Michael Freeman, *A Magna Carta for Children? Rethinking Children's Rights*
Cambridge: Cambridge University Press, 2020, ISBN 9781316606674, 566 pp.,
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The book is the brilliant balance sheet of one of the most distinguished experts in the field of children's human rights. Michael Freeman, Professor Emeritus of English Law at University College London, has helped shape the debate and research on children's rights for more than 40 years with numerous books and essays, not only in the particular subject but across disciplines too. In 1993, four years after the adoption of the UN Convention on the Rights of the Child, he co-founded the *International Journal of Children's Rights*, which is still one of the most important interdisciplinary forums on children's rights in the English-speaking world. It is a pleasure for me to review Michael Freeman's new book in this journal.

The title of the book, *A Magna Carta for Children*, carries a question mark because Freeman does not want to present a sacrosanct work, but rather – as in all his previous publications – to stimulate discussion and reflection. But it also manifests an ambitious programme on how children's rights are to be understood and might be handled in the future. With the title, the author not only recalls the epoch-making Magna Charta of 1215, which for the first time in the European Middle Ages established rights of freedom against the absolute power of kings, but even more so the Polish-Jewish paediatrician, educator and writer Janusz Korczak, to whom he expressly dedicated the book ('May he be remembered for a blessing'). Korczak, one of the most important pioneers of children's rights, had proposed a Magna Carta Libertatis of children's rights in his first major work, *How to Love a Child*, which was written during the First World War and published in Polish in 1920, and spelled it out in his further works with reference to his own experiences with children of his time. It culminates in the demand for the children's *right to respect* and serves as a guideline for Michael Freeman in his latest book.

As expressed in the subtitle of the book, the author is interested in rethinking children's rights. He does not want to reinvent them, but rather explicitly ties in with the UN Convention on the Rights of the Child, which he sees as a "milestone" in the history of children's rights. However, Freeman does not see this milestone as the last word, but rather as an impetus and intermediate step that must be followed by others. Before making some thought-provoking suggestions at the end of the book, he reviews in Part I the many ideas that have been formulated since John Locke in the 17th century. The central theme of the historical review is the gradual recognition of children as human beings ('Is it wrong to think of children as human beings?'). However, Freeman also makes

it clear that this recognition is still fragile and therefore vehemently pleads for children's rights to be taken seriously as rights *of the children*, not just as an expression of the goodwill and self-obligation of adults.

Part II of the book is dedicated to the UN Convention on the Rights of the Child ('Even lawyers were children once'). In it, he interprets the basic principles and individual articles of the Convention with regard to their meanings for children, deals with critics of the Convention, and names its weaknesses and gaps. In doing so, he considers what can be learned from social childhood studies for the understanding and strengthening of children's rights, and vice versa. He does not limit himself to the Convention, and also looks at regional variants of children's rights, especially in Africa. A special section is devoted to issues of child-friendly justice. The basic intention of this part is to underline children's rights, their necessity and meaning, and to encourage people to take them seriously in all their facets as *human rights* and to commit themselves to them.

In Part III ('A Magna Carta for Children' – without question marks), the author reflects on how the Convention could be further developed. He takes a critical look at the inflationary and blurred use of the term "participation" and calls for children finally to be given a citizenship worthy of the name. He questions the weaknesses of the rights discourse and discusses various alternatives such as well-being, happiness or the maxims of feminist-oriented care ethics. In his own draft of a Magna Carta for Children, he calls for replacing the top-down practice that has dominated so far, with a bottom-up perspective and going beyond the usual opposition of "salvation" and "liberation" or "protection" and "autonomy" of children. In doing so, Freeman focuses on the extremely unequal post-colonial world order and the children and childhoods of the Global South, which he sees as having received too little attention in the conception of the Convention as well as in the subsequent discourse on children's rights. As an example, he points to the weak formulation of children's economic and social rights and their insufficient weight in today's discourse and practice of children's rights.

In this book, Michael Freeman articulates many heretical thoughts that question supposed self-evident facts. For example, he criticises Article 12, commonly understood as the centrepiece of children's participation, as 'a reflection of a dominant adultism' (315). Or he dismantles the objections raised against universal suffrage for children and argues for granting children a 'group veto power' (313) and voting rights, without predefined age limits. It is also exciting how the author reflects on what would or could have become of children's rights if children had the opportunity to formulate their rights themselves and to decide on them. However, the author also tends to consider all too quickly

which of the extensions of children's rights he considers necessary would meet with the approval of today's adults and political authorities. Under this supposedly "realpolitik" gaze, it is not always clear what the alternatives are.

