Children’s rights from a social work perspective
Towards a lifeworld orientation

Didier Reynaert and Rudi Roose

1. Introduction

At the beginning of the 21st century, UK social work expert Nigel Parton stated that:

While the emergence of modern social work occurred in the nineteenth century at a similar time to many of the mainstream social sciences such as sociology, psychology, criminology and so on, social work is still seen as ‘newer’, ‘younger’, ‘less developed’.

(Parton, 2000: 450)

Social work is indeed mainly appreciated as a profession, a vocation that requires certain skills and qualifications, rather than as an academic discipline. Slowly, this reality is changing. Social work is increasingly regarded as a proper domain of knowledge with a particular object, distinct theories and theoretical concepts and specific research methods, institutionalized at universities in separate research departments or academic degrees. The recently revised international definition of social work gives evidence of this progress:

Social work is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. Principles of social justice, human rights, collective responsibility and respect for diversities are central to social work. Underpinned by theories of social work, social sciences, humanities and indigenous knowledge, social work engages people and structures to address life challenges and enhance wellbeing.

The above definition may be amplified at national and/or regional levels.

(International Federation of Social Workers, 2014)

Walter Lorenz (2008), an authority in the field of European social work, amongst others (see e.g. Sharland, 2012; Göppner and Hämäläinen, 2007), notes that social work acquired a distinct identity as an academic discipline. One vital characteristic of this identity is the framework of human rights and social justice (Healy and Link, 2012; Lundy, 2011; Ife, 2010a, 2010b, 2001;
Borowski, 2007; Reichert, 2007), as mentioned in the international definition. The international definition not only considers human rights as the core values for the discipline of social work but also for the profession, to the extent that social work can be regarded, as both Healy (2008) and Hare (2004) acknowledge, as a ‘human rights profession’. Following the assumptions of the introductory chapter, we consider children’s rights as a particularization of human rights. Therefore, children’s rights belong to both the ethical and theoretical foundations of social work.

In this chapter, we explore the framework of children’s rights from the discipline of social work. We do this from a generic point of view, meaning that we discuss issues that transcend particular terrains in social work such as child protection, child care, youth work, child psychiatry, etc. Instead, two interrelated key concerns that are fundamental in the debate on children’s rights from a social work perspective will be explored. First, we will go into the implications of the shift in ‘child image’ for social work. Second, we will examine how these new ideas on the way we look at children are institutionalized in society through conceptions of ‘childhood’ and what this means for social work. In analysing these issues, we will make use of concrete examples coming from a variety of domains in social work. In both cases, we will subject these evolutions to critical reflection. What these reflections unify is their critical approach to the understanding of children’s rights ‘from above’. In trying to deal with these critiques in social work, we will subsequently present some alternative ideas in how children’s rights can be understood. We present these ideas under the notion of a ‘lifeworld orientation’ of children’s rights, an alternative paradigmatic stance that seeks to understand children’s rights ‘from below’.

However, we begin this chapter by explaining the complex identity of social work. Because social work emerged as part of the development of (Western) nation states, it is important to acknowledge that social work encompasses different ‘architectures’, depending on the historical, cultural, political and socio-economic context of a particular nation state. Consequently, the way children’s rights are understood from a social work perspective logically rests on the social work tradition in which it is shaped. Since social work derives its architecture from its contextual embedment in a particular reality, very different traditions of social work exist throughout the world (for a further elaboration of this issue, see e.g. Gray et al., 2012; Gray, 2005; Gray and Fook, 2004). Gray et al. (2012) for instance refer to ‘indigenous social work’ as an alternative for Euro-American social work approaches. They explain that indigenous social work is culturally relevant social work ‘responsive to local and national contexts worldwide’ (Gray et al., 2012: xxvi). Furthermore, they argue that, although indigenous social work is rooted in local contexts and traditions, it is at the same time ‘consistent with the larger purpose of professional values and ethics’ (Gray et al., 2012: 5). Payne (2005) too references alternatives to Western social work theory like for instance Gandhian social work in India or perspectives from China and Africa. In the remainder of this chapter, we further explore the discipline of social work from a ‘Western perspective’ as both the authors are from the West and do their research in a Western context. However, as Shardlow (2007) explains with reference to the practice of family group conferences in New Zealand, even Western traditions of social work nowadays are highly influenced by non-Western traditions. What he is saying is that social work practice and theory is mutually influenced across national and cultural boundaries.

### 2. The fragmented identity of social work

As the international definition of social work demonstrates, current ideas of social work have a universal orientation with the recognition of human rights and social justice as key assumptions. Notwithstanding this universal orientation, Penna et al. (2000) point out the ‘dual
configuration’ of social work: linked to an international agenda with global concerns (i.e. human rights and social justice) on the one hand, strongly embedded in the nation state (see also Ife, 2001) on the other hand. Especially this latter feature, according to Lorenz (2008), presents social work as a ‘picture of disunity’. He states that:

The most striking feature of social work’s current identity is the fragmentation of the profession and discipline, not just in an international context, where it presents a bewildering variety of professional titles and intellectual discourses, but also at national level, where in every country several professional profiles exist in parallel, sometimes contesting each other’s territories.

