

# Developing Conceptual Knowledge in Citizenship Education (II): Thinking About Rights

Lee Jerome

This is the second article of a pair exploring the nature of subject knowledge in citizenship education. Lee Jerome shares some research about the extent to which students do (or do not) understand the concept of rights and suggests some aspects of knowledge that could feature in schemes of work.

In the last edition of the journal I wrote about how students' understand the concept of power and argued that this type of research is helpful in highlighting areas we can address in our teaching and resources. Across their primary and secondary education it is common for children to learn about rights and responsibilities, about the Universal Declaration of Human rights, about Children's Rights and student voice etc, but we are not always clear what it is we want to children to understand about rights as a result of studying such material. The United Nations Declaration on Human Rights Education and Training describes a process of learning about (knowledge), through (process) and for (values) rights, but what exactly does it mean to know about rights? One NGO has argued that such knowledge consists of knowing that you have rights, knowing what rights you have and knowing what that means. I am not sure that we adults always have a very clear learning intention in mind when we address this – what does it mean to have rights, how do rights actually help us to understand the world around us?

In this aspect of the research we asked primary, secondary and A level students to complete the same task and then analysed their responses to see if we could discern any patterns in their thinking. The intention was to use this data to draw up some tentative descriptions of different types of thinking about rights.

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## The task

Students were given a problem sheet outlining a situation (based on a newspaper story) and inviting them to reason their way through the problem. They were also given a briefing sheet with information about various human rights documents and specific articles, relating to the right to religious freedom, the right to life and the UNCRC principle that adults should work in the best interests of the child.

## The situation

A child has burned themselves badly in an accident and the doctors decide the best treatment is a skin graft (moving some normal skin to replace the burned skin). This requires a blood transfusion (giving the child blood from someone else to replace blood they lose during the operation).

## The problem

Normally doctors need to ask parents for permission to carry out any medical treatment. In this case the child's parents follow a religion which does not allow blood transfusions. Because of their religion the parents will not give the doctors permission to carry out the operation. The doctors have asked a judge for permission to go against the parents' wishes and give the child a skin graft operation and a blood transfusion.

## Your challenge

Imagine you are the judge and you have to decide the right answer to this problem. Your assistants have told you that there are some important rights involved in this case (see the information sheet). Before you make the decision, read the information sheet and think about why this is such a difficult decision for you to make.

- Why is this difficult?
- What is your decision?
- What are your reasons for this decision?

Before I describe the levels of responses we derived from the data it is worth making a few preliminary comments about the students' responses. First, very few of the children and young people solved the problem in favour of the parents' religious preferences, and the vast majority decided that the child should receive the treatment. There was a wide variety of reasons for this, but it is in line with the judge's decision in the case on which this scenario was based.

Second, many children (especially younger ones) simply ignored our attempt to frame this as an issue of conflicting rights and engaged with it in more straightforward personal or ethical terms. The most significant finding then is that many children failed to engage with the concept of rights at all, and felt able to deal with the dilemma without recourse to rights language.

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they felt able to solve the problem with common sense ideas of what is 'right' and therefore did not require the more general concept of 'rights' at all. The third observation is that none of our respondents drew on specific terminology or concepts relating to human rights, such as the idea that some rights are absolute but most are qualified. None made the more general point that rights often clash and therefore need to be balanced in practice. And very few discussed the role of government, as distinct from individual responsibilities. These omissions indicate that there is some useful knowledge that would help to frame the problem, which students are not able to draw on.

To some extent, the students' willingness to deal with the issue as a straightforward ethical dilemma requiring a resolution, rather than only as an instance of clashing rights, reflects Kohlberg's earlier work on the development of moral reasoning. In his account the application of abstract principles to a problem is a later phase of moral reasoning, not attained by all adults. Critiques of his work have argued that pragmatic, empathetic, context-related solutions are actually potentially more useful and valuable forms of moral reasoning than the application of abstract principles and so we are intensely conscious here of the potentially controversial nature of implying some kind of hierarchy. Nevertheless, we have categorised the responses below to indicate some of the different ways in which this relatively straightforward task was interpreted and solved, and we have numbered them to imply some form of progression. This reflects the limited claim that our focus here is on students' ability to engage in rights-informed reasoning, because rights are an important aspect of citizenship education knowledge. This does not imply that some of the 'lower' responses are not morally valued, rather that they sidestep the invitation to consider the problem from a rights-perspective. To that extent, this represents a challenge to citizenship teachers.

