

The Rights of the Child - Jewish Perspective

Rabbi David Rosen

Before referring to the person concerned in this presentation, namely the child, the very concept of "rights" from a Jewish perspective requires a brief comment. Actually, there is no such term as "rights" in the Bible which sees the human being as placed in this world to play his or her part in the Divine design. Accordingly, the expectation of the human person is one of responsibilities and duties rather than "rights". From a Biblical perspective and thus from a Jewish perspective, it would therefore be more correct to talk in terms of our duties and responsibilities towards the child. This point is important in conveying an essential orientation towards service rather than of claims. (Nevertheless, one may observe that responsibilities and duties towards another, for example regarding protecting his or her life, do imply his or her right to such.)

At the foundation of the Biblically rooted Jewish social world-view are the propositions that the human being is created with a unique inalienable and sacrosanct character; that not only are our lives not ours to dispose of but that we are obliged to protect the life and dignity of all human beings; and furthermore that we are all in this world to serve, develop and protect the integrity of our environment and most crucially within it - the social fabric of society.

Even more fundamental than these propositions is that of the belief in a Deity who is not only Lord of Creation and History, but is of ultimate moral character. In human anthropomorphic language, He is compassionate, merciful, loving and gracious. Accordingly He calls on us to be like Him in these regards, for the sake of our own character, well being and purpose and accordingly for the welfare of society at large.

While God cares for all His children (Psalm 145.v.9) - all created in His Image, i.e. with that inalienable dignity and sanctity, His very "character" (aforementioned) demands His special care for the vulnerable and calls upon us to be similarly specially concerned for and attentive to them. While the Bible also refers both to the stranger and widow as such, the ultimate paradigm of vulnerability is the orphan - the child victim of misfortune and often conflict and violence.

The Hebrew child had a comparatively enviable position in the ancient world where vulnerability was more often than not seen as a reason for disregard. The Roman historian Tacitus thus records disparagingly that for the Jews "it is even a crime among them to kill a child"! For Judaism not only is the child a human being created in the Divine Image affording him or her all human dignity that must be protected from abuse, but precisely his or her vulnerability makes them more deserving of our regard and obliges us with greater responsibility towards them. How much more so then, when the child is a victim of misfortune and/or adult misbehavior. The Bible accordingly lays down special legislation requiring both individuals and community to provide for their livelihood and welfare (Deuteronomy 16 v.11-14; 24 v.12-13). Moreover, together with these injunctions, the Israelites are reminded that we

were once slaves, so that the historical memory of vulnerability may thus inspire and animate our moral conduct towards the vulnerable.

Obligations upon parents laid down in Jewish laws, to provide for the children's daily care - their physical and emotional well-being - also include the responsibility to provide them with education, a trade and the skills of self-protection. Judaism accordingly lays down specifications not only for parents in relation to their offspring, but also for the community in relation to its children -especially those who do not enjoy parental protection; to provide for their food, clothing, health and education, as well as the means, as they mature, to marry and establish a family.

The obligation to ensure the physical and emotional maturation of the child free from the scars of conflict must surely be the reason behind the Biblical age limit of twenty, before a young man could be enlisted into military service (Numbers 1 v.3). While war is seen in Jewish tradition based on the Bible as an undesirable necessity when faced with a violent threat, nevertheless the extensive ethical checks and limitations on combat (cf. Maimonides. "Yad, The Law of Kings", chapter six) accordingly prohibit the use (let alone the abuse) in such context of those who are vulnerable - children in particular. For Judaism implications of the duties that parents and the adult community bear toward minors - mean that the former are morally responsible for the actions of the latter. There is this no question that adults who send children to perform violent acts are not only guilty of a criminal act in doing so , but also bear responsibility and must therefore face accountability for such war crimes performed by their children.

In addition to standard duties towards children, Maimonides in his Code, lays down even more demanding ethical behavior in relation to child victims, in keeping with the aforementioned Biblical "bias". He rules that we must address them with particular tenderness and courtesy: be especially careful not to subject them to hard labor nor wound their feelings with harsh speech. We must take even greater care of their persons and property than we would even with our own; for it is a more serious transgression to cause them distress, anger or pain, than even any other person, let alone to, God forbid, tyrannize them, cause them physical harm or humiliate them.

While it is taken as axiomatic in Judaism that the child as a human being must be especially protected physically and emotionally, precisely because of the special vulnerability in physical and emotional formation; that very process of development is seen as requiring much more than attending only to the material and even emotional needs of the child. Judaism affirms that young persons are more than the product of an older generation - they are the guarantors of their posterity. It is this recognition of children's potential for renewal and continuity that led the sages of the Talmud to describe them as "the Messiahs of humankind".