(Lorenz, 2009: 145)

Reasons for this, still following Lorenz (2008), are to be found in linguistic division, a variety of academic discourses with different analytical and conceptual fields, diverse social policy contexts and different histories of practice. While generally, this fragmentation is considered as a weakness of the discipline, mainly because as a result social works lacks a clear identity, Lorenz argues that exactly this division is a strength of social work. This is so because it emphasizes the social dimension of social work, i.e. being based in and linked to the way in which society defines well-being, integration, solidarity, etc. This is evident from the way social work progressed from a ‘charitable practice’ towards a ‘human rights-based practice’.

Originally, social work emerged as a project of the modern nation state at the end of the nineteenth century, where it operated in the ‘social sphere’, the hybrid space between the private sphere of the household and the public sphere of the state (Jordan and Parton, 2004). It formed part of a political agenda that aimed at realizing social pacification and cohesion (Payne and Campling, 2005; Parton, 2000). Social work had to deal with the consequences of industrialization, in particular with social problems such as proletarianization and impoverishment, defined by French historian Jacques Donzelot (1979) as the ‘social question’. The social work mandate was to maintain social order by social integration. As such, social work was part of a process of ‘civilization’, characterized by its disciplining nature and mainly executed through private initiatives in the sphere of the church and philanthropy (Payne and Campling, 2005).

A paradigm shift in social work occurred after World War II. Besides law enforcement and regulation of the labour market, the post-war nation state was commissioned to warrant greater social equality. This was due to the devastating consequences of the World War and inspired by the Universal Declaration of Human Rights of 1948. The focus on social equality acknowledged the recognition of fundamental rights for all citizens. This meant a reorientation of the socio-political goals of the nation state. Governments became increasingly responsible for guaranteeing a right to live a life in human dignity for all (Maeseele, 2012; Witkin, 1998). The ideological foundations of human rights, on which the post-war nation state was built, required also a reorientation of social work. Social work transformed from a charitable and philanthropic practice to a human rights-based practice (Maeseele, 2012). As a result, social work was no longer merely an instrument of social control in the hands of private organizations. It grew into a relatively autonomous actor within the welfare state aiming at emancipation and social equality. As such, the distinction between the social sphere and the public sphere faded as social work became part of public social policy.

It is important to notice that, notwithstanding this paradigm shift, social work did not shake off its old cloak of social control. The controlling character remained a fundamental trait in the new configuration of social work, where it came into tension with the more emancipating and
liberating feature of social work. This ‘double character’, according to Roose et al. (2010), typifies social work: at the same time controlling and emancipating; disciplining and empowering; adjusting and liberating (see also Jordan and Parton, 2004).

The development of social work based on the foundations of human rights was equally noticeable in the field of child and family social work. In 1959, the Declaration on the Rights of the Child was adopted, building upon the 1924 Declaration of Geneva. Although strongly oriented towards the protection of children, the child in the 1959 Declaration became more and more portrayed as a subject, rather than an object of rights. As such, a changing childhood image increasingly recognizing the agency of children was expressed as a manifestation of the striving towards a greater social equality between children and adults. A more definite translation of a human rights approach for children followed in 1989 with the adoption of the United Nations Convention on the Rights of the Child (CRC). At least two elements are of importance in this development. First, a convention adds a legally binding character to the moral value of a declaration. This created the possibility for a movement towards stronger legal protection of children. Second, the CRC recognized protection, provision, as well as participation rights. These rights have to be considered in interdependence and comprehensiveness (for a thorough description of the value of the CRC: see Chapter 3 of Verhellen in this Handbook). The recognition of participation rights, especially, is indicated as an important milestone (Archard, 2004). It implied the acknowledgement of children as co-citizens in our society. The CRC subsequently became an important instrument in the expansion of a social policy directed at children and young people (Therborn, 1996). It became an important instrument for social work through the development of practices that are based on the framework of children’s rights, thereby – as stated in the international definition of social work – striving for social justice.

So, depending on the social, cultural, historical and political context, both social policies and socio-political goals differ; and consequently also social work and the way in which social work deals with social control and emancipation will emanate in different ways. With regard to Europe, two different traditions of social work can be discerned, often described as an Anglo-Saxon tradition and a continental tradition (see e.g. Crimmens, 2006; Hämäläinen, 2003). However, these labels seem to oversimplify both history and current reality, as these demographic connotations do not correspond with the diversity of approaches within one defined socio-cultural region. Therefore, we prefer to make a distinction between relational social work on the one hand and structural social work on the other hand, as both these conceptual traits can be recognized within regions, in and outside Europe.