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# Feature

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### I Simplification and avoidance of rights-talk

One strategy adopted by respondents to avoid talking about rights was to simplify and reinterpret the problem. Some examples included re-describing the dilemma as simply a clash of wills, or by dismissing the parents as unreasonably caring more about their religion than their own child. By dismissing matters of principle and asserting individual preferences, this problem is turned into an extreme version of an everyday clash between parent and child. Motivations can more easily be dismissed if they are mere 'preferences' (as opposed to statements of principle) and so such responses were able to resolve the situation simply by declaring the parents to be wrong or unreasonable, for example "... they love their religion more than their own child and that's not right" (Northern Irish 14 year old).

An alternative approach to simplification entails re-interpreting an opinion, so for one child the religious obstacle was removed by declaring "... I don't think that God wants anyone to suffer..." (Northern Irish 14 year old) therefore the parents are wrong. A similar strategy of re-definition is apparent when students assert the parents' religious rights, they also re-define the medical intervention as more risky than the scenario suggests, for example, one student wrote "he could die during the operation... let him keep the burnt skin" (Northern Irish 10 year old), which enabled the problem to be solved fairly easily – the child is likely to die so overriding the parents' wishes would mean everyone loses, whereas at least the parents could have their wishes respected.

### II Pragmatic solutions

Some responses offered pragmatic solutions without re-defining the problem or denying the validity of the different beliefs and principles. These typically focused on the need to avoid suffering and pain, for example, "a child should not have to be put through pain or suffering" (Northern Irish 18 year old). Some also offered novel additional suggestions, such as "make sure that the blood is from a family member or a friend of the parents to keep them happy" (Northern Irish 14 year old). A smaller number explored other solutions such as "give the child the next best thing after the blood transfusion... because I don't want to offend their religion" (Irish 10 year old).

### III One right trumps others

A common response was simply to assert that life trumped all other considerations. This was not always couched in rights language, but was generally asserted as a self-evident truth. Some children simply generalise their own opinion and therefore place themselves as the moral arbiter "a healthy child is more important to me" (Irish 10 year old), whereas others make a similar assertion within a rights-based argument, for example "everyone has the right to life... the government has to do what's best for the child" (Northern Irish 16 year old).

To deal with the problem of clashing rights some students made their comparative reasoning overt "someone's life is worth more than a rule in religion" (Irish 10 year old); "the life of their child should come before any religious beliefs..." (Northern Irish 16 year old); "religious beliefs should be respected, just not when it is a matter of life or death" (Northern Irish 14 year old). Such answers prioritised the right to life over the right to pursue religious beliefs.

A very small number of students also asserted a right we had not explicitly addressed in our resources – the child's right to choose, or at least to be consulted (Article 12, UNCRC). Here students reacted against the idea that adults should compete to make a decision affecting the life of the child. One of the more developed examples of this approach specified that for a child below the age of ten the treatment should proceed, but over that age the child should be free to choose, including the right to choose to die if they shared their parents' religious beliefs (Irish 15 year old).

### IV Rights reasoning

There is a subtle distinction between categories III and IV, but we felt that it was useful to try to indicate the difference because in the final category we place attempts to discuss competing rights within a rights based argument. This is clearly fairly challenging, especially as students did not have access to precise language and concepts which would help them with this. Nevertheless, one student we consider to be trying to do this argued that the principle of the best interests of the child was paramount and this leads to the conclusion that life was in their best interests (Northern Irish 18 year old). This is subtly different from simply asserting that life is more important than religion, because the justification is not dependent on what is ethically right, rather it draws on an aspect of the human rights framework. Similarly another student argued "the UNCRC states governments should do everything possible for the survival and development of a child... parents have the right to provide guidance and bring them up in a religious group, but the child should also have a say and the parents can only provide guidance" (Northern Irish 16 year old). Here the decision to prioritise the right to life is justified through broader children's rights principles, and through a close reading of the competing rights, not simply by asserting one right over another. It seems significant that these answers attempt to work within a rights-based argument without access to the knowledge that the best interests of the child and the right to life are two of the four 'general principles' guiding the interpretation of the other articles in the UNCRC.

“ This tension between ‘the right’, and ‘rights’ may usefully be addressed if we want to promote human rights as a relevant framework for understanding difficult situations and for thinking about how to construct solutions. Rights may be challenging because they are abstract, but we may need to think more critically about the relationship between rights and other competing abstract concepts, such as fairness. ”

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### Conclusion

So, in relation to rights there are some broad conclusions to reiterate in relation to the quality of students' responses. The first point is that there is a tendency for some students not to see the relevance of rights as a framework, and to resort to simple assertions of what is 'right' in solving an ethical dilemma. This tension between 'the right', and 'rights' may usefully be addressed if we want to promote human rights as a relevant framework for understanding difficult situations and for thinking about how to construct solutions. Rights may be challenging because they are abstract, but we may need to think more critically about the relationship between rights and other competing abstract concepts, such as fairness. When thinking about rights, students are often attempting to balance rights and find ways to prioritise some rights over others, but this is difficult without access to some fairly basic concepts such as limited and absolute rights, UNCRC articles and general principles. In effect it feels as though the students are having to invent their own way to interpret rights, rather than being able to draw on the associated concepts and precedents that would help them do this.

