**UConn CSCH Podcast Episode Transcript:**

**Do Children Have Human Rights?**

Helene Marcy: Hello and Welcome to the CSCH Podcast. My name is Helene Marcy, Program Manager for the UConn Collaboratory on School and Child Health, or CSCH. The CSCH mission is to facilitate innovative and impactful connections across research, policy, and practice arenas to advance equity in school and child health. CSCH is committed to anti-racist work that prioritizes inclusion, reduces disparities, and creates systemic change. I invite you to take a look at our website at csch.uconn.edu.

Recently CSCH Co-Director Sandra Chafouleas spoke with Richard Hiskes, Professor Emeritus of Political Science and Human Rights at UConn. Hiskes is a political theorist who specializes in human rights theory, especially environmental human rights and the rights of children. He’s recently published a book called *Suffer the Children: A Theoretical Foundation for the Human Rights of the Child.* Sandy Chafouleas spoke with him about his thoughts on the human rights of children. Here is their conversation.

Sandra Chafouleas: Welcome, Rich, we're so glad to have you here with us today.

Richard Hiskes: Thank you, Sandy. It's really nice to be back talking to UConn people, especially UConn people who are interested in human rights.

Sandy: Well, that's why we're here. Before we dive into the recent work, though, could you just give our listener listeners a bit of background on the idea of children's rights in general? Do children have human rights?

Rich: That's a really good question. Hillary Clinton famously said in 1992 that children's rights are a slogan in search of a definition. To some extent, that's still true. No one denies that children are human. So we assume children have rights. But I think the world does not act as if children have rights. And I think the problem is twofold. One is, I'm going to give you some statistics right now that pretty much prove that children are not treated as if they have rights. And secondly, the old foundation of human rights, why people have human rights, specifically excluded children. I mean, does the world believe that children have rights? Well, if so, then why do 150 million children globally, work in forced labor? Why are there 10 million slaves, child slaves in the world today? Not just sex slaves and trafficked kids, but all kinds of slaves? Why do 21% of children in the richest country in the world live below the poverty line and experience daily food insecurity? Don't they have the right to food? That's one of the first human rights listed in the Universal Declaration of Human Rights?

Why can children not vote? This is a global problem. If they can't vote, they have no power to claim their rights just like everybody else. So we we can say we have rights, but if we don't have political power, we can't really claim them. So I think just those statistics alone make it pretty clear that we can say everything we want about children being fully human, and blah, blah, blah. But the world doesn't act as if children have rights. So they don't; but they should.

Sandy: That's really interesting to me as a psychologist who teaches some of the history of child development and the way we view children, which certainly I think is coming into play here. So could you tell us a little bit more about the history specifically of the idea of child rights. There was this 1989 Convention of the Rights of the Child? So what happened from that?

Rich: Well, it goes back a little further than that, in terms of international documents, and treaties. But the Convention on the Rights of the Child—I’ll call it the CRC—in 1989, really is the modern explanation of what counts as the rights of children. And it did a couple of important things. It took the two types of rights that were in the original document—rights of provision, food, housing, and so forth, rights protection of children—and added a third one called the rights of participation, that children have the right to participate in all in all decisions that affect them. That's a major change. That's probably the reason why the United States has refused to ratify the Convention on the Rights of the Child. Our country is the only country in the world that has not ratified the CRC. And the reasons for this are sort of interesting. The United States doesn't like to ratify most human rights treaties because of a sovereignty issue. There’s a sovereignty issue; There’s also a states’ rights issue which arose immediately with the CRC. The CRC said that no one under the age of 18 could be executed for a capital crime. And there were many states at that time, that still loved to execute, you know, children. So left the persistent issue. And it's one that's really very big right now. And that is, it was considered that the CRC was a threat to the rights of parents. So do parents have rights? And I mean, rights as parents. As humans, they have human rights. As citizens, they have citizenship rights. But I don't remember any rights listed in the United States Bill of Rights, or the universal declaration that specifically says parents have more rights than other people, as soon as they have a child. So So what does it mean that these rights that are never listed anywhere I talked about as if they're real, and because they are real, I should point out, children don't have rights, because their parents do.

So there's two Supreme Court cases, I'll say just a little bit about, that in the United States do establish parents’ rights. So it establishes what's called the liberty interest of parents. The first one was an interesting Amish case: an Amish farmer wanted to take his son out of school in Wisconsin, before the legally admissible age to take someone out of school, 15. And then the Supreme Court decided he had the right to do that. Nowhere in the decision did anybody say, wait a minute, what if the child wants to be a lawyer, not a farmer, you know, or anything? He's not going to have the right to do that, because he'll have lost all his educational time.