Within the tradition of relational social work, social work is considered to satisfy needs, shortcomings, deficits, etc. of service-users in a variety of problem situations. Social work is thus an answer to social problems, in particular problems associated with people living in vulnerable situations such as poverty. This answer is dominantly individual-oriented with social work operating at a relational level. It aims at creating a (therapeutic) relationship of trust between clients and social work in order to support people in developing the abilities to deal with social problems and to realize their rights (van Ewijk, 2010). Because this kind of social work does not engage with social structures and society as a whole, but contrary falls back on individual relations with people, it is argued that this approach is characterized by social integration, understood as individual participation in social life (Roose et al., 2010; Lorenz, 2005). From a positive viewpoint, the role of social work then is considered to support people in their endeavour to connect with the conventional values and norms in society, in accordance with a societal consensus on what ‘good citizenship’ is about. From a more negative viewpoint, the activating and controlling character of social work is highlighted. Social work from this latter point of
view is an instrument in function of goals that do not primarily aim at enhancing social welfare but rather pursue economic or security objectives like participation in the labour market or prevention of crime (e.g. Bradt and Bouverne-De Bie, 2009; Lorenz, 2005).

In the *structural tradition* of social work, both community and society are fundamental concepts. Structural social work is characterized by its orientation on the socialization of people in the community and society. Practices in the tradition of structural social work support people in their learning process to become part of a community. By thematizing the community and/or society, structural social work aims at being an answer to the strongly individual approach in relational social work. It aims at contributing to participation and citizenship in society (Hämäläinen, 2003) by providing the social conditions in order for people to realize their rights. The main aim thus is not to integrate people in a pre-structured social order. In the *structural tradition* of social work, the structure of the social order itself is questioned, including the way citizens (can) relate to this order (Coussé et al., 2010). Although these different traditions in social work can be conceptually differentiated, the distinction is of course not absolute. In reality, elements of both traditions and discussions are intertwined. Hämäläinen (2003) argues that in the past years both traditions have increasingly converged or even integrated. When we will discuss children’s rights from the perspective of social work further on in this chapter, elements of both traditions will be combined.

3. Social work, children’s rights and images of the child

Interventions of social work are never neutral. They are driven by presumptions of different kinds: ideas on human beings, (un)wellbeing, the role of the state, empowerment, etc. In the case of social work with children and young people, presumptions on what the ‘child’ or ‘childhood’ consist of is of paramount importance. A key notion in this area is the ‘agency’ of children (Stoecklin, 2012; Valentine, 2011; James, 2009). In social work, debate on the notion of agency originated largely from the field of child protection and youth care (see e.g. Bolin, 2014). This is not a coincidence, as exactly in these fields, the use of power from social workers or parents is present in a very explicit way, often neglecting the agency of children. It was exactly against the absence of a consciousness that children are also active human beings, with individual capacities to make choices and to express their own ideas, that the children’s rights movement arose. The children’s rights movement, as an amalgam of (organized) initiatives in- and outside social work, criticized the *social status* of children common in youth care. They labelled the status of children as ‘the incompetent child’, an image of children emphasizing them as objects in need of protection because of their vulnerability (Reynaert et al., 2009). Verhellen explains that from this understanding of children, the child is regarded as ‘not-yet-being’ (Verhellen, 2000: 16). In the same line, Matthews and Limb (1998: 67) describe children as ‘adults in waiting’, lacking adult competencies and undergoing their status in a passive way. Consequently, the incompetent child was not accorded any responsibility (Such and Walker, 2005). Furthermore, the children’s rights movement questioned the *legal status* of children. Especially, youth care was criticized for its poor legal nature, resulting in an unlimited possibility to intervene in the lives of children, ignoring the most fundamental principles of fair trial (Muncie, 2002).

In its ambition to express an alternative child-image, the children’s rights movement considered children as social actors, as independent meaning-makers, active agents and autonomous human beings, constructing their lives in their own right (Reynaert et al., 2009). Complementing the plea for an alternative child-image, the children’s rights movement sought for the recognition of a legal status for children. The agenda-setting of the children’s rights
movement, containing both these claims, was primarily realized in the fields of child protection and youth care. Large-scale social institutions of youth care were condemned as they make children ‘disappear in the organization’. Even so, the geographic separation of youth care institutions – often isolated from the daily life in communities – was criticized for creating a rupture with everyday life and contacts with the outside world, thereby further isolating children from society. Opposing that was a raft of initiatives to grant social care to children within a tendency towards de-institutionalization (for an elaboration of the issue of alternative care for children: see Cantwell, Chapter 15 in this Handbook). The (legal) recognition of the agency of children was likewise part of a broader ambition for the acknowledgement of participation rights of children in child and family social work. It resulted in a striking growth of new initiatives that put children’s participation rights at centre stage (Thomas, 2007; Cavet and Sloper, 2004). This tendency can likely be observed at the larger level of social policy. Melton (2005), amongst others, observes that children’s rights offer a (judicial) framework to rethink child-oriented policies in the direction of ensuring children’s dignity. Significant for social work is the importance that Davis and Powell (2003), together with other authors (e.g. Kanasinskaite and Bak, 2006; Woll, 2001), evoke when they point at two important aspects of implementing the CRC in child-oriented policies. First, state parties should take steps to provide child services and child care facilities (access to child services). Second, state parties should ensure that child services and child care facilities meet certain standards (quality of child care) (Reynaert et al., 2009).

Scholarly work on children’s rights (in social work) seems to have been preoccupied with the shift in childhood image from the incompetent child towards the autonomous child.