The author's compromise-oriented thinking also has problematic consequences for the theoretical foundation of children's rights. This becomes particularly clear in the question of paternalism. Although Freeman repeatedly draws attention to adultist tendencies in the discourse on children's rights with intellectual acuity, he himself arrives at a position that he calls "limited paternalism" (in earlier writings, which he recalls, he had spoken of "liberal paternalism"). In my opinion, the author gets caught up in a static and unhistorical view of the relationship between children and adults and pays insufficient attention to the social conditions that make paternalistic treatment of children seemingly inevitable. This also clouds his view of the work of Janusz Korczak, in which he wrongly believes to recognise a "gentle paternalism" (29). In the English-speaking world, there is still no adequate appreciation of Korczak as a pioneer of a life-worldly and egalitarian understanding of children's rights and his own treatment of children. This would also require his works to be better translated from Polish than has been the case so far. Only recently, an excellently translated and edited two-volume anthology of Korczak's important writings has been published (Korczak, 2018), which could facilitate a deeper reception of his work.

In the English-language receptions up to now of Korczak's historical contributions to children's rights his specific legal understanding was hardly examined and reflected. Korczak developed his understanding of children's rights from the experiences he had with children and had attempted to formulate the necessity for children's own rights from the perspective of these children. This resulted in an anti-paternalistic legal understanding of children's rights as agency rights, which goes beyond a legalist construction fixed to the state. It aims at social conditions in which equality is reached within its limits and constraints and, in particular, in which nobody is subordinated to other persons because of his or her (younger) age (Liebel, 2018).

I also see a limitation of Freeman's theoretical reflections on children's rights in his uncritical reception of recent neuroscience. By accepting at face value the view held there that the human brain is even less developed until the age of about 25, he arrives at the questionable conviction that children are inferior to adults in their mental abilities. Despite his criticism of the classical developmental psychology of Jean Piaget and of adultist structures and prejudices in general, he gets caught up in the idea that human abilities can be limited to certain cognitive dimensions and processes and are determined and controlled solely by chemical processes in the brain. In this way, he abandons

the realisation – which he himself otherwise advocates – that human abilities must always be understood in a multidimensional way and, as some neuroscientists themselves emphasise, are also shaped by social experiences. The German neuroscientist, Gerald Hüther, for example, explains how the sense of dignity develops in early childhood through experiencing one's own subjectivity and significance and is anchored in the brain, but can also be lost again through the frequent experience of being disregarded and ignored (Hüther, 2018). In his commendable desire not to limit himself to legal ways of thinking, Freeman allows himself to be tempted to elevate another science, whose methodological ways of knowing he (like I, admittedly, also) hardly have an overview of, to the rank of a kind of leading science. Thus, he does a disservice to the efforts to understand children's rights as an emancipatory medium for children.

There is some other argumentation in the book that I am not convinced by, such as the justification for circumcision of infant boys on the grounds that it preserves children's religious identity. This is an intervention in the physical integrity of children with unforeseeable consequences, without the children concerned being able to comment on it. This practice, which is widespread in Muslim and Jewish communities, is controversial in the international discussion on children's rights, and in these communities themselves. In my opinion, it would be in the children's best interest to consider such an intervention at the earliest when the child concerned can have a say in the matter.

Nevertheless, overall the book makes for stimulating reading with many ideas for strengthening and addressing children's rights in the future. It should be noted that the book grew out of a lecture series, the Hamlyn Lectures at three English universities. The author has maintained the lively language of the lecture without getting bogged down. In the truest sense of the word he is 'taking a deep breath' (70), as he titles one chapter. It is also to be welcomed that the author makes available the text of Thomas Spence's seminal 1797 writing, *The Rights of Infants*, alongside other little-known documents from the history of children's rights. Michael Freeman is able to draw on a deep fund of knowledge about the history of children's rights and the philosophical concepts and legal controversies associated with them – including in case-based jurisprudence. In my opinion, the book is one of the best-informed publications on children's rights in the last 30 years.

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