The other case is even more interesting, in 2000. It's a case that put parent’s rights against grandparent rights. So this would pretty much define the rights of parents called Troxel versus Granville. A mother of two children wanted to restrict access, visitation access to her dead husband's parents, the child's paternal grandparents. And the court said that she had the right to do that, even though what some of the liberal justices did say, “Don't children have a right to visit with their grandparents?” Interesting thing about that case is even though that was a big victory for the conservative defense of parents rights, Antonin Scalia, the most conservative Supreme Court Justice, did not vote with his conservative friends, because he, he said “nowhere in the constitution does the word parent or child ever appear. So if you want to talk about parents’ rights, you're going to have to write some amendments.” And so that since that time, for the last 22 years, a parents’ right amendment has been proposed in every Congress. It's never gotten anywhere; it's been proposed in this Congress too. My opinion is that parents do not have rights; their children do. And what parents have is the obligation to protect their children's rights, and they have a temporary proxy to do that. But if a child has the right to food, a parent can't, does not have the right to deny that.

The other reason it's important here is that the only argument for why people have rights at all, is the 17th century argument that human beings have rights because of their capacity to reason. And it's usually held that since children are not fully rational, they should not have rights in the same way. This is the same argument historically that denied rights to women, and denied rights to non-White men. To me, it's always been a suspicious foundation. My book tries to provide a new foundation for human rights, that would include children and it's not nearly as abstract as that.

Sandy: Wow, that's a lot to unpack in there. So what I'm understanding then, too, is that the foundation of--that I'd like you to expand on here, or can you discuss that foundation a little bit more as to why children's rights are basically human rights.

Rich: So I think they are human rights since they are human. But there are three reasons why human beings have rights. First of all, as Thomas Hobbes said, in the 17th century, it's not so much rationality. What makes us as a species unique is our capacity to make promises. And that means we enter relationships with each other based on cooperation. And it enables us to do extraordinary things: science, art, building, agriculture, all the things that human beings are capable of doing, as a species, we do because of our capacity to make promises and work together. I like to say we are a very promising species. And the second foundation of rights besides that, one, is the fact of human vulnerability. You know, rights protect us from harm. That's the whole point of rights. And they protect us in a way that is necessary; the harms are so egregious that we have to have a right to be protected from them. And the third, the third aspect of my foundation is that human identity is not just individual, it's group. And once we accepted the idea of genocide as a crime against groups, we pretty much accept the idea of human rights of groups, that's what Black Lives Matter is all about and so forth. My assertion is that children qualify for rights just as much, or even more so than adults on these grounds. Children know about promises. You know, if you know anything about children, you know, by the time they're four years old, they say “you promised! You have to do it!”

Secondly, the fact of human vulnerability: children are, are extremely vulnerable for all the obvious reasons. You know, and specifically, in a way that there's not—there are lots of vulnerable adults too. That's why we talk about the rights of physically challenged people and so forth—but children are specifically more vulnerable in a way that no adult is. And that is they have no political power; they're politically vulnerable, since they don't have the right to vote. And finally, their identity as members of groups—children are the most recognizable group in the world. And what what befalls children, as members of groups, is one of the most obvious effects, being in a group, compared to any other group in the world that you could possibly name.

If you want an example of that I can, I can give you one that I've written about before, my last book was on environmental human rights. Environmental human rights were accepted two months ago by the UN Human Rights Council, and the Human Rights Commissioner. So that means basically the right to a safe environment, I just say the right to clean water, air and soil. This is this is quite a big deal that will be added to the Universal Declaration of Human Rights in due course. But you know, we live with environmental risks. Future people don't live with environmental risk, they live with the harm that we left them. So my argument has always been: environmental rights first belong to future generations, because that's where the harm is. If rights are supposed to protect us from harm, they’re the ones being harmed.

Now for children, this becomes real in a way that always amazes me when I think about it. Children are the first living future generation, right; they’re a future generation but they're living already. The special Rapporteur, UN Special Rapporteur for toxic waste said about 10 years ago, amazing statement: children are being born pre polluted. In other words, children are being born with environmental toxins already in their body that they absorbed to the mother's uterus. So children are already suffering environmental harms, at the moment that they're born. And that's given rise to lots and lots of environmental activists, children environmental activists around the world, beginning at the age of seven. I list a bunch of them in the, in the book all around the world. You know, some of them Greta and Malala, and others.

You know, they're they're claiming their environmental rights in courts, on networks, in the streets. It's quite a remarkable human rights movement that is working partly because they're kids, so they're much more electronically savvy than any of us are certainly me. So it’s already happening. I think that that's important to recognize—that there are children around the world who are acting on their rights. Greta Thunberg, you know, gives a speech to Parliament, when she's 15 years old. She can't vote then. People in Parliament walked out saying, it's amazing that that's such an extraordinarily brilliant and rational, let's say, young woman still has to wait six years before she can vote, you know, she can lecture us but she can’t vote.

Sandy: That's a really great example. And has me thinking about a whole lot of different things, but that at the end of the day, I'm convinced that the three reasons why you articulated that children have rights are in fact there. The question is, though, if we give children full human rights, what would the impacts be?