The image of the autonomous child is considered as an evolution to a more human dealing with children in both practice and policy. It is without doubt to the merit of the children’s rights movement that it has grasped the concept of individualization … and brought to the fore a group in society that has for a long time been invisible and discriminated against on the base of age …, thereby opening the discussion on the position of children in our society … .

(Reynaert et al., 2009, 522–523)

However, caution remains in relation to this new image of childhood. The children’s rights agenda is indeed not free from ‘critique’. We will subsequently engage in three issues of discussion in relation to the new childhood image of the autonomous child.

A first issue concerns the essence of the new childhood image of the autonomous child itself. Certain (dominant) interpretations of children’s agency regard children as independent, autonomous human beings that have to be granted the same rights as those recognized for adults. The presumption is that human beings, including children, are capable of rational reasoning when facing choices and skilled to act appropriately, based upon rational reasoning. It is a position that starts from an egalitarian doctrine, emphasizing equal treatment, freedom and rights to self-determination (Reynaert and Roose, 2014). The expectation is that children know their own needs, interests, societal expectations, etc. and can deal with these in a socially suitable way. However, it is questionable whether the interpretation of autonomy as an outcome of rational reasoning corresponds with reality. Ethicist Freddy Mortier (2002) argues that the idea of the autonomous, rational human being is likely to be a myth that, neither for children nor for adults, corresponds with the way people in general act in daily life. To demonstrate this statement, Mortier discusses the issue of granting the right to vote to young people from the age of 16, a proposal of several (children’s rights) organizations across Europe. Based on the
argument that children are incompetent, this right is currently not assigned to minors. However, Mortier argues that competence is not a condition for adults to be granted the right to vote, while the ability of adults to understand complex political decisions is probably as limited as that of young people. What Mortier illustrates is that the misconception of the idea of rational reasoning and corresponding acting neither for children, nor for adults is consistent with the real acting of children and adults in daily practice. Generally, people, children and adults, act in interdependency with others (Dean, 2009) or act very irrationally or contextually. This observation brings Mortier to the understanding that it might be much more acceptable that ‘we are all children’ rather than that we are all adults (Mortier, 2002).

A second issue recounts the way the idea of the autonomous child often operates in practice. Social work practices increasingly view children (and their parents) as ‘entrepreneurial citizens’ (Muncie, 2006; Vandenbroucke and Bouverne-De Bie, 2006; Masschelein and Quaghebeur, 2005), assuming that they can, as a consequence of rational reasoning, independently realize, advocate and enforce their rights. As such, a norm (i.e. being able to act autonomously) is imposed upon a group of children without taking into account the great diversity that exists with children in terms of for instance socio-economic or cultural background. Nor is there any consideration on the diversity of child-rearing contexts in which children grow up. The underlying dynamic is that of ‘homogenization’: this new childhood image of the autonomous child is generalized to the whole group of children and accordingly presented as a new norm in education. The problem with this dynamic is that it starts to function as a standard against which a certain situation is weighed. Such a yardstick includes a certain group in society – those children who conform to the standard of being autonomous – but, at the same time, excludes a group of children from society (Reynaert et al., 2010). This is what legal philosopher Koen Raes (2001) calls the ‘paradox of equality’: applying an equal norm in unequal situations creates inequality. Practices in the social work of parenting support give evidence of this dynamic. Parenting support using the framework of children’s rights acknowledges the participation rights of children. The idea of family education that is (implicitly) promoted throughout these practices is that of the ‘negotiation household’, an education model that replaced the ‘old’ model of the ‘command household’ (Vanobbergen et al., 2006). Hence, negotiating in family education is, from a children’s rights perspective, considered as the desirable way of child-rearing. However, negotiating requires certain skills and capacities that are not present or desired in all family contexts. Vandenbroucke and Bouverne-De Bie (2006) point at the fact that negotiation might favour certain groups of children and parents, i.e. those who are familiar with negotiating rationalities. Consequently, this means that at the same time, families who do not comply with the new norm of the negotiating household risk of becoming labelled as ‘bad parents’. The question then arises what to do with these families. In such cases, Roose and De Bie (2008) warn for social work practices that operate as ‘disciplinary action’, where children and parents are expected to behave in a particular way and act as active and accountable citizens, as this can result in subjecting children and parents to further marginalization and exclusion (Roose et al., 2013). Such a dynamic links up with the controlling character of social work where social work, although aiming at empowerment and emancipation, ends up as a new instrument of ‘civilization’.

