

HISTORICAL OVERVIEW OF THE CONCEPT OF CHILDREN'S RIGHTS

(Research Article)

DOI: <https://doi.org/10.33717/deuhfd.1182550>

Tahira GARABEYLİ*

Abstract

Children are often called “our future”. According to Article 1 of the Convention on the Rights of the Child, which was accepted by the United Nations General Assembly's decision dated 20 November 1989 and numbered 44|25 and opened for signature, ratification and accession, every human being up to the age of eighteen is considered a child. Children are valuable, individually unique, vulnerable and defenceless. Children can arouse sympathy and affection not only in their parents or guardians, but also in strangers. Today almost everything, that is related to children, to their health, psychology, happiness, in any extent is supposed to be a sensitive topic. But was childhood always appreciated in such a way throughout the history of humanity? What “a child” means today was different from the what it meant in antiquity or in the medieval times.

Furthermore, like a child depends on his/her parents or guardians, or at least on any adult beside him/her to survive, the concept of childhood is also closely connected to the concept of parenthood. It is the parents, that make a child, and it is the parenthood, that creates childhood. So, it is very significant to comprehend both concepts separately, to reveal relationship and mutuality between them, meanwhile having a historical and chronological view over the attitude towards children and childhood.

* The Academy of Public Administration under the President of the Republic of Azerbaijan, Head of the Department of Law, Human Resources and Documentation of the Seaside Boulevard Administration of the Republic of Azerbaijan, (tgarabeyli@gmail.com) ORCID: 0000-0003-1170-9106 (Geliş Tarihi: 15.02.2022-Kabul Tarihi: 07.09.2022) *Yazar, eserinin Derginize ait bilimsel etik ilkelere uygun olduğunu taahhüt eder.*

Keywords

Childhood, Parenthood, Behaviourism, Child Mortality, The Century of the Child

**ÇOCUK HAKLARININ TEORİK KAVRAMINA
TARİHİ BAKIŞ**

(Araştırma Makalesi)

Öz

Çocuklara genellikle “geleceğimiz” denir. Birleşmiş Milletler Genel Kurul’un 20 Kasım 1989 tarih ve 44/25 sayılı kararıyla kabul edilmiş ve imzaya, onaya ve katılmaya açılan Çocuk Haklarına Dair Sözleşmenin 1.maddesine göre, onsekiz yaşına kadar her insan çocuk sayılır. Çocuklar değerli, bireysel olarak benzersiz, hassas ve savunmasızdırlar. Onlar sadece anne-babalarında veya velilerinde değil, yabancılarda da sempati ve şefkat uyandırabilir. Bugün çocuklarla, sağlıklarıyla, psikolojileriyle, mutluluklarıyla ilgili hemen hemen her şey, herhangi bir ölçüde hassas bir konu olarak kabul ediliyor. Ama çocukluk, insanlık tarihi boyunca hep böyle kıymet görmüş müydü? Bugün “çocuk”un ne anlama geldiği, antik çağda veya orta çağda sahip olduğu anlamdan çok daha farklıydı.

Bir çocuk hayatta kalabilmek için anne-babasına ya da velisine ya da yanındaki herhangi bir yetişkine bağlıdır. İnsan evladı hayata ona bakacak birine muhtac olarak geliyor. Çocuk anne-babasına bağlı olduğu gibi, çocukluk kavramı da ebeveynlik kavramıyla yakından ilişkilidir. Bir çocuğu yapan ebeveynlerdir ve çocukluğu yaratan ebeveynliktir. Dolayısıyla her iki kavramı ayrı ayrı kavramak, aralarındaki ilişki ve karşılıklılığı ortaya koymak, aynı zamanda çocuklara ve çocukluğa yönelik tutuma tarihsel ve kronolojik bir bakış açısı getirmek çok önemlidir.

Anahtar Kelimeler

Çocukluk, Ebeveynlik, Davranışçılık, Çocuk Ölümü, Çocuk Yüzyılı

INTRODUCTION

Children's rights can be defined as the rights protecting children from harm and abuse; giving them a chance to grow up in an emotionally appropriate way; providing basic needs such as health, shelter and education.¹ As Ibrahim Kaboglu states, every individual in the society has the right to education and the right to education comes first among social rights.²

The awareness that children have different physical, physiological, behavioral and psychological characteristics from adults and that they constantly grow and develop and the idea that the care of children is a social problem and that everyone should assume this responsibility with scientific approaches has been shaped by the Geneva Declaration of the Rights of the Child.³ Later, in the "universal declaration of human rights" published by the United Nations in 1948, it was stated that there were rights regarding children, and the "Declaration of the Rights of the Child" with 10 articles was published on 20 November 1959 by the United Nations.⁴

Due to the fact that the declarations published in 1924 and 1948 did not have the quality of an international law, in order to eliminate the bad living conditions of children, the Convention on the Rights of the Child has been prepared by the United Nations General Assembly on November 20, 1989, consisting of 54 articles covering the civil and social rights of children. This convention was signed by 187 countries until 1996.⁵ Türkiye signed the Convention on 14 September 1990 and ratified it in January 1995.⁶

Article 1 of the Convention on the Rights of the Child defines a child as a human being under the age of eighteen years.⁷

¹ **Nelken**, D.: *Children's Right's and Traditional Values*, Aldershot: Ashgate, 1998, p. 125.

² **Kaboğlu**, İbrahim Özden: *Anayasa Hukuku Dersleri*, Legal Yayıncılık, İstanbul 2019, p. 107.

³ **Egemen**, A.: *Türkiye Milli Pediatri Derneği Çocuk Sağlığı ve Hastalıkları Kitabı*, Güneş Tıp Kitabevi, İstanbul 2009, p. 179.

⁴ **Ballar**, S.: *Çocuk Hakları*, Beta Basım Yayım Dağıtım AŞ, İstanbul 1997, p. 54.

⁵ **Yurdakök**, K.: editor., "Çocuk Hakları Sözleşmesi", *Sosyal Pediatr*, Meteksan, Ankara 1998, p. 141.

⁶ **Dağ**, Hüseyin/**Doğan**, Murat/**Sazak**, Soner/**Kaçar**, Alper/**Yılmaz**, Bilal/**Doğan**, Ahmet/**Arıca**, Vefik: "Çocuk Haklarına Güncel Yaklaşım", *T.C. İstanbul Okmeydanı Eğitim ve Araştırma Hastanesi, Çocuk Sağlığı ve Hastalıkları Kliniği, Cukurova Medical Journal*, 2015 40(1), p. 3.

⁷ Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into

The Convention defines rights and liberties for children, determines responsibilities for parents, recognizes inalienability and untouchability of the children's rights. Today children have predominant rights and best interests, that must be respected and taken into account in every step, regarding the child. In the convention, which also prohibits all kinds of discrimination against children, all necessary protection is provided for children to be treated with human dignity. Necessary provisions have been included in the contract for the protection of children in terms of their right to social security.⁸

Until today, or precisely saying, until the acceptance of the Convention, attitude towards children, prejudices and misunderstanding about childhood, progress in minds and in legislations have come a long way of hesitation. It is today that we can speak about children's rights and parents' obligations so open-heartedly. What about the children, who lived in the Antic Period or in the Middle Ages? Did they have the rights and affection of their parents, as of today's children? What made the historical attitude towards children radically change? Why does childhood last till the age of 18 years? What's the beginning of schooling, what is the legal basis of compulsory education at schools, which is a very ordinary principle today? How are childhood and economy related to each other and what was the manufactories' role in children's lives in early capitalism?

The article tries to find answers, meanwhile keeping the chronological direction, to all these and other related questions. First of all, "childhood" and "a child" are comprehensively researched as a concept from psychological and legal point of view. Childhood is given in a close relationship with parenthood, as inseparable concepts. In the article forms of parenthood, dimensions, divisions and borders of childhood are studied with scientific aspects and controversial opinions of scholars.

Childhood is a phenomenon, which was understood in different ways in different times. They were someone between the Earth and the Heaven in the Antiquity; they were fully dependant on patria's (father's) will in the ancient

force 2 September 1990, in accordance with Article 49. Turkey signed the Convention on 14 September 1990 and ratified it with reservation on 9 December 1994. Approval Law No. 4058 was published in the Official Gazette (RG), No. 22138, dated from 11 December 1994. The Convention entered into force for Türkiye on 4 May 1995.

⁸ **Akılhoğlu**, Tekin: Birleşmiş Milletler Çocuk Hakları Sözleşmesi Üzerine Gözlemler, Çocuk Haklarına Dair Sözleşme, AÜ.SBF. İnsan Hakları Merkezi Yayınları No:13, Andlaşmalar Dizisi No:1, Ankara 1995, p. 9.

Rome; they were labour force and heirs of the land in the Middle Ages; they were an important part of family economy and had a great share in the work of factories in the end of Middle Ages; they were sweet-hearts of their parents and great consumers of toy and cartoon market in the 20th century; they have turned from the “slaves” to the “masters” of their parents. What did happen? How did the humanity make such radical changes in attitude towards the children? And was it right? Who are the children today?

The definition of “child” and “childhood” is tried to be determined based on different criteria in terms of medicine, history, psychology, sociology and legal sciences. However, there are no criteria that define the concept of child precisely, and this concept differs according to time, society and cultures.⁹

There are two important issues in the context of children's rights. One of them is that families and schools have interests and rights on children, and the other is that they are effective in transforming these rights into action.¹⁰ In this context, the functionality of children's rights also depends on the implementation of the legal rules that regulate the place of the child, who is an important part of the society, in the family and society. At the same time, taking measures related to the physical, mental, emotional, social and moral development of children is closely related to children's rights. The fact that children have the same rights as adults is guaranteed by the United Nations Convention on the Rights of the Child. The Convention has principles on the prevention of discrimination, the best interests of the child, the right to life and development, and taking into account the views of the child.¹¹

I. LEGAL AND PSYCHOLOGICAL CONCEPT OF PARENTHOOD AND CHILDHOOD

A. Concept of Parenthood

It is rare for a child to survive and grow up without the support and control of adults. For that reason, it is very important to approach the concept of childhood from the prism of parenthood for entire comprehending

⁹ **Tanrıbilir**, Feriha Bilge: *Çocuk Haklarının Uluslararası Korunması ve Koruma Mekanizmaları*, Yetkin, Ankara 2011, p. 50.

¹⁰ **Akyüz**, Emine: *Çocuk Hukuku Çocukların Hakları ve Korunması*, 2. Baskı, Pegem Akademi, Ankara 2012, p. 5.

¹¹ **Gültekin**, Mehmet/**Bayır**, Ömür Gürdoğan/**Balbağ**, Nur Leman: “Haklarımız Var: Çocukların Gözünden Çocuk Hakları”, *Adıyaman Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, Sayı: 24, Aralık 2016, p. 973.

the substance of childhood and the children's rights. Do the children's rights or childhood itself exist beyond the parent (or the person replacing the parent, custodian, guardian) or parenthood? We know about the inseparable natural rights of a person (as well as of a child) from his/her birth, but we also should not pass over in silence the fact that a child depends first of all on its parent to survive. As Claire Cassidy states in the book "Thinking children" parents have first major influential force for the behaviour of their children; they are the first "practice" of the moral code of the child. Family and a school are the main institutions, modelling the behaviour of the children and directing them to the world of adult personality.¹² From this point of view, before researching the concept of childhood, it is important to comprehend the legal and psychological essence of parenthood, which is the beginning and supporting point of childhood.