Rich: They'd be big; they would change things a lot. And I think, for me, it inarguably would be for the better. Let me just summarize them in two things, it would fundamentally change what human rights mean. And it would change what are the most important human rights.

And secondly, it would change democracy to give children vote would change the democracy, just like we've changed democracy every time we've expanded the franchise, when we've given the vote to women, when we give them the vote to ex slaves, when we’ve given the vote to 18 years old, and those those are big changes. When it comes to human rights, and the whole human rights regime, it's been assumed that the most important human rights are the political human rights and rights of persons: the right not to be tortured not to be trafficked. And the so-called socio-economic rights, right to food, education, health care, those are usually called second generation rights, which means they're not “we'll get to those at some point, but they're not as important.” If you begin with children's rights, if you begin by saying, children have the same rights as adults, the rights that matter most to children are those very things: food, shelter, health care, education, all those socio economic rights that have generally been put off to the side, they now become the most important rights. We can say all Americans well, except children, all Americans have this equal right to vote. But they're not equal economically. If you began with socio economic rights, not the political rights, and said, what we really need to do is make sure all children have everything they need to thrive, that would really change our whole attitude about why human rights are so important.

Secondly, I think it would fundamentally alter democracy. I don't really get into what age children should vote, other people made, the argument should be six when they can read. I'm not really concerned about the age, if you wanted to pin me down, I'd say probably nine or 10. Children need the power to vote to protect their rights, just like we do. Our government could tell us every day that we have rights, but if we can't vote to throw those people out of government or change the government, then we don't really have rights. Well, that's true for children. If they don't vote, they- they're not empowered enough. And, you know, I just talked a little bit about some of these activists, they are empowered by their rights and demanding their right to vote. I think it will come some countries have experimented with earlier voting or sort of advisory voting. And generally, I think that giving children full human rights would resuscitate democracy in a way that it really needs right now. There's been lots of talk about democracies failing and democracy being underground, even in this country. We're all thrilled to see that people in the Ukraine fighting for democracy and, and maybe it'll make us realize how important it is. But I think democracy needs a little resuscitation. And nothing does that better than having a whole new big group of people that we need to train and to educate about how to become good democratic citizens. For me, that's an exciting prospect, not a not a scary one.

Sandy: That's actually is very exciting. As a school psychologist, we talk a lot about student voice and choice and we work to make sure that's happening in our school systems or how can we make sure that we're engaging student voice and choice as an important part of the kind of the development of competency, autonomy and sense of agency, all those great things that we need in our generations. So there's some great lessons in there to be thinking about. Many of our listeners are teachers and school personnel, healthcare personnel and families. So I guess the thing I'd like to summarize on, or what is the main thing that you'd like them to know? What's the biggest takeaway?

Rich: I guess, for me, it would be, first of all, that recognizing children as fully human mean, has to mean that they—not just their parents—have rights to have a voice in any decision that affects them. This is what the CRC meant by talking about rights of participation. For instance, we're looking at one of the best examples of what the absence of that means. I don't know of any children who were consulted during the past two years about whether their schools should have been closed, or what the safety regulations should be. I mean, can you think of anything that affects children more than that? Then those decisions about whether they stay home, whether they go to school, whether they wear masks? I have never heard of any town or state that had any consultations with children, with students about that. We need to get used to the idea that children need to be in the room. At the very least when we’re making those kinds of decisions. It's not just their parents. The children are the ones with rights; parents are the ones with obligations. And generally, secondly, both for human rights as a whole and for democracy, beginning with children changes everything. It changes our outlook on both what democracy means and why it's so important, and what the most important rights are. The rights that take priority for children, which would be socio-economic rights, would change our ordering of the important human rights as well.

Sandy: If our listeners wanted to hear more, or learn more, do you have any suggestions?

Rich: A really great resource for teachers who are interested in maybe teaching a unit on human rights, which I should also point out all signatory nations, to the Universal Declaration of Human Rights, including the United States have agreed in Article One, that they will do this, they will educate people on human rights. There isn't much of it done. If you are interested in learning or teaching about human rights, there's a great organization called The Educational Institute for Human Rights. It’s out of Washington, DC. the website is www.eihr.org. It's a great resource. They do lots of good work, specifically with high schools and middle schools.

Sandy: Wow, that's a great resource. Thank you so much for sharing. There's so much information that that that makes me definitely want to jump on that website and take a look to see how I can advance the work that I'm doing. Thank you so much for joining us today. We look forward to hearing more and learning more.

Rich: Thank you very much. My real pleasure to be here.

Helene: Thanks for listening to our interview with Richard Hiskes. He’ll be speaking at the UConn Storrs Campus on April 6 at 4 pm. You can find out more information at the Human Rights Institute website at humanrights.uconn.edu. We’ll also add links to his work in the podcast description. And finally a reminder to our listeners that you can find information about the Collaboratory at our website, csch.uconn.edu. You can also follow us on social media @UConnCSCH. Thanks for listening.