A final issue relates to the legal translation of this new child-image of the autonomous child, where underlying values such as self-determination or freedom are defined in legal rules or a legal status. It suggests that legal instruments can have the ability to arrange social relationships and interactions between people, for instance between children and their parents or between children and social workers. However, especially in the context of social work, that is often involved in complex and ambiguous educational settings, translating these relationships and
interactions in legal terms risks reinforcing conflictual relations between people, strengthening
dichotomies between children and parents or between children and social workers (Roos and
De-Bie, 2008; Huntington, 2006; Cockburn, 2005). Likewise, it also risks separating certain
(problematic) situations from the parties involved and turning them over to so-called ‘neutral
others’, for instance a mediator or a judge. This can result in an alienated experience of the
stakeholders, resulting in a loss of power over the situation (Raes, 2001) and eventually creat-
ing ‘winners’ and ‘losers’ (Holland and Scourfield, 2004; Pupavac, 2001). Such a legal approach
conceives rights as an end of dialogue rather than as a starting point for a communal search for
a solution (Roos and De Bie, 2008; Huntington, 2006). The discussion on the claim of child-
ren’s rights organizations worldwide to legally ban corporal punishment can illustrate this point
(see also Reynaert et al., 2010). The prohibition of corporal punishment by means of a law
starts from the assumption that a legal instrument can resolve – or at least can contribute to a
solution of – a problem in education, i.e. the use of violence. However, this presumption
ignores the complexity of child-rearing contexts and the different meanings that are given to
corporal punishment by children, parents and social workers.

By referring to legal principles, the debate on the ban of corporal punishment then is posi-
tioned on the abstract level of what, according to social acceptable norms, is regarded as a
‘good education’. It also creates dichotomies between good parents, for whom prohibition
is already a reality, and other parents, who still use corporal punishment in raising their
child … . For the latter, a legal prohibition of corporal punishment can result in being
labelled a ‘bad parent’ and possibly being criminalized.

(Reynaert et al., 2010: 64)

What we criticise here is not law in itself, but the way law is often used in practice. Braye and
Preston-Shoot (2006) detect three guiding assumptions about the relationship between law and
social work practice: i) The belief that law provides a clear map for welfare practice; ii) The
belief that the legal map is the only one practitioners need; iii) The belief that if the map is
accurate enough (i.e. that the law is sound), it will lead safely to the destination. These
presumptions consider legal frameworks in social work as an end of dialogue. A legal ban on
corporal punishment could be justifiable if we consider it a starting point for a dialogue on the
actual behaviour in education. Law is then considered as a frame of reference or an instrument
that makes it possible to question educational interactions, given the complex and pluralistic
educational contexts and, if necessary, to shape these interactions in a different way (Reynaert
et al., 2010).

4. Social work, children’s rights and the institutionalization of childhood

An important debate in the tradition of structural social work in relation to children’s rights is
the social and cultural structuring of the way we perceive children and childhood in our soci-
ety, i.e. the debate on the institutionalization of childhood. Because of the assumption in the
‘old’ child-image of the incompetent child that children are vulnerable and therefore in need
of protection, children were excluded from the adult world. Instead, a separate ‘world’ for child-
ren was created in which they were prepared for adulthood. This ‘youthland’ (Smith, 2007;
Verhellen, 2000) or ‘youth moratorium’ (Zinnecker, 2000) is defined by Honig (2008: 201) as
‘… preparatory arenas that implement a principle of integration by means of separation’. 
Generally, childhood was considered as a period of socialization in or preparation for adulthood
or a growth towards autonomy (e.g. Such and Walker, 2005). Therefore, institutions such as the
school, youth work, youth care and so on were established at the end of the nineteenth century through the first children’s laws (Benporath, 2003). This institutionalized youth land is still today the ‘architecture’ or ‘grammar’ of childhood, at least in Western societies. Marc Depaepe (1998), professor in history of education, terms this process of progressive institutionalization of childhood as ‘educationalization’ (‘Pädagogisierung’). Educationalization refers to the increased attention that is being given to the pedagogical aspects of the daily life of children as it is apparent from the establishment of various child-centred institutions.

In a context of a broader social contestation at the end of the 1960s, the historically developed youth land was likewise questioned. It was argued, inter alia by the children’s rights movement, that the new child-image of the autonomous child raised questions in relation to the legitimization of a separate world for children. Breaking through the moratorium became the central claim of the children’s rights movement under the radical slogan ‘bring children back into society’ (Verhellen, 1998: 486). Children were not merely seen as the future generation. Their current presence in society is equally meaningful and should therefore be considered as such (James and James, 2004).

The discussion on the institutionalized youth land has an important topicality, also for social work. Current developments in social work give us an antagonistic illustration of the meaning of the institutionalized youth land. On the one hand there is a process of ‘blurring boundaries’ with interventions from social work breaching the borders of the institutionalized youth land. In the case of child offending for instance, we can observe an increasing tendency towards the recognition of the criminal responsibility of children, at least from a certain age (for an elaboration of this issue: see Liefard on juvenile justice, Chapter 14 in this Handbook). This principle breaks with the long-recognized principle of the neutralization of the criminal responsibility of children as it was introduced at the end of the nineteenth century under the protection model of juvenile justice. The starting point was the recognition that children could not be held responsible when committing an offense as a consequence of their status as a minor. Accordingly, in case a minor committed an offence, he was not punished, as it is the case in the criminal justice system for adults, but instead re-educated (Put and Walgrave, 2006). The reintroduction of the recognition of the criminal responsibility of children in current debates on juvenile justice and children’s rights again links up closely with the traditional model of criminal justice that is common for adults (Muncie, 2008). Simultaneously with the blurring of boundaries, an opposing development of ‘strengthened boundaries’ takes place. The breaching of the borders of the institutionalized youth land is indeed not that radical that it results in an equalization of children and adults. The particularity of children remains recognized, and what happens, according to Mortier (2002), is that children as a group acquire similar instruments of power as adults to defend their specific interests. Returning to the case of juvenile justice, models that acknowledge the criminal responsibility of children, inspired by the framework of children’s rights, do not aim at introducing a retributive treatment, which characterizes the criminal justice model for adults. Instead, they hold on to the educative character of a protection model and aim at re-educating child offenders to respect the offended rule; and this in a specialized and/or separated system for minors. At the same time, re-education should take place in a system that acknowledges the principles of fair trial for minors (Goldson and Muncie, 2006).