Thomas H. Murray puts forward three concepts of parenthood:

- Genetic parenthood;
- Intentional parenthood;
- Parenthood as rearing relationship.¹³

1. Genetic Parenthood

Biology, simply put, blood has been important as the fundamental source of ties between a parent and a child for a long time.¹⁴ We believe that what we imply by saying "a genetic parent" is clear, however going further we encounter with complexions. Half of the DNA of the child is composed of the genetic parent. And we should not forget about the mitochondrial DNA, furthermore, Y chromosome of the father is less than X chromosome of each parent, thus, in case the newborn is a boy, less than a half of his entire DNA would be obtained from his father. And what about the biological grandparents? They also make up a quarter of the child's DNA. Would they be considered as half-genetic parents of the child in this case? We will say no. Genetic parenthood is transferring genetic ties, it doesn't cover the genes, obtained from ancestors. By the way, new technologies

¹² Cassidy, Claire: *Thinking Children*, YHT Ltd. London, 2007, p. 34.

¹³ Murray, H. Thomas: "Three meanings of parenthood. Genetic Ties and the Family", *The impact of paternity testing on parents and children* (The Johns Hopkins University Press, Baltimore, 2005). Edited by Mark A. Rothstein, Thomas H. Murray, Gregory E. Kaebnick, Mary Anderlik Majumder, p. 18-21.

¹⁴ Grossberg, Michael: *Governing the Hearth: Law and Family in Nineteenth Central America*. Chapel Hill: University of North Carolina Press, 1985, p. 157-159.

make the situation more complicated, for example, ooplasmic transplantation, surrogate mothers and fathers, artificial insemination, reproductive cloning and etc.¹⁵

Skolnick notes that: "Some commentators consider in fact that, the best interests of the child may be secured if they grow up by their biological parents; parents not only enjoy the rights towards their children, "natural ties of love" oblige the parent take such a care about their children, that no "strange" man would be able to show".¹⁶

This biological commentary of the legal system in Western and Eastern societies expresses the widespread assumptions on blood and genetic ties. These assumptions are accepted so plausibly, that it brings to false and inappropriate results in the moment of decision or while discussing these issues."¹⁷

Another version of such an argument is the priority of resemblance of the child to his/her parent. This is somehow connected to the stigma branded on adoption and non-biological relationships.¹⁸

In general, it is supposed that this priority stems from the narcissistic character of the parents' investment of the parent in his/her child; he/she craves to see his/her own reflection on the child's eyes, face and behaviours.¹⁹

2. Parenthood as Intention

Some intentions can result in the birth of a child. For instance, an adult can bring a child to this world without an intention to have a child or to take care of him/her. Here the intention is not related to the raising of the child but is of a biological character. But there is also a sincere intention to bring a child to the world without a direct biological contact, with a wholehearted desire to raise him/her. For example, the father, who intends to raise a child

¹⁵ **Murray**, p. 20.

¹⁶ **Skolnick**, A.: "Solomon's children: The new biologism, psychological parenthood, attachment theory, and the best interest standard", In *All Our Families: New Policies for a new century: A Report of the Berkeley Family Forum*, ed. S.D. Sugarman, Oxford: Oxford University Press., 1999, p. 242.

¹⁷ **Skolnick**, p. 242.

¹⁸ **Bartholet**, Elizabeth: *Family Bonds: Adoption, Infertility and the New World of Child Production*, Beacon Press Boston, 1999, p. 22.

¹⁹ **Murray**, p. 26.

from artificial insemination²⁰ with a donor is a person who has no biological bond with that child.²¹

Parenthood with an intention is the main component of adoption. It is built on the intention to create a relationship between a parent and a child without biological ties. Some children come to this world just because their parents have not taken necessary preventive measures. In such cases, parents can be glad or upset, or they can be in hesitation.

Thus, “some children come to this world not from the intention and desire to have a child, but as an undesirable result of mutual relationship.”²²

Parents with intention can become a perfect example of parenthood, if happy and healthy children are born, as a result. But it is very possible that they can become negligent, even very bad parents. So, it is not an absolute truth that the parents with an intention to give birth to a child, will be more responsible and better than those who bring children to the world as a result of inattentiveness.²³

Here we must also distinguish between intentions. First, to bring a child to the world (with or without biological ties – it does not matter), second, to make the child the part of his/her life – to raise the child. The parents, that carry only the first intention do not deserve full moral respect or legal protection. The “master-slave relationship” (as the parent-child relationship) is built on the intention of the master to use the slave “just as a means”. As a result, the master does not accept the slave as a personality, the slave is just an object, that owns definite skills and features.”²⁴ If we look into the reasons of parents have a child, we can see that Mc Murray’s examples are true to a certain extent.

For example, a child is desired for the completeness of the family, or for the expression of love between the partners, or for saving the family. Thus, sometimes the newborn child is not the purpose itself, but the means to achieve the goal. Accordingly, we can claim that children are evaluated for the person, they will become in the future, and it hinders them to be

²⁰ **Artificial insemination** - the process of making a woman or female animal pregnant by an artificial method of putting male sperm inside her, and not by sexual activity. Oxford Advanced American Dictionary, retrieved from https://www.oxfordlearnersdictionaries.com/definition/american_english/artificial-insemination

²¹ **Murray**, p. 26.

²² **Murray**, p. 27.

²³ **Murray**, p. 29.

²⁴ **MacMurray**, John: *Persons in Relation*, Faber and Faber Limited London, 1970, p. 102.

evaluated for the self they are today. To tell the truth, it is possible to think from the outside that the parent behaves the child as a personality: the parent gives the child food and clothes, the child is protected, gains language-communication skills, social abilities and education. But all of these are made just for his/her future adult life – for the person, he/she will become.²⁵

3. Parenthood as Rearing Relationship

Humans are born to this world in a whole dependency on the persons, who will take care of them. The reaction of most adults to the dependant state of a child is natural and unforced. Of course, it does not mean that it is easy to look after the child or that caring parents never know tiredness, exhaustion, disappointment or even resentment. What is amazing, in the face of all this exhaustion and hardness, the parents can still love and care for their children. If an adult, entering our life would make such demands as an infant, it would hurt us and end our energy and concern. But the children create only love and mercy in their dependent state.²⁶

This is an unquestionable and important part of the evolutionary legacy. Universality and strength of parents' affection is not a moral consequence of recent times. Development of humanity, important cultural conceptions at least since Aristotle has been related to the sacredness of rearing and caring parenthood.

Murray puts forward very skilfully the substance of each conception of parenthood: "Think about two men. The first one conceived a child with a woman in a short romance and by mutual agreement had no relation to either the child or his mother during the entire life of the child. The second man raised an adopted child with his wife from infancy whom they affected. What would be if these children died tragically? Whose lives are ruined? Or slightly change the story so that the second man marries the mother of the first child and raises the child as his own. In the event of the death of a child, it is rearing parents who have suffered the loss that has changed their lives."²⁷

Moreover, Murray proposes three models of the parent-child relationship: the child as a property, the parent as a steward and parent-child mutuality.

²⁵ Cassidy, Claire: *Thinking Children*, YHT Ltd. London, 2007, p. 53.

²⁶ Murray, p. 27.

²⁷ Murray, p. 28.

a. The Child as A Property

A simple model of parental authority means the dominant position of the parent over the child, who has no rights.

One of the main principles of Roman law is *patria potestas*²⁸, which means that, as the head of the family (*paterfamilias*), Father, had the absolute power over his son's life and death, and only by voluntary emancipation or after his father's death, the son could be released from this dependant situation. This model may be modified in such a way that the child, after becoming an adult obtains the rights of adults and get free of their dependence.

Patria potestas contradicts the philosophy of modern law. The rights of the parent, to be more precise, of the father over his family were result of privileges of the patriarch in the ancient Rome. To be only the genetic parent is near to the idea of "the child as a property". Thomas Hobbs considered the parents to be the full and absolute authority over their children. But John Locke's liberal ideas were suggesting the opinion, which is accepted as "reasonable parenthood" in modern theory.²⁹

b. Parent as A Steward

This model is more palatable than the previous one; it defines the limits of behavior of the parent with the child, but leaves one question open: for whom brings the steward the child up: for the child himself/herself, for the state or for God? However, the most important drawback of this model is its inability to cover entirely what stands in the centre of the relationship between the parent and the child. A satisfactory steward should be disinterested – that is, he should pursue the master's interests, not his own. The welfare of the steward is of no interest to anyone. That is why this model is incomplete; the welfare of the child is not isolated from the welfare of the parent and this deep emotional attachment need to be flourished mutually.

²⁸ **Maine**, Henry Sumner: *Ancient Law: Its Connection with Early History of Society and Its Relation to Modern Ideas*, London, John Murray, Albemarle Street, 1901, p. 247.

²⁹ **Locke**, John: *An Essay Concerning Human Understanding* (1689), New York, Published by Valentine Seaman, 1824 (An Essay). See also: **Locke J.** *Some Thoughts Concerning Education* (1693) / J.Locke, - London: Cambridge University Press, 1880, p. 325.

c. Parent-Child Mutuality

If my main goal is the welfare of my child, I will benefit from it in two ways: his/her development makes me happy, as a consequence, I become more, compassionate, mature and discerning man. It is possible only if my major motivation is helping my child; yet I understand that by doing so, I promote my prosperity, too. This conception, borrowed from Erikson is called "mutuality".³⁰

Let's see how the mutuality relates to the three concepts of parenthood. The relation between genetic parenthood and mutuality of parent-child is incidental. To the extent that a genetic link contributes to the strength of mutuality, it deserves to be appreciated. The same can be said about the relationship between parenthood as intention and parent-child mutuality. Like genetic parenthood, it is a good thing, to the extent that intention enhances the mutuality. While curing infertility, where the main element is parenthood as intention, future parents supposedly crave for having children since they comprehend in some way that their own development will be advanced by having and raising a child. We can also call it "Rearing parenthood".³¹

The parent-child mutuality is the model, that best covers the concept of moral parenthood, where mutual development is the most relevant ethical standard. "Rearing parenthood" is the concept of parenthood, that must be highly appreciated in our traditions, and passionately protected by laws.

Though we accept that children are social beings, it is a fact that their lives primarily are defined by adults. Almost all political, educational, legal and administrative processes have a serious impact on children, but they have either scanty or no influence at all over all these processes.³²

Children, born of or outside marriage are financially and psychologically dependent on their parents. In the case of *Fabris v France* (2013) the Court highlighted that this is a significant issue which has largely been addressed by European countries which have established that a child's status for inheritance purposes is independent of the marital status of their

³⁰ **Erikson**, H. Erik: "Human strength and the cycle of generations", In *Insight and Responsibility*, New York: Norton 1964, p. 118.

³¹ **Murray**, p. 32.

