holt in 1974. The substantive work produced by the Committee is invaluable in identifying the key elements of rights talk and the trends and challenges of rights praxis. It must be acknowledged that, like any document, both Holt's work and that of the Committee are inevitably shaped by the contexts in which they were produced. Nonetheless, they are characteristic of two discourses which have arguably been radical for their time in different ways; with children's rights in the form of the CRC achieving world endorsement (Freeman 1997). The paper concludes by suggesting that whilst Holt has often been critiqued for being too radical, in the context of current discourse it is

not as radical as it might first appear. Rather, if we are to truly view children as rights-holders, the parameters of children's rights must continue to be challenged and evolve.

Childhood: Determining the 'Problem'

It is tempting to dismiss at face value the work of child liberationists like Holt in favour of current thinking on children's rights. The granting of so-called 'equal rights' for children and adults without distinction can be variously critiqued as prompting the 'disappearance of childhood' (Postman 1982); as legitimating adult rights as the most unquestionably 'optimum set' of rights for all (Purdy 1994); as negating the suggestion that some children and young people may need more protection than others; or in a traditional paternalist vein, that children simply do not have the competency to make use of equal rights on the same basis as adults, and that, ultimately, 'we fear children and their autonomy' (McGillivray 1994: 244). As shall be discussed later, that fear has been brought to the fore in the types of rights that Holt suggested be accorded to children, and the subsequent debate, critique and, to some degree, dismissiveness, that has resulted. Holt's book also falls foul in that it is not an academic text, nor is it evidence-based, instead using anecdotal evidence, events and observations of children with their families (mainly in airports!) upon which to present arguments. However, as Fortin (2005), Freeman (1997, 2007) and Archard (2004) among others have indicated, the equal rights proposed by liberationists like Holt have prompted important debates and, in so doing, have contributed to the evolving discourse in children's rights, not least with respect to children's capacity for autonomy. It is time to look at some of these arguments and contributions more closely.

'The Problem of Childhood' is Holt's opening chapter and establishes the overall premise of the text which focuses on the 'institution of modern childhood, their attitudes, customs, and laws that define and locate children in modern life.....' (p.1). Fundamentally, it is about 'the many ways in which modern childhood seems... to be bad for most of those who live within it and how it should and might be changed.' (Ibid). This in itself was quite a radical statement for its time with the old adage 'childhood are the best years of your life' coming under attack. That it was not children who were problematic but the broader institutional structures which mediate and position children as 'of being wholly subservient and dependent, of being seen by older people as a mixture of expensive nuisance, salve, and super-pet' (p.1) is recognition of the social forces and norms that can become deeply embedded within our society This is an important point which acknowledges the social construction of childhood; an argument which is now well developed (see Qvortrup 1994, Mayall,2000; Prout and James 1990) yet Holt is rarely referenced in this regard. In questioning what he refers to as the 'institution of childhood' – defined as attitudes, customs and laws that impose a barrier between children and adults and locate children as inherently dependent (p.6), Holt threw out a challenge to the then status quo.

In a Bourdieudian sense, childhood can be understood as a social microcosm constitutive of a set of objective structures and competitive positions in which the habitus of childhood operates. The largely invisible relations between individuals and groups are contingent upon relations of power and capital (Bourdieu and Wacquant 1992). Childhood thus becomes a site of struggle and conflict over the application of resources in a bid to maintain or enhance existing positions in the social order; in this instance the distinction between children and adults. The doxa (and doxic knowledge)

of childhood as a particular world view or accepted beliefs and ideas about ways of being and doing¹ contains ‘an implicit definition of the fundamental view of conformity’ (Bourdieu 1977: 161) and implies various ways of ‘reasserting solidarity’ (Ibid). Both the natural and social world appear as self-evident and taken for granted. The strength of the doxa varies within and between social fields. Generally speaking however, ‘the stabler the objective structures and the more fully they reproduce themselves in the agents’ dispositions, the greater the extent of the field of doxa, of that which is taken for granted’ (Bourdieu 1977: 165/166). ‘Paradoxical submission’ (Bourdieu 2001) to the doxa is an effect of *symbolic violence*, of ‘gentle’ violence which becomes exerted through ‘symbolic channels of cognition and communication’ (Ibid: 1/2). Bourdieu illustrates the nature of symbolic violence more clearly as:

[C]oercion which is set up only through the consent that the dominated cannot fail to give to the dominator (and therefore to the domination) when their understanding of the situation and relation can only use the instruments of knowledge that they have in common with the dominator, which, being merely the incorporated form of the structure of the relation of domination, make this relation appear as natural; or, in other words, when the schemes they implement in order to perceive and evaluate themselves or to perceive and evaluate the dominators (high/low, male/female, white/black [*and in the context of this paper - child/adult*]) are the product of the incorporation of the (thus naturalized) classifications of which their social being is the product. (Bourdieu 2000: 170)

We can begin to see how ways of ‘being’ and ‘doing’ can become taken for granted, determined by the so-called ordinary order of things. It is important to note that Holt’s book emerged in the context of wider social and civil rights movements of the time with respect to gender, race, and disability for example. In a similar way to how

¹ Bourdieu conceptualises the doxa and doxic knowledge as taken for granted ideas about the social world and which arises due to “the coincidence of the objective structures and the internalized structures which provides the illusion of immediate understanding, characteristic of practical experience of the familiar universe, and which at the same time excludes from that experience any inquiry as to its own conditions of possibility” (Bourdieu 1990: 20).

understandings of disability became understood as a key source of oppression for disabled people (Oliver 1990; Barnes 1991, 1996), so too did dominant understandings and doxic knowledge around childhood become challenged, the normative roots and legitimating effects of the sentimentalisation of childhood exposed. Holt's work uncovers some of these deeply held social norms. For example:

Modern childhood is an extraordinary emotional and financial burden.... We lock the old and young into this extraordinarily tense and troublesome relationship and then tell them that they have to like it, even love it, and that if they don't they are bad or wrong or sick. (p.38)

This is not to say he does so elegantly or that arguments are clearly developed – often they are not, but as we progress through the book we become aware of key themes. The first half or so of the book focuses on the types of oppression that children can experience, most notably by being involuntarily located within a mythical 'walled garden' of a 'Happy, Safe, Protected, Innocent Childhood.' (p.7). Holt's key point is that childhood is indeed far from being unquestionably 'happy', 'safe' and 'innocent' for all, a point reinforced in today's society in the context of emergent data on child poverty, abuse and exploitation, trafficking, and child protection referrals more generally. Nor does the state escape Holt's criticisms and he expresses concern at a future 'tyranny of "professional helpers"' (48) and of the power of 'expert knowledge' expounded by 'helpers'. The latter has generated increased criticism more recently as can be seen in Mayall's observation that 'whole armies of health and social workers work to modify childhood' (2000: 243).

However, Holt seems to assume that we cannot change the institution or walled garden of childhood; that the walled garden cannot be restructured and that the only

solution is for children to move out of, or essentially be 'freed' from that garden, which he subsequently refers to as 'prison', into an adult world. Whilst the book attempts to challenge adult conceptualisations of childhood and what children can and cannot do, leaving the institution of childhood largely unchanged risks replacing one type of 'prison' with another and one battle for another. This is reinforced by Holt when he refers to the burden and nuisance of children (p.34, 43) and the difficulty of defending and justifying the institution of childhood (p.11). While Holt's proposed solution is for children to be treated like adults and to be accorded the same autonomy rights as adults (see below), in so doing he despairs rather than empowers childhood. So doing denies the value of childhood, and the need to challenge the structures of childhood rather than merely recognising them or replacing one institution with another. Equating adulthood as 'freedom' or the optimum or 'ultimate' and problem-free state of being negates the ways in which adulthood can in and of itself become another institution.

The Parameters of 'Children's Rights'

The importance of valuing childhood is at the heart of the CRC with the vulnerabilities of children when compared to adults a key assumption which runs throughout. This is in contradistinction to Holt's theorem that childhood is and always will be inherently bad. The CRC has arguably sought to redefine the parameters of childhood through first and foremost recognising all children as rights-holders and secondly by recognising the importance of affirming a range of protective rights, participation rights and provision rights for children and young people (Hammarberg 1990). In his chapter on rights, Holt suggests that when referring to 'children's rights', he is referring to the rights that adults have:

I urge that the law grant and guarantee to the young the freedom that it now grants to adults to make certain kinds of choices, do certain kinds of things, and accept certain kinds of responsibilities.... In granting me rights the law does not say what I must or shall do. It simply says that it will not allow other people to prevent me from doing these things. (95).