This twin process of antagonistic developments with regard to the institutionalized youth land is often very confusing in understanding current issues in relation to children. It is likewise confusing to understand how social work influences these antagonistic developments and whether its impact is going in the desired direction, i.e. results in more social justice for children. We will subsequently discuss two issues that are important to face from a children’s rights
perspective when discussing the institutionalized youth land. Both issues are related to the question of redistribution of social resources by social work.

The first issue is a critique related to fair redistribution of social resources within the institutionalized youth land. The children’s rights movement defined a group in society based on age that became the target group for whom more equal power relations is pursued. This is done, at least with regard to the provision rights of children, by holding on to the institutionalized youth land. Recalling the example of child offending, we explained that ideas to reform systems that deal with child offending from a children’s rights perspective attempt to adopt specialized or separated systems for children. As such, children are separated from adults. However, what is often overlooked is that this separation has a dissimilar impact on children. Social institutions for children such as schools, welfare organization, sport clubs, cultural organizations, etc. often operate in a very selective way vis-à-vis children in at least two directions. On the one hand, some children profit more from the same provisions than others, who consequently profit less. This is what has been called the ‘Matthew effect’, a redistribution dynamic in social policy that shows that people from higher income groups benefit relatively more from social services than people from lower income groups. As such, people from higher income groups appeal to more public expenditures (Ghysels and Van Lancker, 2010). In relation to children, this dynamic has been shown in several domains of social work and education. On the other hand, children from socially vulnerable groups, when coming into contact with social institutions, experience the controlling and sanctioning aspects of these institutions relatively more than the supporting ones. This idea is elaborated in the theory of social vulnerability as it was developed, amongst others, by Vettenburg (see e.g. Vettenburg et al., 2013; Berten et al., 2013). These observations demonstrate that other dimensions in the life of children might be much more important in striving for more equality than the child–adult (age) dimension. The impact of, for instance, the socio-economic dimension or the cultural dimension can hardly be overestimated. Consequently, extending the institutionalized youth land by the realization of provision rights for children should similarly provoke the question as to how this institutionalized youth land impacts on children and how a negative impact can be avoided. Buelens and Mortier (1989) remind us that if the recognition of provision rights for children is not tied with efforts for (socio-economic) redistribution, this will not stop one from participating in an unequal distribution of social goods. This is an important topic of attention in relation to for instance the issue of poverty. For children growing up in poverty, often additional provisions are made available. However, when these provisions are not embedded in a broader social, economic and political context, making use of these additional provisions does not make one less poor in a socio-economic sense (Roose et al., 2014).

A second critique concerns an issue of fair redistribution of social resources outside the institutionalized youth land. This matter concerns a subject of intergenerational solidarity. As we argued before, claims of children for the realization of a particular right can come into conflict with claims of adults for other rights. This can become problematic when the question of intergenerational justice and solidarity, i.e. the question how the institutionalized youth land relates to the adult world, is avoided and children’s rights are cut loose from human rights. The case of the use of public space can illustrate this. In Flanders, several cases emerged where children playing in public places (kindergartens, playgrounds, etc.) caused disturbances in the neighbourhood. Residents living in the neighbourhood of kindergartens and playgrounds complained about the intensity of the noise that children made. They saw this as a violation of their right to rest and privacy. As a counteraction, children and their sympathizers united and claimed their right to play. This case shows that problems related to the condition of ‘living together’ cannot be translated as adversarial interests, certainly not at the individual level. These
matters call for a certain kind of collectiveness and solidarity between children and adults (De Visscher and Bouverne-De Bie, 2006) and raise the question of fair and equal redistribution of social resources across all members of society. Children’s rights organizations too often seem to ignore these issues and focus merely on the interests of children.

These critiques on the institutionalized youth land do not mean that we are in favour of abolishing the separate world for children and young people. This would be both a-historical and naïve. It does mean, however, that the (scholarly) debate on children’s rights often remains too silent on the diversity of contexts within which children make use of resources situated in the institutionalized youth land or how these resources relate to resources in the broader society. We will further deal with these critiques in our final part.

5. Social work and children’s rights: A ‘lifeworld orientation’

What the critiques as discussed throughout this chapter have in common is that they all oppose a certain epistemological foundation of the world and of humanity, one that emanates from scientific objectivism. In this philosophical position, it is assumed that reality can exist objectively. Consequently, only one correct description of this reality can be thought about as ‘truth’. So, children’s rights need to be understood as a set of objective norms presented in the form of legal rules. Children’s rights-based social work from this point of view comes down to choosing the ‘right’ technique that can contribute to the implementation of children’s rights in the lives of children. Social work practices of this type are supposed to be neutral and power-free (Reynaert et al., 2009). However, this point of view denies the discursive character of children’s rights-based social work practices. As we have illustrated with several examples, children’s rights are shaped out of a process of meaning-making that occurs in the lifeworld of people.