³² **Prout**, Allan/**Allison**, James: "A new paradigm for the sociology of childhood? Provenance, promise and problems". In A. James and A. Prout (eds), "Constructing and reconstructing childhood: contemporary issues in the sociological study of childhood. London, Falmer Press, 1997.

parents. The anomalies created by legislative amendments should therefore be addressed in order to reflect a state's recognition of the importance of equal status for inheritance purposes.³³

At the end of the 18th and the beginning of the 19th centuries, as the result of radical changes in households in the West the modern family appeared. In the center of all these changes stood the separation of the family, that was ruled by patriarchal power and was opening to more wide society from the colonial experience. Instead of it, such a concept of family occurred that the family became a refuge from the society, where individuals were united by their own choices and emotional bonds.

The main elements of the Turkish family, which is one of the institutions that have undergone the least change over time, during the establishment period of the Ottomans, are weddings, births, children, parents. According to the Turkish-Islamic understanding, the main purpose of the family institution is the continuation of the human generation. Therefore, having and raising children is the most basic duty of the family. Most of the plans and calculations in the family are based on the child. Birth would cause joy in the early Turkish society. On the occasion of the birth, the child was wearing jewelry and the father was giving banquets.³⁴

As family historians explain comprehensively, new family values and practices started to behave the children as individuals, having special needs, and to accept childhood as a special stage of life. These values, accordingly, increased the significance of mother-child ties, made the nourishment of the child the mother's main responsibility and the family became the place for the future workers to grow up. Significant changes for this progress occurred in the concepts of "relevant parent" and "parental responsibility" and began to transcend the existing essence of these concepts.³⁵

The changes, occurred with the creation of modern family were so significant that a new definition for the "relevant" parent should be written. This necessity emerged, especially in connection with the issue of custody over the child. In the corporative household, the patriarch had custody over his offspring in exchange of their security and education. But in the new model it became impossible, especially mothers began to challenge the

³³ Fabris v France [2013] ECHR, Application no.16574/08, February 7, 2013.

³⁴ Aksoy, İlhan: "Türklerde Aile ve Çocuk Eğitimi", Uluslararası Sosyal Araştırmalar Dergisi, Cilt: 4, Sayı: 16, p. 14.

³⁵ Mintz, Steven/Kellogg, Susan: Domestic Revolutions: A Social History of American Family Life, Free Press, New York 1988, p. 35-36.

custody of fathers over the children. Primarily, when the marriage was dissolved and spouses were using their new legal right to divorce, the issue of the child's custody, i.e. with whom he/she would stay began to become a serious topic of arguments between the parties. In the 19th century, such disputes between the couples revealed contradicting opinions about the "relevant parent". The most important result of it was the emergence of the concept of "social parenthood" – which meant that the main responsibility and ability of the relevant parent is related to the nourishment of the child. Emerging of this concept was a very decisive moment, thus, it became the reason for placing all legal and social debates on child custody in one framework. Especially, association with social parenthood resulted in continually expanding concept of relevant parenthood, and it meant that the character of child care became much more significant and it was the fundamental factor in legal evaluation of with whom he/she will stay. Later, social parenthood would become the main component of legal regulations and practices, occurred in the process of disputes on the use of DNA tests in child custody cases. One challenge to father's power in England was the statute of 1839 that gave married women to claim for access to their children under the age of seven in cases where the husband was guilty of misconduct, and in extreme circumstances, to petition for custody.³⁶

Social parenthood occurred at the beginning of the 19th century when politicians and lawyers were obliged to form a new attitude to custody issues as the result of family changes.³⁷ Efforts of politicians and lawyers to find new ways to create a balance between the rights of parents and the needs of children led to the occurrence of a phrase, which would become very popular in court cases in the 21st century: 'for the child's best interest'. Though the exact origin of this phrase is unknown, judges and politicians created this phrase for expressing the destruction of the traditional power of *parens patriae* and the new invention on the separate interests of the children. In 1936, the judge of the Supreme Court of the state of Georgia in the USA stated in the case of "Mitchell's vs. Mitchell child custody": "All legal liberties, even personal security and liberty rights may be lost as the result of inappropriate behaviour and for that reason, father's right to be his child's custodian must obey the child's real interests and security. And the obligation of the State is to guard the rights of all citizens, regardless of their

³⁶ The Custody of Infants Act (Talfourd's Act) 1839.

³⁷ **Cunnigham**, Hugh: Children and Childhood in Western Society since 1500. Longman, London and New York 1995, (Childhood), p. 122.

ages.” This concept expresses the possibility of determination of a child’s needs by parents, or by judges and other authorised people if parents are absent. It sanctioned the discretionary possibilities in defining a child’s interests, who became dependant and unruly as the results of family conflicts. It especially gave to judges wide discretions about defining the welfare of the child and relevance of parents and turned the cases of child custody into stories of “good or bad fathers, mothers and guardians”.³⁸

The main result of these new interests and balances in law was the institutionalization of the mother’s dominant role in custody. Throughout the 19th century, judges created such new rules in gender roles, that mothers, destroying their own families were able to claim custody for their children. Mothers and their lawyers could claim with success that the basis of care for the child is connected to his/her nutrition and women own this skill by nature.

Researcher-author James Schouler explains this new consensus: “In custody cases in the process of divorce, the child’s physical, moral and spiritual welfare are the only real guide. Mother’s love towards her child, which is not dependant on the environment and conditions is the fact, proved historically. While it is possible to trust her faithfulness without hesitation, it should be noted with sadness that the situation with a father and a child is different and the force of law is needed for regulation of this relationship with humanism and kindness.”³⁹ Opinions, strengthening the concept of “relevant parent” resulted in the privilege of mothers in child custody cases.⁴⁰

The emergence of legal adoption became a dramatic example for radical potentials of new opinions on relevant parents. It made the family’s “natural” (blood) ties less important and replaced them with “artificial” (legal) bonds. Nevertheless, adoption continues to be the second-degree type of family formation. As the counter-argument against the wide expansion of adoption was the factor that the only legitimate basis of kinship was blood.

³⁸ **Grossberg**, Michael: A Historical Perspective on DNA Testing in Child Custody Cases. Genetic Ties and the Family. The impact of paternity testing on parents and children, Mark A. Rothstein ed. Thomas H. Murray, Gregory E. Kaebnik, Mary Anderlik Majumder, the Johns Hopkins University, Press, Baltimore, 2005, (DNA Testing), p. 101.

³⁹ **Schouler**, James: A Treatise on the Law of Domestic Relations, 6th ed, 2:2034-35, Little Brown, Boston 1906, p. 172.

⁴⁰ **Grossberg**, Michael: Governing the Hearth: Law and Family in Nineteenth Central America. Chapel Hill: University of North Carolina Press, 1985, p. 57.

Indefinite status of adoption was just an effort to build a family, similar to the family, created by blood ties. Beginning from 1920s in America, states began to “stamp” the notes on adoption. Original birth certificates began to be hidden from public and be replaced with birth certificates, where adoptive parents were given as real parents. Social workers, controlling the process of adoption began to apply the “adaptation” practice: adoptees should be similar to a definite extent, to their adoptive parents for racial, religious and physical features. The purpose was to create “real family” out of “adoptive family”⁴¹ as possible as it can be.⁴²

4. Father's Responsibility

As the transformation of the legal concept of parenthood demanded, the decrease of fathers' role became a central issue for new family model.

As in the East, a father was the major parent and was playing an significant role in his children's lives in the West, too. But the modern family, on the contrary, destroyed the power of the father, first in the middle class, then in families from other classes with its precisely-defined gender roles and separation from wide society. In connection with the occurrence of market capitalisation, modern family faced the separation of the workplace from the house, thus, the application of technologies in agriculture increased, agriculture began to become dependent on the market and its percentage in the economy started to decrease in favour of workshops, factories and other professions. These economic changes keep men aloof from houses and reduced fathers' responsibilities, increasing the role of mothers in children's upbringing. Though men were continuing their positions as the head of the family, the combination of economical changes with the ideas of “relevant” parents turned the role of men in child custody cases into a very problematic issue. As the historian Robert Griswold states, “to the end of the 19th century, fathers began to fall away from their homes.”⁴³

Custody law resulted in a decline in the father's power and a growth of his economic responsibility. When families had been destroyed as the result

⁴¹ **Adoptive family** - means an approved person or persons who have a child placed in their home and are being supervised prior to finalizing the adoption; or who have a child in their home who is legally adopted and entitled to the same benefits as a child born into the family, retrieved from <https://www.lawinsider.com/dictionary/adoptive-family>

⁴² **O'Donovan**, Katherine: “A right to know one's parentage”, *International Journal of Law and the Family* 2:31-33, p. 34.

⁴³ **Griswold**, Roger: *Fatherhood in America: A History*. New York: Basic Books, 1993, p. 196.

of family conflicts, patronage over children were traditionally given to fathers. In the consequence of a new attitude towards motherhood and children, lawyers were able to claim that fathers' custody right was probable and if staying with the mother was for the best interest of the child, this right may not be satisfied. Institutionalization of increasing custody rights of mothers made forget about fathers' supposed custody rights. In return, judges came to such a conclusion that decisions on child custody should be based on the best interest of the child – this standard was highlighting social parenthood and thus, the mother's care.⁴⁴

Just as child custody law had faced radical changes at the beginning of the 19th century, the legal concept of relevant parenthood expanded in the 2nd half of the 20th century. This expansion emerged as the result of denying the main theories and policies of the previous century. In the following period of major changes in gender roles and opinions, motherhood, which had been the central principle of custody rules, was exposed to attacks as the ideal and as the policy. In connection with rising divorce cases, traditional roles of women began to be questioned and men's exposure to sexual discrimination in custody cases became actual. As the result, several states started to replace mother's privilege with the standard of "the best interests", which was gender-independent.⁴⁵

Such an attitude resulted in keeping the power balance between fathers and mothers. Though physical custody continued to be given predominantly to mothers, new rules created more conditions for fathers to satisfy their custody rights. As the consequence, different types of custody appeared – joint custody, divided custody and shared custody. These issues were just unbelievable in previous family law regimes.⁴⁶

The situation with stepfathers was also of a problematic legal status and the institution of step parenthood was increasing with the growth of quantities of divorces, second and more marriages and even second and more divorces. They also had important care obligations towards the child, though had no parenthood rights. Lawyer-researcher Wendy Mahoney states, "The main purpose of most families is to protect the individual rights of the family members, especially children, and to guard the unity of family.

⁴⁴ Skolnick, p. 247-248.

⁴⁵ Skolnick, p. 249.

⁴⁶ Mason, Mary Ann: From Father's Property to Children's Rights: The History of Child Custody in the United States. Chap.2. New York: Columbia University Press, 1994, p. 212.