The rights that Holt calls for are: the right to vote, to work, to own property, to travel, to choose one's guardian, a guaranteed income, legal and financial responsibility, to control one's own learning, to use drugs, to drive, and the right to enter into relationships and to have control over personal sex lives. Many of these are similar to those espoused by Farson (1978).

It is useful to examine some of the points made in the above quote in greater depth. First, Holt begins by stating that, just as adults have rights, so too should children be recognised as rights-holders. This was a significant statement for its time, before the CRC came into being, and is to be welcomed on that basis alone. Helping to bring children to the rights-table in this era was no easy matter. Yes, this attracted controversy and debate, but challenging the status quo necessitates exactly that. This is what allows us to define, redefine and refine our own arguments, to think through the implications of that which we are arguing academically or otherwise. Holt's argument, along with those of other child liberationists, provided a platform whereby such enabling but challenging conversations could take place, even if in a defensive manner. Fundamentally, this article is being written over forty years later in an era where children are now formally recognised as rights-holders through the CRC. Like other human rights treaties, the CRC, in particular through State reports and the concluding observations of the Committee has shone a spotlight upon the range of exclusionary and oppressive practices that have long been experienced by children

generally as well as specific groups of children including disabled children, girl children, migrant, asylum-seeking and refugee children and lesbian, bisexual, gay, and transgender children (LBGT). Thus we can again see some similarity with Holt's contribution to children's rights discourse in the recognition that childhood was not and is not free from discrimination, disadvantage or exclusion.

The second point made in the above quotation is that children's rights are, in essence, about adult rights. This is perhaps where Holt's argument begins to run into difficulties and diverges from children's rights discourse as we know it today. To equate children's rights solely with adult rights is to reinforce some of the age-old difficulties of human rights discourse more generally. The international human rights framework has arguably also perpetuated and legitimated a form of rights behaviour and rights-talk that has been synonymous with the notion of a homogenous, white, male, and adult subject. Neither the Universal Declaration on Human Rights, nor the International Covenant on Civil and Political Rights (ICCPR) (1966) or the International Covenant on Economic, Social and Cultural Rights (ICESCR)(1966) were designed with children in mind. The emergence of thematic human rights instruments such as the Convention on the Elimination of Discrimination Against Women (CEDAW) (1979), the Convention on the Elimination of Racial Discrimination (CERD) (1965), the CRC, the Convention on Migrant Workers (CMW) (1990) and more recently, the Convention on the Rights of Persons with Disabilities (CRPD) (2006), is indicative of the complexities of assuming an homogenous subject in human rights law. Conversations are also ongoing on the development of a thematic instrument on the rights of older people (Williams 2011a). The textual absence of children in the core treaties prior to the CRC has served only to reaffirm their invisibility as rights-holders, despite their oft cited

universality. If children's rights are adult rights, and adult rights are all-encompassing and universal in practice, then there would be no need for such a range of human rights treaties targeted at different population groups.

In contrast to the CRC, Holt does not appear to acknowledge the differing contextual experiences of children, preferring instead to present children (and adults for that matter) as a homogenous grouping. When discussing how the espoused rights might manifest and be applied to children 'of all ages', such as the right to vote, he falls into the trap of presenting his arguments most fully with reference to young people rather than younger children (see also Archard 2004 on this point p.75), glossing over the idiosyncrasies of young children in the process. The need to not only recognise children of different ages, and children from different groups as rights-holders, but also to consider precisely what any such rights might mean for various groups of children can be seen through the Committee's observations and commentaries, most notably with the development of general comments for children in early years (UN, 2006), children with disabilities (UN, 2007), indigenous children (UN, 2009a), and currently the development of a general comment on the rights of adolescents. For example, in its general comment on early childhood, the Committee has noted that young children are especially at risk of discrimination because they are relatively powerless and depend on others for the realization of their rights (UN 2006, para 11). In the same document, the Committee further emphasises the intersectionality of early childhood with other characteristics and backgrounds including young girl children, young children with disabilities, young children affected by HIV/AIDS, and young children with different ethnic origin, class/caste, personal circumstances and lifestyle, or political and religious beliefs (Ibid).

Holt acknowledges that ‘in granting... rights the law does not say what I must or shall do. It simply says that it will not allow other people to prevent me from doing these things...’ That is, that rights cannot be taken away and that we can equally choose not to exercise our rights. This point has been emphasised by the Committee in its general comment on article 12 where it has made clear that ‘The child, however, has the right not to exercise this right. Expressing views is a choice for the child, not an obligation’ (UN 2009b, at para 16). However, as has also been recognised by the Committee, it is important that the child or young person has a genuine choice in whether or not to exercise his or her right to, for example, express a view. This is difficult when it comes to the types of rights outlined by Holt as discussed below.