## Feature

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It's Human Rights Day for Them, Too, photo courtesy of the United Nations (flickr)



#### What information might we teach?

The preceding discussion really highlights a challenge and in this final section I want to suggest some possible areas we might include in our teaching to ensure students have the kind of useful knowledge that might help them to engage in more sustained rights-reasoning.

#### (1) Rights talk and right language

It may be helpful to think about the ways in which we use the words in everyday language and the more specific ways we want to build this concept in citizenship.

##### Everyday language

- Being right
- Getting answers right
- Learning right from wrong
- Right handed
- I have a right to...
- Interpersonal rights and responsibilities

##### Citizenship language

- Right wing parties and the far right
- Moral Rights – justice and conscience
- Legal Rights (and institutional rights)
- Positive and Negative Rights
- Human Rights
- Relationships between individual and state

#### (2) Rights and responsibilities

In schools we very often link rights and responsibilities – especially in relation to codes of conduct or behaviour. This is really about creating a self-regulating moral climate in the school where people respect one another and follow rules of behaviour because they come to see them as personally useful and because they don't want to experience the punishment (presented as foregoing the rights we might take away from them) if they do not respect other people's rights. In relation to Human Rights this is an inaccurate interpretation of the relationship between rights

and responsibilities. Individuals have the rights listed in human rights agreements regardless of whether they respect other's rights. It may well be the case that a rights culture is enhanced if we all respect others' rights, but that is a general observation and a political process rather than a specific requirement. Failure to uphold others' rights does not entail a loss of one's own rights. There may be punishments in law for some infringements of the law, but those are specific and leave many other rights intact.

#### (3) Rights holders and duty bearers

If individuals are not personally responsible for each other's rights, it is important to clarify who is responsible. In relation to international human rights, it is generally the state and the institutions of the state that assume such responsibilities. This means that human rights can be seen as a mechanism for holding the state to account for its conduct. We tend to focus less on this notion of rights as an accountability mechanism, than we do on rights for individuals.

#### (4) Qualified, limited and absolute rights

There is also a technical dimension to rights which is important to understanding what it means to have a right in reality. Relatively few rights are absolute, for example the right to protection from torture and inhuman and



We need equal rights for all, photo courtesy of Martha Heinemann Bixby (flickr)

degrading treatment. Some, such as the right to liberty, can be restricted in law, for example, the state can imprison people. Other rights can be qualified for a specific period of time or in pursuit of other rights, for example freedom of expression is limited in relation to hate crime. Most rights are limited in practice and we might judge the acceptability of such restrictions by considering the extent to which they are based in law, they are in pursuit of a legitimate goal and whether the restriction is proportionate.

#### (5) Rights as an outcome and as a struggle

Sometimes rights are presented as a body of agreed law. They are universal and codified. However, they can also be seen as a process of continual struggle. Bill Bowring has described rights as 'crystallized moments of revolutionary spirit'. This means it is equally important to understand the process by which people come to articulate demands in terms of rights, and the process by which those rights are accepted, codified and then interpreted and implemented. The implementation process is often an ongoing struggle in politics and civil society e.g. the UNCRC has been ratified by the UK but the only real mechanism for implementing it is the public 'naming and shaming' process of the regular reports to the UN Committee on the Rights of the Child. This Committee interprets the UNCRC, hears evidence from the government and other organisations, and makes commendations and criticisms. This is a slow and messy business.

This seems important because in some ways

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rights do not provide the answer to many contemporary political problems, they merely provide a framework for thinking about conflicting perspectives and pressures. The process of engaging with these different perspectives and coming to an informed, justifiable and proportionate argument seems quite significant to me. In the research discussed above we found most students solved a problem involving a clash of rights by simply asserting whatever they felt was the most important right, or asserting what they felt was the right answer. Very few could reason through an argument using human rights principles. Without these specific aspects of knowledge and understanding it is difficult to see how one could think about the role of rights in a detailed and serious way. Without an understanding of how rights work, and why they might be useful, it seems to me we make it more difficult for young people to understand rights, and therefore to appreciate their significance. On this view teaching about rights and for rights may be more intrinsically linked than they first appear.

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