Exaggeration of the traditional family model has hindered many individuals, living in different family situations from getting legal recognition and protection.”⁴⁷

B. The Concept of Childhood

Childhood may be comprehended in two ways; in a wide meaning, childhood is an expression, covering the period from the birth of the till his/her adulthood. This period may include sub-periods, coming forth from different cultures, such as infancy, adolescence, early youth and etc. In a narrow meaning, childhood captures the interval from infancy till the period just before early adolescence; in accordance with this meaning, a child is an individual, being in the period between feeble infancy and early adolescence.⁴⁸

According to the Dictionary of Educational Terms of the Turkish Language Institution, child means “a person in the developmental period between infancy and adolescence”.⁴⁹

There are three aspects of childhood conceptions: boundaries of childhood, dimensions of childhood and divisions of childhood. Its boundary is the moment when it is supposed to come to an end. However, there is another question, too: when it begins. According to the second aspect, childhood conceptions may differ in their dimensions. For example, according to Locke's opinion, childhood may be understood from different points of view.⁵⁰ It means that there are a few important points for determining differences between adults and children. For example, from the juridical and moral point of view, children may be supposed incapable to carry responsibility for their deeds, in virtue of their age; from the c or metaphysical perspective, children lack in adult reasoning and knowledge, in virtue of their immaturity; and from a political viewpoint, children are judged incapable to contribute the society or participate in its governing.⁵¹

The third aspect in which childhood conceptions differ is its divisions. The period from the human's very early ages until his/her adult life may be

⁴⁷ **Grossberg**, DNA Testing, p. 118.

⁴⁸ **Ariès**, Philippe: Centuries of Childhood: A Social History of the Family, Jonathan Cape, London 1962, p. 112.

⁴⁹ **Oğuzkan**, Ferhan: Eğitim Terimleri Sözlüğü: Türk Dil Kurumu Yayınları, 1974, <http://tdkterim.gov.tr/bts/>

⁵⁰ **Locke**, J.: Of the Conduct of the Understanding (1697)/J. Locke, - New York: Maynard Merrill and Co, 1901.

⁵¹ **Archard**, David: Children Rights and Childhood. 2.edition, New York 2004, p. 35.

divided into different periods, and the category of “childhood” may differ in relation to it. Almost in all cultures, early years of a child is supposed as infancy and it is the child’s most vulnerable and dependant-on-parents period. In civilized cultures, the importance of these several early years is recognised and for Ariès infancy, on the modern conception, extends from birth till about the age of 7.⁵² It is worth noting, that during Justinian’s reign, three periods of childhood was specified in Roman law: *infantia* – when a child was speechless; *tutela impuberes* – just before puberty, a child was in need of a guardian; and *cura minoris* – after puberty, but not adult enough and in need of a custodian.⁵³

Although the child has been in the interest of the societies since ancient times, it is observed that the social and cultural developments of the societies, the organization and the conditions of dominance in the society create differences in the scope and form of the interest to the child in the historical development.⁵⁴

In Turkish legal system, the concept of “child” has not been used consistently and a clear definition of this “concept” has not been made. The use of the term “young” in some places instead of the term “child” in legal regulations is due to the fact that these concepts are not created by the legal order, but are words transferred from everyday speech. In public law, the legislator often uses the term “child”, “minor” and sometimes “young” to describe “underage”. However, it is impossible for us to find coherent definitions of who is “child”, who is “minor” and who is “young”, which can be applied across all public law.⁵⁵

II. EMERGENCE OF CHILDREN’S RIGHTS AND ITS HISTORICAL DEVELOPMENT IN THE LEGAL CONTEXT

As noted, parenthood and childhood are concepts, related tightly to each other. Though children are not brought up only by parents, and though parents are not the only guarantors of children’s rights, historical and legal concepts of childhood developed primarily on the background of parents’ attitudes towards their children.

⁵² Ariès, p. 118-120.

⁵³ Archard, p. 26.

⁵⁴ Akyüz, p. 18.

⁵⁵ Gören, Zafer: “Çocuğun Temel Hakları”, Anayasa Yargısı Dergisi, Cilt: 15, 1998, p. 117, 118.

By the end of the 1970s, most people accepted that the history of childhood was a history of development, and that understanding of the nature of childhood had improved over time. In "The Civilizing Process", Norbert Elias argued that "the distance in behavior and in whole psychological structure between adults and children increases. "The civilizing process' included the control of instincts, which hardly happened in the Middle Ages, when consequently, 'the distance between children and adults, measured by that of today was negligible'.⁵⁶

In the 1500s-1800s lots of advice books described the way of behaviour for adults, marking the distance between adult and child. An advice book in 1714 in France encouraged people to "Take good care not to blow your nose with your fingers or on your sleeve like children; use your handkerchief and do not look into it afterwards". Naturally, children were also motivated to control their instincts. Another advice book in France 1774 showed how "Children like to touch clothes and other things that please them with their hands. It must be controlled, and they must be taught to touch all they see only with their eyes."⁵⁷

Philippe Ariès put forward hypotheses about the history of childhood in his book "Centuries of Childhood" (1960), and this was the starting point for all subsequent researches. He was trying to comprehend the peculiarity of today by contrasting and comparing it with the past and claimed that there had not been "the concept of childhood" until the end of the 17th century.⁵⁸ Ariès concludes clearly that 'the idea of childhood did not exist in medieval society; however, it should not be supposed that children were fully neglected, despised or abandoned. The idea of childhood must not be confused with love for children: it corresponds to comprehension of the special nature of childhood, that nature which differs the child from the adult, even the young adult. It was this awareness, that lacked in medieval society.⁵⁹

A. Ancient Period

As the result of rebirth of inclination to the antique world during the Renaissance it became more important to research thought and practice in

⁵⁶ **Elias**, Norbert: *The History of Manners: The Civilizing Process*, Vol.1, 1939; New York, 1978, pp. xiii, 141.

⁵⁷ **Elias**, p. 203.

⁵⁸ **Ariès**, p. 395, 397.

⁵⁹ **Ariès**, p. 395, 397.

ancient Greece and Rome. Primarily, an assessment should be made on the cases of infanticide, abandonment and sale of children. Several researchers think these as the main points of attitude towards children in the ancient world, and a legacy for later centuries. Opinions about children, recommendations on the education and child-rearing existing in the ancient period would be influential until at least the 20th century.

De Mause claimed that infanticide – the act of killing a child was dominant in the period up to the 4th century AD⁶⁰. Of course, it was not easy to kill so many children, however ‘when parents were trying to resolve their problems on child-care by killing them, it affected profoundly the children, that survived.’⁶¹ It is hard to assess infanticide,⁶² though there is no doubt that many children were abandoned or exposed, girls suffered this fate more than boys. De Mause argued that abandonment was equal to infanticide, and that the deserted child in most cases perished.⁶³ Boswell also accepted the extent of abandonment; he assessed that probably most women who had more than one child abandoned at least one of them; and that in the first centuries AD abandoned children estimated 20-40 per cent of all born children.⁶⁴ Unlike the later periods, there were no institutions for abandoned children; they depended on the “kindness of strangers”, on people who helped these undefended children to survive and brought them up.

For Boswell, ‘there is no doubt that most of abandoned or sold children became slaves’, as nothing in Roman law prevented either abandonment or sale. In contrast, slavery was ‘prevalent not only in Rome, but throughout the Hellenistic Mediterranean’, not rarely as the method of debt payments.⁶⁵

Early modern and modern Europe inherited the abandonment of children from the antique world. “The most ancient moral writers’, states Boswell, ‘evinced indifference toward or acceptance of abandonment’.⁶⁶ Even Plato and Aristotle were likely to have condoned it. Only selling of freeborn

⁶⁰ **de Mause**, Lloyd: (ed.) *The History of Childhood*, Souvenir Press, London 1976, p. 51.

⁶¹ **de Mause**, p. 51.

⁶² See: **Engels**, Donald: “The problem of female infanticide in the Greco-Roman world”, *Classical Philology*, 75 (1980), p. 112-120; **Harris**, V. William: “The theoretical possibility of extensive infanticide in the Graeco-Roman world”, *Classical Quarterly*, 32 (1982), p. 114-126.

⁶³ **de Mause**, p. 51, p. 25-29.

⁶⁴ **Boswell**, John: *The Kindness of strangers: The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance*, London 1988, p. 135.

⁶⁵ **Boswell**, p. 147.

⁶⁶ **Boswell**, p. 66-7; 81-5; 88.

children was condemned, but it was just because that it was thought, it led to slavery.

It may be very difficult for modern readers to understand the existed indifference towards children in the ancient world. Yet some recent writings on ancient families, emphasise close and loving relationships between parents and their children. Beryl Rawson suggests that “adult-child relationships could often be close and sensitive”⁶⁷ and Suzanne Dixon concludes that in ancient Rome “there was certainly a sentimental interest in children as such, and some parents were desolate at the death of small children”.⁶⁸

One of the practices, inherited from Roman law is “*patria potestas*”, that is the power of Father. In Roman law, the oldest male in the family had absolute power over all his offspring, no matter how old they were, or where they lived. It captured not only property rights, but also the right to life and death; he decided whether to abandon or execute the child or not. But it is debated that “*patria potestas*” ‘was the major institution underlying Roman law’, like private life providing model for public.⁶⁹ As Aristotle states, a father ‘rules his children as a king does his subjects’.⁷⁰ In Rome, *patria-potestas* was doubtless one of the mainstays of government, but it was less deterrent in real life than in theory. Realization of powers over life and death was in fact extremely rare. Adult married sons were in practice released from their father’s jurisdiction. Besides, living in separate houses and separate allowances assisted sons to eliminate reasons for tensions between generations. But even if the absolute patriarchal power was not so strict in real life, the very idea of this power was transferred to next generations throughout centuries. It was especially influential in the early modern period.⁷¹

The main impress, stemmed from ancient sources is that that childhood was not accepted as something important for itself, but was the main part of

⁶⁷ **Rawson**, Beryl: Adult-child relationships in Roman society, in R. Bawson ed. Marriage, Divorce and Children in ancient Rome, Canberra and Oxford, 1991, p. 130.

⁶⁸ **Dixon**, Suzanne: Roman Family, The John Hopkins University Press, Baltimore, 1992, p. 79.

⁶⁹ **Lacey**, W. K.: “Patria Potestas” in Rawson B ed., Family in Ancient Rome, Cornell University Press, New York 1987, p. 125.

⁷⁰ **Aristotle**: Politics and Athenian Constitution, London, 1959, p. 23.

⁷¹ **Dixon**, p. 82.

the process of creating a good citizen; in this process, the period from puberty till 21 years, was the key one.⁷²

Furthermore, it was usual to recognize children not as individual personalities, but as servants of their parents, the continuation of the line, supports of parents in old age, and followers of essential rituals at parent's funeral.⁷³ Cicero thought, not childhood itself can be praised, but only its potential.⁷⁴

Children, as women and slaves, were isolated from society, were not a full part of it, and much nearer to another world, to the divine than adults. Part of this isolation was caused by the probability that they it was more likely that they would die before reaching adulthood and becoming part of society; consequently, if they died very young, they were subject to quite different burial customs from older people'; they were buried at night, inside the city walls, not outside, sometimes in the foundations of buildings.⁷⁵

For that reason, we can conclude that an attitude towards young children in the ancient world was more neglective than later historical periods; children lacked the qualities, adults had. In classical Athens, "children were regarded as physically weak, morally incompetent, mentally incapable".⁷⁶ When a child died, he/she was mourned, but it was just for that reason that they were thought to had lived without a purpose, not having reached maturity.⁷⁷

In contradistinction to Greeks and Romans, after Christianity Europeans believed that infanticide was a sin. In 374 the emperors Valentinian, Valens and Gratian decreed that "If anyone, man or woman, should commit the sin of killing an infant, that crime should be punishable with death", an attitude noticeably varied from Roman law code of the 12 Tables (5th century BC) where any child with an obvious deformatio at birth was to be executed.⁷⁸ "Perhaps, the decrees primarily referred to heathen rituals of murdering of children, but as Boswell puts, it "would have been

⁷² **Dixon**, p. 100.