Holt’s Rights: Different tools for the right job?

While Holt was an advocate of rights for children, he did not envisage that a ‘society should or will pass an omnibus bill tying all these rights into one package. It seems likely that if the young gain these rights, they will only do so as a result of a long series of laws and court decisions, many of them affecting only one right at a time.’ (p. 97). This statement is indicative of the controversy attached to the types of rights advocated by Holt and other child liberationists. Underpinning these rights is a belief in the self-determination of all children, and that children should be able to choose for themselves how to lead their own lives (Archard 2004: 72). For Holt, the right to vote, to work, to own property, to travel, to choose one’s guardian, a guaranteed income, legal and financial responsibility, to control one’s own learning, to use drugs, to drive, and to enter into relationships and control their sex lives are the key areas in which

children should be able to make decisions for themselves in the same way as adults. Holt does not make reference to any protective (or indeed any other) rights. This has been in contrast to what Archard (2004) refers to as the paternalist 'caretaker thesis' which argues that children should not be able to make decisions for themselves. It could be argued that, until recently, children have been caught between the opposing sides of the dichotomy of self-determination. On the one hand, that making choices about one's own life is of such importance that it should be granted to children, but on the other hand, that making choices about one's own life is too important to be left to children.

In this vein, the CRC has played a crucial role in transcending the dichotomy by adopting a holistic approach to children's rights. While Holt appears to assume that children are already protected in some way, his decision not to explicitly engage with children's relative need for particular protections undermines his overall arguments on rights of autonomy. It fails to recognise the particularities of children's experiences and the realities of abuse, neglect and exploitation. For example, he suggests that the right for a child of any age to work is important for self-respect, 'alleviating boredom', developing skills and in making children feel valued. On the issue of exploitation of children in work, he suggests that this is 'unlikely' and that the ability to generate income is more important than the impact of missing school. While these ideas appear to conflict with current discourse on children's rights, they are perhaps not as disparate as they might first appear. The right of children to be protected from economic exploitation is affirmed by Article 32 of the CRC, alongside a requirement for a minimum age for admission to employment. However, Holt's underlying message could be interpreted as being broader than simply a right to work, but rather in work

as a means of countering poverty and facilitating the development of the child; both factors which have been given countenance in the CRC in Articles 6 (the right to life, survival and development), 27 (the right to an adequate standard of living), 28 (the right to education), and 29 (the aims of education). For example, Article 28(1)(d) stipulates that every child has a right to access educational and vocational information and guidance while the Committee has emphasised that education is aimed at 'ensuring that essential life skills are learnt by every child and that no child leaves school without being equipped to face the challenges that he or she can expect to be confronted with in life.' (UN 2001: para 9). Play is also discussed by Holt in the context of a right to work. He suggests that, like work, play can also have a serious purpose. Further, that:

Children like to do things and make things that free and engage their imaginations.... Adults think that if they build something that looks like, say, a whale, children will play all kinds of games with it and on it in which they imagine themselves doing something with a real whale. Not so...., On adventure or construction playgrounds children are constantly building things.... What is important is that they are in charge of the work. They are building something they want to build and deciding how they will do it.' (p.114/115)

To this end, the Committee has stated:

Play and recreation are essential to the health and well-being of children and promote the development of creativity, imagination, self-confidence, self-efficacy, as well as physical, social, cognitive and emotional strength and skills....Through their involvement in play and recreation, children learn by doing; they explore and experience the world around them; experiment with new ideas, roles and experiences and in so doing, learn to understand and construct their social position within the world. (UN 2013a, at para 9)

Children are entitled to exercise choice and autonomy in their play and recreational activities, as well as in their participation in cultural and artistic activities. (UN 2013a, at para 19)

