

The American Revolution

Children's Rights and the American Revolution

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Arguably the most dramatic change of modernity, the one that defines what the American Revolution meant, has to do with children. The American Revolution built on two centuries of arguments for change in the power structure, change that pointedly affected the lives of children. Consider this: In the seventeenth century in England and America, children of 9 and 10 could marry, 14 year-olds could be on juries, and children as young as five could sign apprenticeship contracts, binding themselves to labor until they turned 21. White children could be “spirited away” from the streets of London or Bristol, and lured by “grand kidnappers” into working in the colonies until they turned 24. Sometimes not even the pretence of their consent was obtained—they could be dragged into attics and then on board ships by kidnappers paid to obtain bodies for the plantations in Barbados or Virginia, where laws there stated that those who arrived without contracts (and without paying their way) were bound laborers, sentenced to serve. Black children, similarly, were captured in Africa and sold into labor in the New World. Such kidnapping occurred in a system of government and power that had a King at its head and layers of people without many options underneath, with expectations of power and privilege for some, but with expectations of life of labor for others. Punishments, likewise, were harsh, such that a nine year old girl who stole a beaver hat in London in the 1690s would be hanged.

In England itself, kings ruled when they inherited the throne, sometimes as young as 1 or 9 years old, and one had a seat in the upper legislature, their House of Lords, when one inherited the title. Youths as young as twelve were elected to Parliament, with more than forty young men elected to Parliament under age 21 between 1660 and 1690. Just so, young men could be elected to the House of Burgesses (the legislature) in Virginia, and no age limits existed for when you could vote (though property requirements did). Young men had to serve in the armed forces (the militia) at age sixteen, and were allowed to sign up even younger. Young people then in some ways had more privileges, and in other ways less. Parents usually had less power, wealthier people, who inherited titles and money, had more. People could be born to rule and privilege, or born to servitude. While the family to which we are born still makes a difference, even today, it was far more dramatic then, in a world with little public education and few options. Mostly only the rich were educated (except in groups of religious zealots, like among the Puritans in England).

Challenges to such hierarchical norms emerged from a critique of the broader society and power structure that these norms embodied—from the challenge to birth

right and privilege that Thomas Paine embodied in *Common Sense*, his revolutionary pamphlet of 1776. People should not be born to privilege or servitude. They should have the ability to choose. But choice—as in the marriage of a girl of nine to the man her father chose, or the signature of a boy of five, binding himself to labor and learn from a blacksmith who was powerful in the town—was not always real and should not necessarily be binding.

A crucial part of overturning the older order, then, was the principle of meaningful consent. People should be bound by their actions, whether good or bad, only when they fully understood the consequences of them. With age comes understanding. So with age alone then, comes both power and responsibility in the new American republic, but also relief from hurt. No longer were children who arrived without papers accepted as indentured servants in the post-revolutionary nation. Laws were passed in many states that encouraged their education and provide money to support it; within 30 years, most new American states provided for some public education, both at the elementary level for all children, and at higher levels, including college, for the talented. Young children could no longer be executed for crimes such as arson or homicide. These changes can be considered gains for youth. However, young people also lost privileges after the American Revolution, changes that paved the way for others in the next centuries. Youths were barred from juries if not yet 21, and from voting and legislatures. (Some of these changes had occurred already, originating in the Glorious Revolution, which had occurred in England and its colonies in 1688, and which was fought over some of the same principles as the American Revolution). Sometimes these changes went too far. For example, children under fourteen could often not testify about abuses done to them, which meant that it became difficult to prosecute crimes against children: they were legally silenced. This was especially a problem as the changes happened unevenly. It was still legal for a girl of twelve to marry in 1789, for example, but not to testify. So a girl of twelve who was raped by her schoolmaster and forced into marriage was considered too young to testify about what had happened.

These changes did not emerge suddenly with the American Revolution but out of two centuries of struggles over principles and power that began with England's two revolutions during the seventeenth century. For example, laws requiring one to be 21 to hold a seat in the legislature began after the Glorious Revolution of 1688. Such laws also tried to prevent the practice of electing the son to legislature in the seat his father had held. Age limits were set even higher by the United States Constitution, which stated that one had to be 25 to hold a seat in the House of Representatives, 30 in the Senate, and 35 to be president. While such laws do not always prevent sons from holding the positions that their fathers had held (witness the two George Bushes who have been president in the recent past), they do still try to assure that holders of high office have the wisdom of experience. Changes were also not complete with the American Revolution. South Carolina, for example, had no public

education and no universal suffrage, even for white adult men, until after the Civil War.

The arguments about when one became an adult and could assume responsibility were fierce. Some argued that in order to vote or to make any choice, even over your own life, you had to understand fully the consequences of your actions. Until you could make those decisions, you should not be fully accountable for crimes, and parents (as custodians) should make decisions for you while you were young. Others argued that one can never fully understand such consequences, that choice is an illusion, and that we are all born to a place in society. They held that parents had authority over their children just as kings had over their subjects and that both should be absolute.

Retracing these debates opens a window into where our modern norms about juveniles came from. As John Locke wrote in 1689, in a book that had a profound influence on the Founding Fathers and our Declaration of Independence, and especially on the principle that “All men are created equal”: “Thus we are born free, as we are born rational; not that we have actually the exercise of either; age that brings one, brings with it the other too.”

Questions to Consider:

- 1) Think about things you are not allowed to do because of your age. Make a list. Now think about each issue, and try to imagine why that rule exists and how it was justified. Do those justifications still make sense? Why or why not?

- 2) What is the connection between education and laws that set age limits for political and personal competency? Why do you think public education, as we know it, began with the American Revolution? What is the purpose of education? Why does your society invest in educating you? What does it hope to teach you?

- 3) Why are parents given so much legal authority over their children? What is good and bad about the idea of custody, that a parent can make decisions for their child? When should someone else take responsibility? How long should such authority last? How do these issues from the past relate to modern debates about foster care?

- 4) Imagine yourself, just for a moment, as a stolen child in the seventeenth century, kidnapped from England and sent to the colonies and bound to labor until age 24. Escape is nearly impossible. Food is short and clothes are tattered. Your master can beat you if you do not obey and punish you if you try to run away, if you marry without his consent, or if you have an illegitimate child. Why was this allowed to happen? What does this tell you about their world? How is this different (or not) from slavery? Why can't it happen today (at least not usually in America). Are there parts of the world where it still does happen?

Further Readings:

Holly Brewer, *By Birth or Consent: Children, Law, and the Anglo-American Revolution in Authority* (Chapel Hill, University of North Carolina Press, 2005).

Robert H. Bremner, *Children and Youth in America: A Documentary History, Vol I* (Cambridge, MA: Harvard University Press, 1970).

Ordinary Courage: The Revolutionary War Adventures of Joseph Plumb Martin, ed. by James Kirby Martin (St. James, NY: Brandywine Press, 1993). Read especially the first two chapters.

John Demos, *A Little Commonwealth: Family Life in Plymouth Colony* (Oxford, UK, Oxford University Press, rpt. 1999).

For fun, try *Kidnapped*, by Robert Louis Stevenson. Although the boy in that story escapes, he was destined for America, and that fictional account was based on the many published accounts of kidnappings in the seventeenth and eighteenth centuries.

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http://www.nps.gov/revwar/unfinished_revolution/childrens_rights.htm

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