⁷³ **Wiedemann**, Thomas: *Adults and Children in the Roman Empire*, Routledge, London 1989, p. 29-30.

⁷⁴ **Cicero**, *De Amicitia*, 1.1; *Pro Caelio* 5.11; *Nonius* 406.14.

⁷⁵ **Wiedemann**, p. 35.

⁷⁶ **Golden**, Mark: *Children and Childhood in Classical Athens*, Baltimore and London, 1990, p. 19.

⁷⁷ **Golden**, p. 20.

⁷⁸ **Wiedemann**, p. 37.

interpreted subsequently as constituting a blanket condemnation of infanticide.”⁷⁹

Abandonment of a child was judged less severely. In 374 Emperor Valentinian decreed that all children should be supported by their parents, and that those who left their children must be punished ‘by law’. Though the nature of that punishment is unknown, and the decree was not likely to have had any effect on the practice of child abandonment.⁸⁰

B. Middle Ages

A major common start point in almost all researches on childhood over the past 40 years, stood the idea, claimed by Ariès that “the concept of childhood did not exist in medieval society”.⁸¹

Though medievalists were insistently trying to prove Ariès wrong, opinions, refuting these ideas were less justified. In contrast to Ariès, Shulamith Shahar stated in “Childhood in the Middle Ages”, that an idea of childhood existed in the Middle and Late Middle Ages (1100-1425), that scientific recognition of different stages of childhood was not only in theory, and that parents made moral and material investments on their descendants.⁸²

Ariès dedicated one of the chapters of his famous book to to “ages of life”, describing different stages of human life. The period of childhood in medieval thought and literature was accepted to be between three and twelve, however, in the Later Middle Ages, it was until 7. All of them settle down the children in a definite form, usually in two stages, *infantia* and *pubertia*, including the period from birth until 14 years and followed by *adolescencia* and *iuventus*.⁸³ Period of *puertia* was 12 for the girls and 14 for the boys; it was the time for education; the time, when the fathers were responsible for the sons, and the mothers for the daughters.⁸⁴ The education did not mean a school for the whole population; it did indicate to a formal gradual apprenticeship or the children’s skills to carry out tasks at home and on land.⁸⁵

⁷⁹ **Boswell**, p. 161.

⁸⁰ **Boswell**, p. 164.

⁸¹ **Ariès**, p. 125.

⁸² **Shahar**, Shulamith: *Childhood in the Middle Ages*, Routledge, London 1962, p. 100.

⁸³ **Ariès**, p. 50-56, 65-67, 70, 71, 78.

⁸⁴ **Shahar**, p. 102.

⁸⁵ **Ariès**, p. 24-25.

In a very significant point on the growing process of children, Shahar agrees with Ariès: From early ages, even before seven, children were not isolated from the society of adults. Life conditions in houses in the Middle Ages gave almost no chance for privacy either of adults or that of the children, so outside the house, children became the part of the society.⁸⁶

The family, which we know today, started to get the structure in the Middle Ages. In antiquity, family, ruled by father included not only kins but also slaves and other persons, not related by blood. As monotheistic religions insisted on exogamy and monogamy and churches began to control over marriage, particular families with their particular lands appeared, and the family became not only the economic unity, but also a place for love and emotions. In the 14th-15th centuries, the family was an asylum for people from the inimical outside world, boiling with taxes and plague.⁸⁷

Ariès emphasized that the 17th century was decisive in the changes of ideas on childhood, but for some researchers, it is the 18th century, that played a much greater role.⁸⁸ In the 18th century with John Locke's works, in the beginning, framed by romantic poets in the end and with Rousseau's influential figure in the center, childhood and children gained such sensuality, that they had never had before. Many people began to look on childhood as a separate stage of life, that must be appreciated, rather than a preparation period for the future – to adulthood or to Heaven. In the end of the 18th century, children were characterized as creatures, who were in need of mercy and humanism as slaves and animals.⁸⁹

In this process, "Some thoughts concerning education" (1693) by John Locke gained the status of classics. As one of the most outstanding and influential representatives of English philosophy, John Locke (1632-1704) is considered to be the founder of empirical and analytical tradition of philosophy and "Father of English liberalism". Though Locke wrote no philosophical treatise about childhood, in his "Some thoughts concerning education", he gives advice on the significance of a gentleman's education.⁹⁰ This advice is surprisingly liberal and modern, and is one of the first

⁸⁶ **Shahar**, p. 2, 102, 112.

⁸⁷ **Cunnigham**, *Childhood*, p. 22.

⁸⁸ **Ariès**, Philippe: *Centuries of Childhood: A Social History of the Family*, Jonathan Cape, London 1962, p. 110.

⁸⁹ **Cunnigham**, *Childhood*, p. 28.

⁹⁰ **Locke**, *Thoughts*, § 38.

manifestos about on child-centered education, alongside with Jean-Jacques Rousseau's "Emile".

Locke speaks in "An Essay Concerning Human Understanding" (1689) about the first large-scaled convincing defence of an empirical theory of thought. This theory is based on the fact that all human knowledge stems out of the only source – that is practice. He rejects any idea about the congenital knowledge of the child. In contrast to the opinions of other philosophers, children are unaware of any idea, theorem or assumptions from birth. If knowledge is gained from practice, it means it is obtained gradually and a human becomes a smart user of intellect. As childhood is a stage of the development process, then children should be imperfect and incomplete, in contrast with adults (with their adult versions).⁹¹

In "Some Thoughts Concerning Education" (1693), Locke published letters he had written to his fellow Edward Clarke about the best way of educating Clarke's son. His judgements, starting from nutrition, touching the issue of punishing for misbehaviour, ends with the suggestion of an educational programme. In the letters, Locke insists on interests and needs, which should be taken into consideration, and on the fact that children should not be simply beaten or obliged to obedience to the rules of necessary conduct. The major target of education is to create a righteous person, whose rightness is based on his character and rational self-control. Based on this idea, a child should come to understand Reason and to behave according to It.⁹²

For Locke, as he states in the "Essay", first experiences of the child are of sensory character, and reflection with the strength of mind comes later. For Locke, reflection is an easy process. A little child, new to this world, is full of feelings from his/her surrounding, he has no time for self-analysing. Yet with the progress of acquiring of ideas, Mind "awakens", it begins to think more, the more it has something to think over."⁹³ So, Mind starts to think over the ideas, which are obtained by Senses."⁹⁴

It must be noted by the way, that Locke, in contrast to most authors, did not believe in naif idea about innocence and virtue of children. His explanations on the noticeable cruelty of children are earthly and understandable. Anyway, Locke believed that no matter what the child's

⁹¹ **Locke**, *An Essay*, § 2.

⁹² **Locke**, *Thoughts*, § 39.

⁹³ **Locke**, *Essay*, I.II. § 22.

⁹⁴ **Locke**, *Essay*, II.I. § 24.

nature is, he/she can be brought up in a worthy way, by subduing his/her hereditary inclinations to the Reason.

Worthy education is possible and also necessary. According to Locke, it becomes possible if moral justice was taught to children. Virtue is natural, because it is within the human will, yet it depends on socialization and education, too. It must be instilled. Education is required, as children should grow up to be mature citizens, who live by the laws of nature. This implies to subdue one's desires and passions to the Reason; the main Foundation and Principle of all virtuous and good things is that, that a Person must be able to refuse himself his Desires, to overcome his dispositions and to follow the Reason.⁹⁵

Yet the educator may use these same desires and inclinations for shaping the child. It is possible to raise a child in moral perfection by working with and not against the child's desires. The child's nature will have the same Passions, the same Desires when becoming an adult.⁹⁶

Locke believed that good education can be given to the child by leaving him/her in the situations, refraining from negative features and by keeping him/her from situations, pushing to such features. For him, moral education is not about learning predetermined moral principles, but about inspiring the strength of practice and moral reason.

"Children should not be taught the Rules... What you think necessary to teach your children, you should put them in the applicable situation."⁹⁷

Locke returns persistently to the issue: "Is there a place to corporal punishment in child-rearing"? Locke wrote: "I'm very apt to think, that severe Punishment does little good to the child, but great harm to education."⁹⁸ Yet "very stubborn" and "very disobedient" children may be exposed to punishment since the child should learn to subordinate his will to the Reason.

Locke's purpose was to create such an adult, who would be able to subjugate his feelings to his mind. This strength should be placed in the child's character with habits from early ages. In the sake of creation this same subjugation, corporal punishment may be needed.

⁹⁵ **Locke**, *Thoughts*, § 38.

⁹⁶ **Locke**, *Thoughts*, § 41.

⁹⁷ **Locke**, *Thoughts*, § 66.

⁹⁸ **Locke**, *Thoughts*, § 69.

Jean-Jacques Rousseau is supposed to be the founder of modern ideas on childhood. Actually, he has two merits in this regard: first, he declares and advocates the necessity and value of understanding the concept of childhood that is, recognising a child as a child. He criticizes those who seek an adult in a child without thinking who he/she is before becoming an adult and insists that childhood must have its own place in human life. An adult should be accepted as an adult, a child – as a child.⁹⁹

Rousseau has a special approach to childhood, according to this view, childhood has a particular place in human life, a child is morally innocent and close to Nature, he/she deserves freedom of self-expression; a child is corrupted only in social conditions. “Everything is good as it leaves the hands of the Author of things; everything degenerates in the hands of man”.¹⁰⁰ For Rousseau, education should reveal the identity and special nature of the child, it brings to the disclosure of children not as an adult, but as a child, and of definite qualities, stemming out of their childhood.

According to the orthodox comment of Rousseau, education should be non-directional, spontaneous and free for the good child by nature. With this same opinion, Rousseau stands in opposition to Locke's educator, who deliberately directs the child to reason and social morality. It is not only about what one teaches, but also when one teaches definite things. Rousseau's anti-educationalist opinions can seem like he advises to leave the child to himself/herself, granting him/her with unforced free education. In reality, Rousseau suggests the more complicated, even manipulative form of teaching: “Let him always suppose that he is the master, but let it always be you, who is. There is nothing more perfect than dependence on the appearance of freedom.”¹⁰¹

Rousseau was against the idea, which was very common during the Renaissance, that “children should be reared by fathers”: “You say mothers spoil their children, and no doubt that is wrong, but you corrupt them worsely. Mothers want their children to be happy now. Mother is right, and if her method is wrong, she must be taught better. Greed, ambition, despotism, father's mistaken foresight, neglect, coarseness are a centuple more harmful to the child than blind love of the mother.”¹⁰²

⁹⁹ Rousseau, Jean Jacques: *Emile or on Education*, ed. P.D. Jimack, London, 1974, p. 34 and 80.

¹⁰⁰ Rousseau, p. 37.

¹⁰¹ Rousseau, p. 120.

¹⁰² Rousseau, p. 5.