The similarities here are evident. What is less evident is any apparent overlap between Holt's call for children to have the right to control their own learning and the right to education established in the CRC. Holt makes clear that he opposes compulsory education, refers to schools as 'dangerous institutions' (p.165), 'anti-democratic', 'authoritarian' and 'destructive', and calls for children to have the right to decide what they learn and how, where, how much, how fast and with what help, including the right to decide whether they want to learn in a school and for how much of the time. He expresses concern that the content and scope of education is determined by adults and suggests that the requirement that a child go to school, 'for about 6 hours a day, 180 days a year, for about 10 years... is such a gross violation of civil liberties that few adults would stand for it.' (p.163). Ironically, the right to primary education is the only compulsory right contained within the CRC (Lundy 2006). However we can begin to see some merit in Holt's argument if we consider these concerns in the context of Articles 28 and 29 and the Committee's commentary on education. Much of Holt's concerns can be aligned to concerns with the quality of education and with what constitutes an effective education. The CRC would thus appear to address these concerns. Article 28 affirms the right to education for all while Article 29 clearly sets out the aims of education.² In its subsequent General Comment, the Committee called for education to be child-centred, child-friendly and empowering (UN 2001, para 2); and to be provided in a way that 'respects the inherent dignity of the child and enables

² 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 civilizations 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;

the child to express his or her views freely in accordance with article 12 (1) and to participate in school life.’ (UN 2001, para 8). Examples of the latter include: the creation of school communities and student councils; peer education and peer counselling; and the involvement of children in school disciplinary proceedings (Ibid). These would appear to align with Holt’s call for children to be involved in their learning and to exercise a degree of self-determination. In respect of the quality of education, the Committee has emphasised that the curriculum should be of direct relevance to the child’s social, cultural, environmental and economic context and that teaching methods should be tailored to the different needs of different children (Ibid at para 9).

To dismiss education as a dangerous institution, whilst recognising the socialising effects of the education system and its possibilities as a means of social control (Ball 2013), absolves that institution of responsibility to change. The CRC falls short in providing children with full autonomy in respect of their education. To provide full autonomy in this way, as Holt would desire, would fail to take into account the likely consequences of voluntary schooling in perpetuating disadvantage of a much greater kind. Specifically, it fails to recognise the realities presented by the accumulation, possession and convertibility of various forms of ‘capital’. Capital is ‘what makes the games of society...something other than simple games of chance...’ (Bourdieu 1986: 241). This is not to say that compulsory education neutralises these effects, but it is a critical starting point. Like the institution of childhood, the perils of education system are being confronted and challenged by the CRC’s obligations and their elaboration by the Committee. Children’s involvement in shaping the content of their education, the curriculum, the structure of their school day, and the means by which they are assessed, has been given much less attention. Holt’s argument in this regard could

be given much more serious consideration. His concern that the content and scope of education is determined by adults can unfortunately be repeated in contemporary society. Whilst the Committee has argued that the curriculum should be tailored and of direct relevance to the child's contexts, children's explicit contribution to these endeavours has not been given its deserved place.

The right to vote is presented as one of the most important rights that should be available to children. Holt suggests that a right to vote should be available for people of any age. His rationale for this is that since, like adults, children are affected by the decisions made by government, they should therefore have a say in those decisions. This has clear overlap with Article 12 in the CRC which has been accorded the status of one of the four general principles underpinning the Convention, and which states that children have the right to express a view on all matters affecting them. At the heart of Holt's assertion is that the voting age, whether 17 or 18, is essentially an arbitrary one rather than competence based. A similar argument is made in the context of children's right to drive. Holt argues this should be determined by the ability to pass a test based on skill and knowledge rather than age. Further, that it is 'grossly unjust to discriminate in law against anyone merely because he is a member of a statistical group' (p.181). Conversely, when it comes to acquiring financial and legal responsibility, Holt suggests that this has more serious consequences and that a case can be made for asking people below a certain age to show that they understand some of the responsibilities and obligations that they are undertaking (p.161). These inconsistencies suggests that Holt does in fact distinguish between children of different ages and their associated competencies despite initial arguments to the contrary.