The concept of ‘lifeworld’ arises from the work of the German philosopher Edmund Husserl, who introduced it as the central notion of his phenomenological theory (Husserl, 1970). Husserl defined the lifeworld as the ‘horizon’ against which observations and actions acquire meaning. It is the social, political, cultural and historical background that constitutes subjective human experience. The lifeworld in Husserl’s conceptualization is both subject-relative and generally structured. Each person has its own subjective lifeworld but at the same time, through intersubjective experience, people constitute their common lifeworld consisting of prevailing structures. The concept of lifeworld was further developed by Jürgen Habermas (1987) in his theory of communicative action in which he distinguished the practical rationality of the ‘lifeworld’ from the instrumental rationality of the ‘system’. He argued that in modern societies, the lifeworld has been ‘colonized’ by instrumental rationality, by which people become means for political and economic ends. In the field of social work, the notion of lifeworld was applied by Klaus Grunwald and Hans Thiersch (2009). They explain that a lifeworld orientation ‘uses the issues, crises and experiences within service users’ lifeworld situations as reference points’ (Grunwald and Thiersch, 2009: 133). It is a contextual orientation in social work that starts from the daily life experiences of people in pursuing human dignity and social justice (Roets et al., 2013). In the words of Australian Emeritus Professor and human rights expert in social work, Jim Ife (2004), it is about ‘ordinary people constructing and reconstructing ideas of human rights in their day-to-day lives’. Important for social work is the recognition that in a lifeworld orientation personal meaning-making of an individual needs to be understood in the complex interplay with social, political, cultural and historical traits of a context. These include, amongst other things, provisions and resources presented by social work. As Roets et al. (2013) state, it is about the ‘… dynamic and interpretable ways in which material, social and cultural resources as well as discourses are viewed as constraints, opportunities and limitations for children to practise their
agency, constituting their lived experiences and indicating the state of children’s welfare. Social work practices of children’s rights are considered as experience-based learning practices of children with parents, social workers and other stakeholders constructing rights in their intersubjectivity with each other (Todd, 2007) and in confrontation with the arrangements present in the lifeworld. In the next part, we further elaborate this lifeworld orientation in children’s rights-based social work, distinguishing three main features of this approach: i) a ‘resourcist view on children’s rights, ii) children’s rights as capabilities, and iii) children’s rights as an individual and collective learning process.

5.1. A ‘resourcist view’ on children’s rights

Agency, as a fundamental notion in the framework of children’s rights is, as we have argued throughout this chapter, often understood in both a very individualistic and essentialist way. We showed a number of risks associated with such an interpretation of agency. However, when we consider agency, or in a broader sense participation rights, in interdependence and comprehensiveness with provision and protection rights, then agency is not to be seen merely as an individual competence that someone has or has not and that distinguishes children from adults. This division ignores the important differences that exist between children or between adults or the difference that exists in the living conditions of children and adults. In contrast, a ‘resourcist view’ (Mortier, 2002) understands agency as the capacity to exercise a positive freedom – the freedom to do those things that one considers to be important – and which only can be realized under the condition of having access to basic resources. These resources are situated in the inter-relational dimension of children’s rights-based social work practices, i.e. in the inter-relation with others. These resources are equally situated in the structural dimension of children’s rights-based social work practices, i.e. in the existence of collective provisions addressing and supporting children in their capability to act. Seen from a resourcist view, the difference between children and adults is not that special (Dixon and Nussbaum, 2012), as both children and adults need resources to realize their agency.

5.2. Children’s rights as capabilities

A resourcist-view brings about the awareness that the way in which we put into practice children’s rights differs not much from the realization of human rights. Next to that, the recognition that the interests of children cannot be understood without associating them with the interests of others in society, strengthens our belief that children’s rights need essentially be considered in relation to human rights. Nevertheless, as Nussbaum (1997) argues, there is a large difference in the subjective needs for social resources that people need in order to realize their agency. Furthermore, there is an inequality in the access to resources that people need to support them in realizing their rights.

An approach focusing on resources does not go deep enough to diagnose obstacles that can be present even when resources seem to be adequately spread around, causing individuals to fail to avail themselves of opportunities that they in some sense have, such as free public education, the right to vote, or the right to work.

\[(Nussbaum, 1997: 284)\]

From this critique, connection is sought with the actual lifeworld of people, raising the question not only with regard to the extent that social resources are present, but equally, in how far
these social resources enable people to function in a fully human way. Human rights (of children) from this perspective are seen as ‘capabilities’, i.e. people’s real opportunities for functioning and choice (Dixon and Nussbaum, 2012: 557). The capabilities approach presents important elements to situate human and children’s rights in the lifeworld of people themselves (Stoecklin and Bonvin, 2014).