How may the happiness of the child be obtained? Through raising the child by the orders of nature that is, maternal breastfeeding and no swaddling, - answers Rousseau. "Let childhood to mature in hearts of your children... try to give them anything they want today if it can be deferred without danger to tomorrow."¹⁰³

The results were amazing. In the 3rd quarter of the 18th century, under-five child mortality in English aristocratic families, decreased by 30 per cent. The only reason for it was that the mothers began to spend most of their time with children, breastfeeding them in aristocratic families. As Randolph Trumbach writes, 'children survived more because they were better loved than because they were immune from disease or better nourished.'¹⁰⁴

One of the impacts of romanticism also was that "a child" meant not only a boy but also a girl, as Erasmus and Locke had also offered. Childhood began to be accepted as a particular time of life, in which gender was of no importance; it was rather the childish feature of the child that should be protected. Long white trousers and knee-length dresses, with short-cut hair, were recommended both for boys and girls in the 1830s, pursuing one and only aim – blurring gender distinctions. Between 1820 and 1840, advice books emphasized that both girls and boys had to avoid rage. Probably, it was the peak of ungendered child idealization and until the early 20th century gender differentiations were in the background of emotional conduct.¹⁰⁵ Naturally, science was supporting this tendency. For Kraft-Ebbing, the child was of neutral gender".¹⁰⁶ However, it cannot be denied, that attitude towards boys was better than towards girls. Thus, in the 19th century in the Pyrenees birth of a boy was greeted with great joy and gunfire, but that of a girl with "deep disappointment". Or in Limousin (France) a mother without sons and with several daughters would say that she had no any children, at all.¹⁰⁷

¹⁰³ **Rousseau**, p. 57-58.

¹⁰⁴ **Trumbach**, Randolph: *The Rise of the Egalitarian Family: Aristocratic Kinship and Domestic Relations in 18th Century England*, Academic Pr, New York, San Fransisco and London, 1978, p. 53-57.

¹⁰⁵ **Kincaid**, R. James: *Child-loving: The Erotic Child and Victorian Culture*, London 1992, p. 64-65, 13-16, 106-107.

¹⁰⁶ **Fuller**, Peter: *Uncovering childhood*, in M. Hoyles ed., *Changing Childhood*, London 1979, p. 93-6.

¹⁰⁷ **Heywood**, C.: 'On learning gender roles during childhood in the 19th century France', *French History*, 5 (1991), p. 451.

The role of children in families changed considerably within four centuries, between 1500 and 1900 years. At the beginning of this period, children from about the age of seven stepped slowly into the world of work of adults. And at the end of this period in almost every country, schooling was compulsory for every child. Most researchers-historians consider compulsory schooling as the endpoint of a process in which children and their families had moved from a peasant family economy, through a proto-industrial one to an industrial one. Each of these economical formations offered various family strategies and hence different roles of children.¹⁰⁸

Researchers of peasant family strategies characterize children in two ways: as land inheritors or potential labour. The investment in children, if we can say so, of course, was one slow to yield any return. Such an investment was possible until the age of six or seven years of the child. Reaching this age, the eldest child in the family started to fulfil small, but useful work in the household or land, to take care of younger siblings or scaring birds away from crops.¹⁰⁹ Yet in teenage years, children's labour contributions in the family were equal to that of adults.¹¹⁰ Because of the seasonal character of agricultural work, it was difficult to assume that children had full-time tasks to fulfil throughout the year; that's why, schools were functioning in winter months, it was impossible for children to contribute for the family economy. Archaeological evidences near Bonn, belonging to the 13th century show child fingerprints on pots and indicate children's share in carrying pots to drying areas which were exporting to England, Scandinavia and Poland.¹¹¹ Development of agriculture, meanwhile was of great significance for children, because it also increased their economical usefulness.

Industrialization began to bring textile industries in the late 18th century from homes to factories and it became a natural case for children to be the main components of the labour force. It can't be said that families started to be destroyed under the pressure of industrialization, in contrast, the family became a more central mechanism for survival. Because the family did not

¹⁰⁸ **Cunnigham**, (Childhood), p. 15.

¹⁰⁹ **Vassberg**, E. David: 'Juveniles in the rural work force of the 16th century Castile', *Journal of Peasant Studies*, 11 (1983), p. 66.

¹¹⁰ **Cunnigham**, Hugh: "The employment and unemployment of children in England c. 1680-1851", *Past and Present*, 126, Oxford University Press 1990, p. 134 (Employment).

¹¹¹ **Baart**, J. M.: Ceramic consumption and supply in early modern Amsterdam: local production and long-distance trade, in P. J. Corfield and D. Keene (eds.), *Work in Towns 850-1850*, Leicester, 1990, p. 77.

only mean a home, by means of family, people could find jobs, as early industrial work was organized around the family structure.¹¹²

Families had no other option, than to send their children to factories to work. It was revealed, that in Belgium, 22 per cent of family income in 1853 and 31 per cent in 1891 belonged to children.¹¹³ Children labour in factories resulted in state interference in the issue throughout Europe. Unsurprisingly, child labour in factories was the leading factor, which made childhood, being a period as an initiation to the labour force to be a period of gradually becoming compulsory schooling.¹¹⁴

In the 16th century with religious influence and in the 18th century with secular influence dominant, great and sometimes successful steps were taken to increase provisions of schools and to encourage children to attend lessons. As a rule, cities rather than villages, lowlands rather than highlands, boys rather than girls were concerned in schooling. For instance, there was almost no school in rural areas in Scandinavia. Gender discriminations were more striking: in the early 16th century, in the German duchy of Brandenburg, there were only four girls' schools, while there were 55 boys' schools.¹¹⁵

What could schooling suggest to children of inferior classes in Europe in the early modern period? Primarily, religious education. In fact, this was the major reason for the establishment of schools in the 16th century, and there was a demand for it, too. And the second reason for sending children to schools was secular: children were taught to read, and this skill was of great importance. There was a third reason, too: children were provided with child-care services in schools, which was very convenient for parents. The negative aspect of schooling for families was fees for schools. Though free schools of charity existed, most of families had to pay for their children to attend schools.¹¹⁶

One should not surprise to find that education at schools was irregular and discontinuous. In villages, schools were functioning mostly in winter months. In Holland and Belgium in the 17th century, and in Norway in the 18th century, a school year was not more than 10 weeks.¹¹⁷

¹¹² **Cunnigham**, *Employment*, p. 137.

¹¹³ **Alter**, George: *Work and income in the family economy: Belgium, 1853 and 1891*, *Journal of Interdisciplinary History*, XV (1984), p. 255.

¹¹⁴ **Cunnigham**, *Childhood*, p. 32.

¹¹⁵ **Cunnigham**, *Childhood*, p. 37-38.

¹¹⁶ **Houston**, Robert Allan: *Literacy in Early Modern Europe: Culture and Education 1500-1800*, Longman, Harlow 1988, p. 33, 34, 35, 38.

¹¹⁷ **Houston**, p. 50.

Philanthropy played a significant role in the history of childhood, as it was a central factor in child rescue activity. Philanthropists managed asylums for homeless and needy children, created schools and kindergartens, set up societies against child abuse, put forward several programmes for supporting the poor.

Children were though not the only, but the main objects of philanthropy. It was believed that children were not formed enough to survive. Furthermore, they represented the future. "Their flexible nature"- Boston Children's Friends Society thought, "let's make perfect beauty or perfect repulsiveness from them."¹¹⁸

In the 19th century, women started to play a more important role in philanthropy. It was assessed that in 1893, in England, more than 500 000 women were semi-professionally or continuously engaged in philanthropy and the vast majority of them was related to children.¹¹⁹

Though child-saving was primarily a task of philanthropists and voluntary organizations, there were some open calls for interference of state and professional organizations in the children's problems. It was clear by the end of the 19th century, that only the state might provide childhood for every child, and states began from philanthropists, the regulation of this issue. "Child-saving" became one of the main obligations of the state.¹²⁰

Philanthropists, promulgating the ideology of childhood with such an open-heartedness and seeing the conditions of life of children in the streets started to create a theory of rights, which should belong only to children. In England, in the 1830s, the concept of the right of the child against his/he parents and employers started to be put forward. By the end of the century, these rights started to go further than rights to education, maintenance and protection and to become more specific ones, belonging just to children. "The child"- stated Kate Wiggin,-"has an inalienable... right to his/her childhood."¹²¹

Hard blows of the I World War and aftermath made it necessary to bring to a successful end attempts of supporters of declaration of children's rights. This initiation belonged to an Englishwoman, Eglantyne Jebb. She

¹¹⁸ **Rothman**, J. David: *The Discovery of the Asylum: Social Order and Disorder in the New Republic*, Boston and Toronto, 1971, p. 213.

¹¹⁹ **Cunnigham**, *Childhood*, p. 44.

¹²⁰ **Rothman**, p. 213.

¹²¹ **Cunnigham**, *Childhood*, p. 154.

was engaged in cases of children in defeated countries and argued that children could not be blamed for the war and that was why they should not suffer from its consequences. As a result, The Save of Child Fond was founded. Jebb drew up a draft of a simple declaration, which was accepted in 1924 by the League of Nations. In fact, those rights were parents' obligations, formally recognizing that "mankind must give to the Child the best it has".¹²²

In Türkiye the Law on the Addition of the National Holiday of 23 April was adopted on 23 April 1921, one year after the opening of the First Grand National Assembly, and the law entered into force May 2, 1921. The founder of the Republic of Türkiye, Mustafa Kemal Atatürk, presented the 23rd April Day, which was decided to be celebrated as a National Day on April 23, 1921, to children on April 23, 1929. Thus, April 23 was celebrated for the first time as Children's Day in 1929.¹²³

The Swedish feminist Ellen Key published a book of 'The Century of the Child' in 1900. For Key, morality will be perfect, when the child gets his rights.' The vision of the future was that that a child would come to this world from the parents, who physically suited, and grew up in homes with ever-present mother.¹²⁴ She was of no doubt that the future of the world depended on the way how the children would be brought up and blamed three sores of the modern time, bringing to failures in child-rearing – capitalism, war and Christianity. So, if the 20th century should become "the century of the child", it was not just for the sake of children, but for that of the whole humanity.¹²⁵

The obligation of the state to provide proper childhood for all children was more persistently expressed. In the 1920s in his history book, Lilian Knowles stated, indicated to the increasing role of the state, that "work restrictions in factories, resulted eventually in the state education for the child, and the scope of both education and protective measures for children is ever-expanding."¹²⁶ Meanwhile searches on the discovery of the child's

¹²² Geneva Declaration of the Rights of the Child, adopted by League of Nations on September 26, 1924.

¹²³ National Sovereignty and Children's Day, retrieved from: <https://www.officeholidays.com/holidays/turkey/national-sovereignty-and-childrens-day>

¹²⁴ **Key**, Ellen: The century of the Child, 1900, Putnam, New York and London, 1909, p. 45.

¹²⁵ **Key**, p. 109, 183, 257, 317.