The right of young people to vote has attracted growing media attention in recent years. In 2012, 16 and 17 year olds were given the right to vote in the 2014 independence referendum in Scotland with 16 and 17 year olds now also able to vote in Scottish Elections including Scottish Parliamentary and local government elections³. Sixteen year olds are also able to vote at varying levels of government in Malta, Estonia, Ecuador, Cuba, Austria, Argentina, Brazil and Nicaragua. This is far from the abolition of a voting age advocated by Holt, and indicative of the long journey that remains before all 16 and 17 year olds across the world are able to vote. In calling for the dismissal of a voting age, Holt attempts, like other child liberationists, to demonstrate that we should not view children as incompetent and lacking in the ability for self-determination. This is an important message about the capacity of children and the arbitrariness through which age parameters are set. A child or young person does not, by virtue of becoming a certain age, suddenly acquire a greater ability or capacity to do something. Despite being oft critiqued, Holt's arguments in these domains – alongside Farson and Cohen for example, have stimulated significant debate around children's competences and capacity for decision-making. These are now well recognised in the CRC with the concept of evolving capacities taking central stage in contemporary children's rights discourse. By calling for all children to be able to vote however, Holt runs into tricky territory. Most notably when comparing six year olds with sixteen year olds. The argument here is overly simplistic and its practicalities not well thought through with the suggestion that 'a six year old who wants to vote ought to be able to vote' followed with 'it seems unlikely that in fact many six-year olds would want to vote' (101). The assumption here is that simply giving the six year old the ability to vote is sufficient irrespective of whether or not they wish to exercise it, understand

³ Scottish Elections (Reduction of Voting Age) Act 2015

what this means, or require support in exercising that right. Holt is implying that six year olds are essentially different from sixteen year olds, something which flies in the face of child liberationist arguments. Further, by virtue of giving all children the same rights as adults, even when very young, Holt is undermining the significance of rights on the basis that all children will be able to exercise rights in the same way without support or nuanced consideration. Once again, this negates the very different resources and power that adults may hold when compared to very young children in particular, and the potential manipulation, undue pressure and exploitation some children may be subject to in the process. Doing so risks devaluing childhood, particularly if a right can be used or exercised more effectively by some children but not others.

The differential position occupied by children in decision-making processes has been outlined by the Committee in its deliberations around Article 12. To be given a right to express views is, on its own, insufficient, but encompasses a requirement to support children to form a view on all matters affecting them (Lundy and McEvoy 2012). The associated right to information is thus critical since 'it is the precondition of the child's clarified decisions' (UN, 2009b, para 25). This does not lead me to dismiss Holt's arguments that children have the right to self-determination in their totality but to suggest a more nuanced and meaningful approach be adopted. There is much to be done and that can be done to facilitate children's capacity for self-determination in a meaningful way. If we are serious about Article 12, then we must also be committed to supporting children of all ages to understand the decision-making processes that impact on them, their subjects and contexts. This necessarily requires us to do things differently – such as providing information in age-appropriate and accessible formats,

being mindful of different needs, and providing the space in which such views can be expressed, heard and given due weight (Lundy 2007). And most of all, to being open to the rich possibilities and outcomes from children's participation in decision-making processes. Holt's call for a right to vote for children is a nod to the importance of participative democracy – something which is increasingly reflected in contemporary societies. In this, there is a long way to go, but a reduction of the minimum voting age to 16 across the world is an important first step. If we are to truly value children's Article 12 rights, then the right to express views 'on all matters affecting them' should not be constrained on the grounds that some matters are too important for children to express views on (see also Freeman 2000).

The right to choose one's guardian is also problematic. Here Holt expresses desire for children to be able to choose guardians other than their parents; what he refers to as 'secondary guardians'. This relationship would be entered into with mutual agreement between the child and secondary guardians, either of whom would have the right to end the relationship and agreement without reason. The basis is that children should not have to be dependent on people they did not choose and may not like, but to move towards a 'chosen dependency'. While certainly thought-provoking, it accords no role to parents or primary guardians in this process. This may be of some benefit to children in difficult home circumstances but fundamentally it exposes children to a new set of risks. It is useful to note that Holt was writing at a time when there was no internet or danger of online exploitation. What can be taken from this is the importance of children's involvement in decision making processes about their care, including all forms of alternative care, that their views be given due weight in matters of their placement, the regulations of care in foster families or homes and their daily lives (UN

2009, para 97). The context of the time the book was produced can also be ascertained from the relatively unproblematic means by which the right of children to use drugs is presented. Again, Holt makes the point that 'whatever rights the law grants adults in the matter of drugs should be granted to the young' and that 'people ought to be able to use the drugs they want' (p.169). It is unlikely anyone would advocate that children be allowed to use tobacco or alcohol, without any age restrictions, lest other forms of drugs.