According to this end enormous emphasis is placed not just upon education for skills and material self-sustenance, but upon spiritual sustenance and the religious moral values imperative for such. Thus Jewish tradition understands Abraham's yearning for his own progeny despite his increasingly large following (Genesis 12 v.5) to reflect the recognition that

no framework is more crucial and powerful for the transmission of the most profound moral and spiritual values than the family - and thus the health of the family determines the health of society. Accordingly Judaism is overwhelmingly family orientated. In fact while Judaism can function even without synagogue and school, it cannot function without family. The focus, therefore, on the formation of children is seen as critical for society as a whole.

Already at the Biblically mandated public reading of the Divine Revelation and Instruction by the King (Deuteronomy 31, v.10-12), not only the men and women but all the children are present as well.

This idea served as the basis for the practice during the late Second Temple period of encouraging little children to be present in the synagogue (Babylonian Talmud, Hagigah,3a). Indeed the quintessential affirmation of Jewish Faith (Deuteronomy 6,v.4-9) is immediately related to the educational formation of the children.

"Hear O Israel the Lord your God, the Lord is One. And you shall love the Lord Your God with all your heart with all your soul and with all your might. And these words which I command you this day shall be upon your heart. And you shall teach them diligently to your children...".

This idea is further embellished powerfully in the homiletical lore (Midrash Tanhuma, Vayigash) that declares that when God was about to give the Revelation to Israel, he asked them for guarantors. The children of Israel offered the Patriarchs and then offered the prophets, but God did not accept any of them as adequate guarantors. But when the children of Israel offered their children as guarantors, God accepted them and gave them Torah!

In as much as religion seeks to give meaning and direction to who we are, these texts emphasize not only the obligation to provide children with strong religio-ethical identities and values for life, but that to do so is in fact as much our obligation to ourselves as well as to posterity. It is a reflection of our own values and commitments. And as mentioned at the beginning of my presentation, at the heart of these values is the concept of the sanctity of life - the preservation of life; on one's own and of that of the other. Indeed it is in this light that Jewish tradition expands the test in Genesis 32,v.8 concerning Jacob who , on the way home, is confronted with his brother Essau marching to meet him with four hundred men. And the text declares that "Jacob was very afraid and distressed".

Our sages in their didactic manner ask why the text needs to add the second verb- obviously if Jacob was very afraid he was distressed. They answer that Jacob was very afraid lest he be killed and he was distressed lest he would have to kill. This is the moral education that we are called upon to impress upon our children, namely that the very thought of even killing in wars of self defense must always be distressing ; for if that thought does not cause us distress,then we will not be able to preserve the reverence for human life and dignity within our own midst. If that thought does not cause our children distress and they are drawn in as players in violent conflict and accept such as normal, then we failed them in our religio-ethical duty as parents and educators. Above all it is the responsibility of religious leadership not

only to reiterate this supreme social value but also to articulate the Divine priorities to which I referred at the beginning.

In the midrash - the ancient rabbinic homily on Psalm 62 on the opening verse "let the Lord arise and scatter His enemies and may those who hate Him flee from before Him", we read "(in the book of Psalms we find that) on five occasions (King) David calls on God to 'Arise and scatter His enemies' and yet there is no mention (in Psalms) that God arises (in response). When do we find (mention of) God arising? "Because of the oppression of the poor and the groans of the needy, Now will I arise, saith the Lord" (Psalm 12 v 6)

This midrash brings to mind the comment attributed to Abraham Lincoln when asked on the eve of battle whether God was on their side. "The question is", Lincoln is reported to have replied, "whether we are on God's side".

What the midrash is saying is that even if you are God's anointed himself, even if you are King David, you may not assume that God is on your side. When is God on your side? When you are on His. And what is His side? It is above all the side of the needy and vulnerable. The extent to which society addresses itself to these, is the extent to which it is godly, and the extent to which it fails is the extent to which it is damned.

In summary we may say that while Judaism obliges us to ensure that all children enjoy physical and spiritual health; a sense of worth and identity: educational development and opportunity, the Jewish Biblical perspective based in the Hebrew Bible makes it clear that the child victim of violence and misfortune is the ultimate litmus test of our own religious values. The extent to which we respond to his or her needs is the extent to which we are loyal to our own religious identities.