¹²⁶ **Knowles**, Lilian Charlotte Anne: The Industrial and Commercial Revolutions in Great Britian during the 19th century, G. Routledge & Sons, Ltd, London 1921, p. 96.

true nature continued, as the successful politics on childhood was getting more dependent on science. It was believed that science would increase the chances of children to survive; would open the secrets of how the child's thoughts worked; would measure their intellect; would give advice to mothers about how to raise children; would prepare instructions for children, whose development and behaviour did not respond to standard norms.¹²⁷

The most vital duty at the beginning of the 20th century, was to secure the children's survival. It must be noted, that child mortality was high throughout the Middle Ages and remained almost unchangeable until the 2nd part of the 19th century. Just from the beginning of the 20th century the rate started to decline. Roughly speaking, every fourth or fifth child died before reaching the age of one. It is assumed that indicator of the infant death between the years of 1600 and 1749, in England, was somewhere between 250 and 340 (deaths per thousand births of the children under the age of one). In the last quarter of the 17th century, in France, this indicator was between 200 and 400.¹²⁸ In the second half of the 18th century In Sweden, the average rate of annual infant mortality was exactly 200 deaths per 1000 births.¹²⁹

Though death rates declined after the age of one, the child stayed very assailable. In several regions, almost half of all children was not succeeded to survive till the age of 10. Child deaths were making up the most of all deaths; in the 2nd half of the 17th century, in Florence, almost two-thirds of all deaths belonged to children under five years old.¹³⁰

As it was mentioned above, from the beginning of the 20th century the child mortality rate dropped and has continued to decline. The rate in most countries was between 100 to 250 deaths per 1000 live births; by the 1950s this indicator fell till 20 and 50, and by 1975 to a point where most countries had rates below 20, and only in a few ones, rates, being above 30.¹³¹ This decline in itself makes the 20th century a more particular period than the

¹²⁷ **Knowles**, p. 96-97.

¹²⁸ See: **Razzel**, Peter: "The growth of population in 18th century England; a critical reappraisal", *Journal of Economic History*, 53 (1993), p. 757-780; **Kamen**, Henry: *European Society 1500-1700*, Hutchinson, London, 1984, p. 25.

¹²⁹ **Mitchell**, R. Brian: *European Historical Statistics 1750-1975*, 2nd revised edn. Macmillan, London, 1981, p. 137-144.

¹³⁰ **Mols**, R.: *Population in Europe, 1500-1700*, in C.M. Cipolla (ed), *The Fontana Economic History of Europe: the 16th and 17th centuries* (London, 1974), p. 69-70.

¹³¹ **Mitchell**, p. 140.

entire of the rest of the history of childhood, and it is not an exaggeration of its significance. In the mids of the 20th century, infant mortality was rare case, that few parents would confront, while in prior centuries, and throughout all history of childhood, few parents would be so lucky to avoid it. As it was suggested above, it did not mean that parents in previous centuries accepted the death of their children with indifference. The issue was that parents were able to suppose rightly that the children, they brought to life would survive and grew up to adulthood. As a result, family planning took on new meaning; a decline in infant mortality brought to a sharp drop in giving birth. Unlike children in previous centuries, children in the 20th century had fewer siblings, being close to each other in ages. In the previous periods siblings might have an age difference of up to 20 years, as, during those years, death could take several of them.¹³²

The decline in child death was becoming noticeable and reasons for it were being revealed more. After the special child hospital was opened in Paris in 1802, this wave continued in Germany in 1840, in London in 1852 and in New York and Philadelphia in the mids of the 1850s. However, these infirmaries were basically insulators, and only by the end of the 19th century, especially with the development of whey against diphtheria in the 1890s, advances towards particular therapy began. Paediatric chairs were founded in Paris in 1879 and in Berlin in 1894. The American Paediatric Society was established in 1888 and paediatricians obtained an opportunity to make Paediatrics be recognized as a special branch of medicine, through their work and achievements in hospitals. The next stage was to improve practice programmes for paediatrics, and if the number of paediatrics was 138 in 1914, it rose up to 6567 in 1955, and twice more than that in 1966.¹³³

Science had a crucial role in understanding the childhood, at least in three directions. First, thanks to science, it was possible to understand the child's mind: for example, if they were programmed biologically for speaking in their mother tongue, or if they did need to be taught? How did they learn it? These questions were important for the entire mankind, but above all, they were researched in regard to the children. In 1877, Hippolyte Taine published "On the Acquisition of Language by Children", and Charles

¹³² Mitchell, p. 141-142.

¹³³ Weindling, Paul: From isolation to therapy: children's hospitals and diphtheria in fin de siècle Paris, London and Berlin, in R. Cooter ed. In the Name of the Child: Health and Welfare, 1880-1940, London 1992, p. 125.

Darwin published "A biographical Sketch of an Infant" in the English journal of *Mind*.¹³⁴

Secondly, science helped to understand children's instincts. It became a much more researchable field of study in the 19th century; until then the concept of child innocence had prevailed the theory of their innate malignancy, whereas the discoveries of science did not conform to the theory of innocence. Psychiatrists in the 19th century confronted children with behaviour, which could hardly be called "innocent" and described them, yet they hesitated whether such behaviour stemmed out of heredity or out of some initiating factor in the upbringing of the child. They did not have a complete maturational development concept, either. It was Freud's contribution to claim that each child had congenital sexuality, which manifests itself in certain ways since infancy.¹³⁵

On the one hand, Freud destructed opinions on child innocence, as innocence and asexuality were closely related to each other in the 19th century. Yet it was possible to claim that the sexual instincts of an infant were an element of his/her nature and innocence was destructed only in case if adults entered in the sexual enjoyment and play with the children. With the exclusion of Hans, a five-year-old boy, Freud, accepted only grown patients and his skills to track complications in maturity to traumas, obtained in childhood, and especially to the misbehaviour of the sexuality of the child by adults, resulted in making parenthood seem a duty full of complications in which neither tradition nor common sense could assist. Parents began to need recommendations from specialists and received it with excess; most of these specialists had a medical background.¹³⁶

Thirdly, an aggregate of factors encouraged specialists to reveal the origins of delinquency in childhood. Delinquency, reasons of which had previously been believed to be poverty and environment, began to be connected to psychological origin. "A problematic child" became the center of attention, though soon it became clear that, not all "problematic children" were potential delinquents, but showed such emotional and behavioural symptoms that neither parents nor teachers could cope with them. By 1942,

¹³⁴ See: **Darwin**, C. R.: A biographical sketch of an infant. *Mind. A Quarterly Review of Psychology and Philosophy* 2 (7) (July): p. 285-294; **Taine**, H.: On the Acquisition of Language by Children. *Mind. A Quarterly Review of Psychology and Philosophy* 2 (7) (July): p. 122-167.

¹³⁵ **Freud**, S.: Sexuality and psychology of love, *Touchstone*, 1991, p. 53, 57, 88.

¹³⁶ **Freud**, p. 102, 107.

there were 62 child guidance clinics in the USA offered help to such children and their custodians through teams of social workers, psychiatrists and psychologists.¹³⁷

Initiatives on child-care centers hardly remained within the borders of one city. Analogical initiatives got aftersounds from other cities, too. Conferences of international character dedicated to “School Hygiene” were organized in London in 1907 and in Paris in 1910.¹³⁸

Alongside international scientific networks, childhood continued to be the issue of national and international politics. Every time when childhood was raised as a question, it often resulted in fierce discussions about the roles of the state, of family, voluntary organizations or individual, respectively. For reformers, it was unquestionable, that for ensuring proper childhood for a child, children had to be prevented from entering the labour market too early. As a result, almost all countries’ legislations prohibited or limited child labour by the end of the 19th century.¹³⁹

If compulsory education and attendance at schools were the issues, related to children, then the continuation of childhood should have been defined, according to the age of school leaving. For instance, compulsory schooling in Great Britain was set until 10 years from 1880 till the First World War, 14 years in 1918, 15 years in 1944 and at last 16 years in 1972. Thus, by the mids of the 20th century, in most countries the age of school starting varied between 5 and 7 years and children were expected to attend schools up to 14 years.¹⁴⁰

While talking about the substance of parenthood and childhood in the 20th century, it is necessary to touch on the theory of behaviourism, which was one of the main contributions of science in the 1920s. Behaviourism – was the theory that children’s behaviours could be moulded in desirable form through rewarding or punishing. According to Cyril Burt, “superintending to the growth of human beings is as scientific a business as cultivating plants or training a race horse”.¹⁴¹

It was told to mothers in the “Mothercraft Manual”, which was published in twelve editions between 1923 and 1954 in Great Britain, that

¹³⁷ Weindling, p. 144.

¹³⁸ Weindling, p. 144-145.

¹³⁹ Cunnigham, *Childhood*, p. 270.

¹⁴⁰ Cunnigham, *Childhood*, p. 271.

¹⁴¹ Burt, Cyril: *The Backward Child*, Hodder & Stoughton Educational Division; 4Rev Ed edition, 1974, p. 302.

the results of the first year of the training include self-control, recognition of the parent's power and respect towards adults.¹⁴² Truby King, who was an influential person in Britain, stated in 1937 that "Outstanding authorities of the world – American, English or other – agree in one point that the first thing to be established in life is the continuity of habits. The setting of perfect habit order, beginning with "feeding and sleeping by clock" is the major basis for the obedience of all-around."¹⁴³ Here can be seen influence of religion with its theory of obedience and of Locke, who was the supporter of educating by habit formation¹⁴⁴. For Newsons, "we have seen a deity-centered morality giving way to a science-centered morality both with curiously similar results in the time of parental behaviour".¹⁴⁵

In the 1930s persistent opinions of psychoanalysts about the child's own volition, passions and emotions and their judgement about the facts that if these emotions were suppressed, they would appear later in years of adolescence and adulthood began to challenge behaviourism, which had so long been dominant in the society; this challenge was to the extent that behaviourism – repressive regime of child upbringing – was compared with fascism. Attempts of understanding of children and working with them in a democratic way became actual. Anderson and Mary Aldrich's "Babies are Human Beings" brought the end of behaviourism in 1938 in the USA and aftermath the Second World War, parents began to enjoy their parenthood rather than to look at it as a horrifying task.¹⁴⁶

In the 1960s-1970s, when social sciences were flourishing, conceptions on children's rights were also put forward. Philippe Ariès's "Centuries of Childhood" (1960), as the first wide research of the history of childhood, had, of course, in the first place, an important influence over social history, as well as the other areas of social sciences. It was written in the conditions of intellectual and political pressures for estimating and defending the peculiarity of childhood. Its being the very first work on the field had a great effect, too. While discussing childhood on the basis of legal, political, moral and social theories, Ariès's thesis is regularly used as a fundamental and

¹⁴² **Cunnigham**, *Childhood*, p. 274.

¹⁴³ **Cunnigham**, *Childhood*, p. 276.

¹⁴⁴ **Locke**, *Thoughts*, § 41.

¹⁴⁵ **Newson, J./Newson, E.**: Cultural aspects of childrearing in the English-speaking world, in M.Richards (ed), *The Integration of a Child into a Social World*, Cambridge 1974, p. 57.

¹⁴⁶ **Hardyment**, Christina: *Dream Babies: Child care from Locke to Spock*, Jonathan Cape Ltd, London 1983, p. 214-219.

generally recognized truth. Besides, Lloyd de Mause (ed.) “The History of Childhood” (1974)¹⁴⁷, Edward Shorter “The Making of the Modern Family” (1975)¹⁴⁸, Lawrence Stone “The Family, Sex and Marriage in England 1500-1800 (1977)¹⁴⁹ were also main books, reflecting the approach towards childhood, specific to the years of 1970s.