It is noteworthy that Holt's final substantive chapter focuses on 'the law, the young, and sex'. Here, he makes the argument that 'all people, including young people, should have the right to control their own private sex lives and acts' (p.183). In short, that if young people are given rights, that these should extend to sex 'regardless of age'. This remains as controversial today as it would have then, - perhaps more so given what we now know about the risk and scale of child sex abuse and sexual exploitation (see for example, Berelowitz et al, 2012, 2015; NSPCC 2014). Holt's venture into this territory and his subsequent discussion is somewhat naïve and is not well argued. He does appear to acknowledge the tensions innate here, and suggests that where children remain at home with their parents that their parents would then have some say over what their child does or does not do there. He further suggests that if children do not want to live by their parents' rules, that they would have the choice of seeking out other guardians or living an independent life. However Holt once again does not distinguish between younger children or older children and adolescents, or the relative power of adults compared to children and young people. This again renders his argument problematic, not least in negating the risks of child sex exploitation and abuse, and the very subtle ways in which this can manifest,

including for young people in vulnerable groups (Berelowitz et al, 2012; CEOP 2011; Craven et al 2006). Holt does make a critical point here which is unfortunately drowned out by the overall tone of the chapter – the importance of educating young people about sex and contraception. This has also been emphasised by the Committee, notably in general comment 4 where they call on States parties to ‘provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases’ (UN 2003a, at para 28). Debates surrounding children and young people’s rights to enter relationships are important, and discussions about their right to sexual and reproductive information is critical, however to grant children the same rights as adults in respect of their sexual lives risks rights tools becoming exploitative and dangerous rather than empowering or protective, particularly when we consider the associated relations of power and accumulation of capital by adults in comparison. The overall argument that children should be granted the same rights as adults irrespective of age remains contradictory, especially where Holt himself appears to subtly distinguish between different ages of children and young people when elaborating upon various rights.

Towards Implementation and Beyond

Holt’s vision of children’s rights is challenging. The ways in which these rights might be implemented in practice is not given sustained attention. Rights rhetoric is important but without thought to its implementation and practicalities it can become a meaningless vacuum. While Holt is not, and does not claim to be, a legal scholar, we can see some passing reference to key underpinning principles of rights and their

implementation. Notably, in a nod throughout the text to the indivisibility and interdependence of rights, Holt asserts that some rights are necessarily tied to others. He provides the example of the right to travel and choose one's home being inextricably linked to the right to legal and financial responsibility, to work, and to receive an income (p.2). These principles, along with the universality of rights, have been recognised as fundamental to human rights (Vienna Declaration 1993. See also Donnelly, 2003; Quane 2012) (although the extent to which rights can be understood as truly indivisible and interdependent has been disputed by Freeman 2002); a refutation to suggestions of a hierarchy of rights (Quane 2012). This has further been reaffirmed by the Committee in its general comment on measures of implementation (2003b, paras 6, 17, 18).

The challenges of implementation are alluded to by Holt when he states: '....even if we win for the young the right to work, the hard problem will be to see that this right does not become a dead letter, a right in name only' (p.96). These challenges remain in contemporary society as can be commonly and consistently seen throughout the Committee's concluding observations to States parties (see also Williams 2011b; Lundy, Kilkelly and Byrne 2013). This difficulty emerges because while States parties take on obligations to ensure realization of rights in the national fora, the precise nature of the action to be taken is not clearly defined. The result of this labyrinth of implementation is that while the end goal in rights terms may remain broadly static, different states may adopt different approaches to fulfilling their treaty obligations. More than forty years on from Holt's text, we still, almost – if not entirely – universally struggle with ensuring that children's rights are effectively implemented. Perhaps one key area of learning in this interim period is that children's rights are much more

nuanced than they might first appear; certainly more so than can be gauged from Holt's writings in the area. This brings with it its own complexities – for adults rather than children. On the other hand, it is also indicative of the increased endeavours in seeking to understand children's lived experiences. However we remain on a journey to a situation where children's status as rights-holders is firmly entrenched. Despite the oft cited universality of rights, rights ultimately remain gifted from adults. It is adults who designed the CRC, decided which rights should be legitimised for children, and who, as international advocates for children, have elaborated upon the meaning of the rights therein. Adults remain the gatekeepers to rights, most notably those who hold positions as state actors. And it is adults who by and large monitor the extent to which children's rights are being effectively realised at both national and international levels. As Freeman (2000) has noted it would be interesting to see what the CRC would look like if children had direct input into its development as well as its monitoring and implementation. Could there not, for example, be a children's advisory group to complement the work of the UN Committee? The Committee on the Rights of Persons with Disabilities made up of disabled people is a case in point. Freeman also makes the critical observation that the CRC as it currently stands should not be understood as the end product, but that 'there are new rights to be debated, new features of existing rights to be tested and examined, and new child groups to be emphasised.' (2000: 282). There is a risk that, in celebrating more than 25 years of the CRC's adoption, these rights norms and legitimised rights behaviours become taken for granted and beyond reproach, rather than recognised as an ever evolving living document. In revisiting Holt's work and the rights he proposes, we must also ask if the rights that currently hold court are sufficient and appropriate for the children of the twenty first century. Analysis of such is beyond the confines of this article suffice to