5.3. Children’s rights as an individual and collective learning process

Referring to social work practices of children’s rights as an individual learning process means that children, in interaction and interrelation with others, seek at understanding and interpreting their lifeworld, including the understanding of their social relationships with others. Children’s rights can be considered as a sensitizing frame of reference that supports children in this process of interpretation. By defining children’s rights-based social work practices as a learning process, we argue that children’s rights cannot be understood without the interaction with others and without the horizon of the lifeworld. The learning dimension of the social work practices of children’s rights lies exactly in its contextual orientation. This presupposes an open learning process that is not directed at a pre-structured or pre-defined social norm in society. On the contrary, learning entails dealing with uncertainty and unpredictability, with learning process outcomes that can be very diverse. We accept that there is a plurality of interests and entitlements in contemporary society and that this plurality refers to a diversity of socio-historical, economic and cultural contexts in which children grow up. In our understanding this also means that we have to recognize that different understandings of human dignity may exist, depending on these contexts, and that consequently also different understandings of children’s rights can occur. Inspired by Mouffe, we can call this a ‘mestiza conception’ of children’s rights. This contains a context-specific interpretation of children’s rights, thus leaving space for different meanings, depending on these contexts (Mouffe, 2005).

The reference to the collective dimension of the learning process implies that social work practices of children’s rights are not only directed at the daily experiences of children and their surroundings. It necessarily presupposes the recognition that learning also relates to culture and to structuring and restructuring this culture. An understanding of human dignity is equally shaped from what German social pedagogue Klaus Mollenhauer (1993) calls the ‘heritage of the social structure’, i.e. the structure of our forms of life or our cultural contents containing our social regulations. Practices of children’s rights can only be relevant if they recognize that both the individual level and the structural level are interrelated (Flathman, 1976), and that this interrelation is latently present in these practices itself. Social work practices of children’s rights should make these hidden processes explicit. Social work practices of children’s rights should reveal these ‘social rules’ so that children, parents, social workers, etc. can learn to know these rules, position themselves in relation to these rules and even learn to change these rules (Mollenhauer, 1993). So, children’s rights-based social work ‘… should be approached in a fashion that includes the analysis, understanding and reading of power relations and social forces so as to enable a struggle to change those power relations that impede the full realization of human rights’ (CEDAL, 1996). A similar approach to social work practices of children’s rights ‘from below’ (Baxi, 1997; Ife, 2001, 2010a; Ife and Fiske, 2006; Stammers, 2009) requires existing power relations, that co-shape the lifeworlds of children, to be questioned, with the aim of changing these power relations towards greater respect for the human dignity of children. Implementing children’s rights is not a neutral, value-free or power-free practice of applying the right technique, but basically entails a political character aimed at abolishing the exclusion of children from society.
6. Epilogue: Limitations of the discipline of social work for researching children’s rights

We conclude this chapter with some critical reflections regarding the ‘shortcomings’ or ‘risks’ that are relative to researching children’s rights from the discipline of social work.

A first issue that needs further understanding is how a relational tradition in social work can go together with a structural tradition. Trying to be engaged in both and connect them together in an integrated theory risks resulting in the neglect of one dimension or the other. Hence it is important for social work to also keep the interrelational in view, as social work that focuses solely on the structural would also be invalid, as it risks neglecting the personal grievances of individual clients. By extension, structural social work is often weak in offering practical guidelines, besides raising awareness of the complexity of current social problems in society. However, it is argued that a critical analysis of society and societal conditions under which people have to live their lives and realizing human/children’s rights has a practical finality in itself, for instance in involving clients in critical analysis by giving them voice (Payne, 2005).

A second issue that necessarily requires further theoretical deepening in social work theory is how to deal with the danger of social relativism that could go together with a lifeworld orientation. When it is acknowledged that both an individual and collective learning process is of fundamental importance in a lifeworld orientation, and that the outcome of this learning process can be very diverse, than this might suggest that we can lapse into some kind of social relativism where ‘anything goes’. Belgian political theorist Chantal Mouffe acknowledges that learning processes such as the ones at stake here are fundamentally shaped in a field of tension that she calls ‘conflictual consensus’. This means that there should be a (temporary) consensus on the ethical and political values like, for instance, freedom and equality, but dissensus on the interpretations of these values. Applied to children’s rights-based social work practices, this means that the principles of children’s rights included in the CRC, or translations in specific laws are (temporary) not under discussion but, at the same time, the interpretation of these principles should be the subject of deliberative dialogue. Children’s rights-based social work, both practice and theory, is precisely about bringing these diverse interpretations into ‘conflict’.

Questions for debate and discussion

• What are the strengths and weaknesses, opportunities and threats of a lifeworld orientation in social work regarding children’s rights?
• What are the opportunities and challenges for the recognition of agency for children both at the interrelational and the structural level?
• How can we understand children’s rights from ‘non-Western’ traditions in social work and how are they related to a lifeworld orientation?
• How can we construct children’s rights starting from a lifeworld perspective and at the same time acknowledge the formal framework of the CRC, without relapsing into legal translations of rights?
• How can we avoid social relativism with regard to social practices of children’s rights if a lifeworld orientation is adopted in social work?

References


D. Reynaert and R. Roose