say that children's rights must reflect the challenges of contemporary society such as the world of online media, the impacts of austerity cuts, mental ill-health and sexual exploitation, as well as the particular experiences of hitherto marginalised groups of children including lesbian, gay, bisexual and transgender children, and refugee children. Further, that children should play a direct role in the identification and elaboration of any new rights. Holt's work reminds us that taking children seriously requires us to avoid a place of comfort and complacency.

Conclusion

Children's rights discourse has evolved significantly in recent decades and reference to rights at national level has become commonplace in many jurisdictions. This is in stark contrast to the paternalist vein in which children were held at the time in which *Escape from Childhood* was written. The work of children's liberationists such as Holt has been open to criticism for its forthright assumptions that children are the same as adults, have the same capacities and should therefore be granted precisely the same rights as adults. This, in effect, was perceived as the optimum solution to the oppression that children can experience in childhood. In contrast, contemporary children's rights discourse asserts that children, like adults, are rights-holders but are more vulnerable than adults because of their age, and require particular protections and provisions. Further, that children's capacities are ever evolving, and may necessitate support and guidance in that process. It is these typified rights, as established in the CRC, which are perceived as the optimum solution to the marginalisation, discrimination, and oppression that children can experience in contemporary society. In essence, Holt's vision of children's rights and the CRC can

be understood as constituting different tools for the right job – as a bid to enhance children’s experiences, outcomes and the esteem in which they are held by and in society. As different tools for the same job, neither approach can be understood as perfect; Holt, in his discussion of the rights he advocates, underestimates the complexity of childhood and the need for – at times – differential inputs to achieve similar outcomes. That children and adults do come to the ‘game’ with unequal resources, skills and capital is not given recognition by Holt. Rather, his observations come to represent a failed understanding that the ‘game’ has already begun (Young 1990), and that the ‘rules’ and ‘standards’ have been constructed by and for adults. If children are to take part in this ‘game’, they must conform to those ‘terms and conditions’ which have been legitimised.

The CRC goes some way to mediating these terms and conditions for children. However we should not be complacent. Over forty years on from *Escape from Childhood*, many challenges remain and implementation of the legitimised rights is an ongoing battle. The CRC is indicative of a more measured approach to children’s rights but it is not as far removed from Holt’s visions as we might expect. Increasing attention has been paid to children’s competences as the detailed commentary on Article 12 demonstrates (UN, 2009b). It is noteworthy that the latter was developed prior to the general comment on the best interests of the child (UN, 2013b). This focus on Article 12 would have been unthinkable not so long ago. In this vein we can see some overlap with liberationist ideals. Other underlying themes in Holt’s text are evident in children’s rights discourse today; debates around the reduction in the voting age and the importance of children becoming more involved in their own learning are two such

examples. Deconstruction of Holt's assertions in this manner enables similar areas of discontent and concerns to be revealed within CRC commentary.

Children's rights discourse today is, as a whole, much more cautious than Holt's 1974 vision. This gradual approach has paid some dividends in socialising states to 'rights behaviour' via a medium of persuasion and acculturation (Goodman and Jinks 2004). By the same token we should be wary of being overly cautious. This can become reminiscent of a reconstituted 'fear' of children and what might happen if we accord them 'too many rights'. This is not to suggest that we should go down the liberationist route, but that open and enabling conversations need to take place about whether the rights currently accorded to children via the CRC are the most appropriate and/or are reflective of the needs of all children and their realities. What Holt's work ultimately does, and what it should be acknowledged for, is its fundamental quest for a rethinking of children's position in society – a call to action. What it also does is remind us of the power of rights discourse as a tool for change. We would do well to revisit and progress the hitherto legitimised rights base to address contemporary gaps and challenges so that children can fully enjoy rather than feel the need to escape from childhood.

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