It is very important to know how all these rapid developments affected the lifeway of children at the end of the 19th century and in the 20th century. The main change for the children in the first part of the 20th century is that, that children had gradually lost their productive role within the economy and had begun to gain increasingly a new role as consumers. It, of course, did not mean that previously children had only been assessed for their share of contribution to the family economy; to be more accurate, it was accepted just as a norm. After this attitude was removed, parents had to give new value to their children. As a result, parents began to have fewer children but to value them personally more. And this valuation was not, as before for economic-emotional reasons, but for only emotional reasons. More significant than this is that that, children became the major source of expenditure, thus, parents, who wanted to give a happier life to their children than their own regretted nothing for their children.¹⁵⁰

But in the 2nd half of the 20th century, the view of the century of the child began to fade. It is not because people have stopped to appreciate children or consider it less important, quite the opposite, it was clear that nothing could save the children.¹⁵¹

Neil Postman’s text “The Disappearance of Childhood” (1982) stems from these same opinions. Postman states that there are no food, games or clothes, only specific for children. Children have no respect towards adults anymore, they occupy a special place in criminal statistics, and above all, they have lost the sense of shame, especially in sexual issues. Two points of view can be seen from Postman’s opinions. First, by saying “good childhood”, he means not happiness and freedom, but good behaviour,

¹⁴⁷ **de Mause**, Lloyd: (ed.) *The History of Childhood*, Souvenir Press, London 1976, p. 168.

¹⁴⁸ **Shorter**, Edward: *The Making of the Modern Family*, Basic Books; First printing, 1975, p. 369.

¹⁴⁹ **Stone**, Lawrence: *The Family, Sex and Marriage in England 1500-1800*, Lawrence Stone, 1977, p. 800.

¹⁵⁰ **Seabrook**, Jeremy: *Working-class Childhood: An Oral History*, London 1982, p. 117-118.

¹⁵¹ **Cunnigham**, *Childhood*, p. 338.

esteem towards adults, and necessary skills for the period of adolescence. Second, for him, television is not only the means of communication but there is commercialism in its basis, that turns children into consumers. Throughout the 20th century, it was believed that films might corrupt children, though they could be censored or age limits could be defined for films, whereas television was hard to keep under control. The main fear for children was related to the assumption that they could encounter scenes of sexuality and violence, which could have a bad influence on their psychology.¹⁵²

A significant market with children's purchasing power existed even before the Second World War. The largest profit was being obtained from the sale of products related to cartoons and their characters. By 1933, the company of "Disney" gained more than 10 million dollars from the sale of models of its cartoon characters.¹⁵³

The invention of television created possibilities for marketing products to the extent that these marketing opportunities became the form and content of the television of children. As Stephen Kline states, "Television made children its audience just because to attract them to the market."¹⁵⁴ By the end of the 1980s "Disney" made 3.44 billion dollars from the licensing of cartoons and fantasy films. The whole market for licensed cartoon characters in the USA was 8.2 billion dollars, 70 per cent of all toy market belonged to these toys.¹⁵⁵

Parents, bound to their children with tight emotional ties were ready to meet the needs of them and to spend necessary money for achieving it.¹⁵⁶

Besides, children have obtained rights, that almost equalized them with adults. When people first took steps towards recognition of children rights, these rights were about their protection. But the 1989 UN Convention provides not only the protection of the rights of the child but also the right to be heard about any decision, that can affect his/her life. As a legal text, the Convention includes vital rights that meet the basic needs of the child, development rights such as play, education and rest, which are necessary for the child's development, the child's rights to be protected from neglect and abuse, and participation rights that include the child's taking an active role in

¹⁵² **Cunnigham**, *Childhood*, p. 341-2.

¹⁵³ **Kline**, Stephen: "Out of the Garden: Toys and Children's Culture in the Age of TV Marketing", Verso, London and New York 1993, p. 136.

¹⁵⁴ **Kline**, p. 74.

¹⁵⁵ **Kline**, p. 136, 138.

¹⁵⁶ **Kline**, p. 321.

the family, school and society in which he grows up.¹⁵⁷ Under separate national laws, for example, in the USA or in England children have the right to sue their own parents and it shows how far the change in power balance had gone from the economical and emotional spheres.

Thus, the century of the child came to an end with consequences, that could not be foreseen at its commencement.¹⁵⁸ At the beginning of the 20th century, the substance of the view of childhood was the fact that children were needy and dependant. Good parenting implied to protect the child and to lengthen its duration, as long as possible. But events, that happened in the 2nd part of the 20th century decreased the dominance of parents, and children started to demand to enter the adults' world much sooner; and achieved it. It was like in the Middle Ages – when childhood lasted not more than until 14 years; the main distinction was the fact that in medievals. A 14-year-old child was more economically useful, than the 14-year-old in the 20th century. That's why it is not surprising that the period of adolescence is remembered, as a rule, a period of conflicts.

CONCLUSION

As the part of the human rights, children rights is a very important field of research. It is important not only from the theoretical point of view, but also practically protection of children's rights demands great efforts and opportunities.

Although children's rights are handled within the framework of natural law rights, not only the child but also the society benefits in gaining human dignity and respect.¹⁵⁹ Research on the concepts of childhood and parenthood, studying of historical approach to the rights of the children may help us to find the best model of behaviour with children and to create an effective mechanism of implementing of international legal norms.

From the psychological views, which had changed with Freud's ambiguous opinions about subconscious passions and desires of children to the legal understanding of childhood and children's rights, which had been

¹⁵⁷ **Kahraman**, Pınar Bağçeli/**Kartal**, Tuğçe/**Yıldız**, Süreyya: "Resimli Çocuk Kitaplarında Çocuk Hakları", Çocuk Edebiyat ve Dil Eğitim Dergisi, Cilt 3, Sayı 2, 138-163, 26.12.2020, p. 140.

¹⁵⁸ **Cunnigham**, Childhood, p. 344.

¹⁵⁹ **Altıntaş**, İrem Namlı/**Tüzün**, Dilek Ünveren: "Birleşmiş Milletler Çocuk Hakları Bildirgesi Bağlamında Çocuk Edebiyatı: Dağdaki Kaynak Romanı Örneği", Adnan Menderes Üniversitesi Eğitim Fakültesi Eğitim Bilimleri Dergisi, 2021, 12(1): p. 61.

determined in the first legal act on the issue in 1924 as a result of Eglantyne Jebb's endeavor, everything related to the children gained a new shape and meaning.

The fact that children have the same rights as adults is guaranteed by the United Nations Convention on the Rights of the Child. The convention has principles on the prevention of discrimination, the best interests of the child, the right to life and development, and taking into account the views of the child. The main purpose of the Convention on the Rights of the Child is to protect children and thus to ensure the spread of children's rights around the world.¹⁶⁰

Developing children's ability to benefit from their rights, gaining knowledge and growing up as responsible individuals, closely related to education. It is extremely important that they receive this education during their childhood in the context of human rights and democracy education.¹⁶¹

Childhood passed a long and hard way, full of sufferings and difficulties. However, the main question has not been answered yet: in the end of all this painful way, today, when children have their own rights and responsibilities, have identification and opportunities to sue against even their own parents, is the major purpose achieved? Are the children happy today? Is everything that has been supposed to be given to the children, "for the best interests of the child", in fact provided for them?

¹⁶⁰ **Gültekin/Bayır/Balbağ**, p. 974.

¹⁶¹ **Ersöy, A. F.**: "İlköğretim Öğrencilerinin Çocuk Haklarına İlişkin Algıları", İlköğretim Online, 2011, 10(1): p. 25.

REFERENCES

- Akillođlu**, Tekin: Birleşmiş Milletler Çocuk Hakları Sözleşmesi Üzerine Gözlemler, Çocuk Haklarına Dair Sözleşme, AÜ.SBF. İnsan Hakları Merkezi Yayınları No:13, Andlaşmalar Dizisi No:1, Ankara 1995.
- Aksoy**, İlhan: “Türklerde Aile ve Çocuk Eğitimi”, Uluslararası Sosyal Araştırmalar Dergisi, Cilt: 4 Sayı: 16, p. 11-19.
- Akyüz**, Emine: Çocuk Hukuku Çocukların Hakları ve Korunması, 2. Baskı, Pegem Akademi, Ankara 2012, p. 662.
- Alter**, George: Work and income in the family economy: Belgium, 1853 and 1891, Journal of Interdisciplinary History, XV (1984), p. 255-276.
- Altıntaş İrem Namlı/Tüzün Dilek Ünveren**: Birleşmiş Milletler Çocuk Hakları Bildirgesi Bağlamında Çocuk Edebiyatı: Dağdaki Kaynak Romanı Örneđi, Adnan Menderes Üniversitesi Eğitim Fakültesi Eğitim Bilimleri Dergisi, 2021; 12(1): p. 49-64.
- Archard**, David: Children Rights and Childhood. 2.edition, New York 2004.
- Ariès**, Philippe: Centuries of Childhood: A Social History of the Family, Jonathan Cape, London 1962.
- Aristotle**: Politics and Athenian Constitution, London, 1959.
- Baart**, J. M: Ceramic consumption and supply in early modern Amsterdam: local production and long-distance trade, in P.J. Corfield and D.Keene (eds.), Work in Towns 850-1850, Leicester, 1990.
- Ballar**, S.: Çocuk Hakları, İstanbul: Beta Basım Yayım Dağıtım AŞ. 1997, p. 54-62.
- Bartholet**, Elizabeth: Family Bonds: Adoption, Infertility and the New World of Child Production, Beacon Press Boston, 1999.
- Boswell**, John: The Kindness of strangers: The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance, London 1988.
- Burt**, Cyril: The Backward Child, Hodder & Stoughton Educational Division; 4Rev Ed edition, 1974, p. 704.
- Cassidy**, Claire: Thinking Children, YHT Ltd. London, 2007.
- Cicero**, De Amicitia, 1.1; Pro Caelio 5.11; Nonius 406.14.
- Cunnigham**, Hugh: “The employment and unemployment of children in England c. 1680-1851”, Past and Present, 126, Oxford University Press 1990, p. 115-150, (Employment).

- Cuningham**, Hugh: *Children and Childhood in Western Society since 1500*, Longman, London and New York 1995, (Childhood).
- Dağ**, Hüseyin/**Doğan**, Murat/**Sazak**, Soner/**Kaçar**, Alper/**Yılmaz**, Bilal/**Doğan**, Ahmet/**Arıca**, Vefik, “Çocuk Haklarına Güncel Yaklaşım”, T.C İstanbul Okmeydanı Eğitim ve Araştırma Hastanesi, Çocuk Sağlığı ve Hastalıkları Kliniği, Cukurova Medical Journal, 2015 40(1), p. 1-5.
- de Mause**, Lloyd: (ed.) *The History of Childhood*, Souvenir Press, London 1976.
- Dixon**, Suzanne: *Roman Family*, The John Hopkins University Press, Baltimore, 1992.
- Egemen**, A.: *Türkiye Milli Pediatri Derneği Çocuk Sağlığı ve Hastalıkları Kitabı*, Güneş Tıp Kitabevi, İstanbul 2009, p. 179-81.
- Elias**, Norbert: *The History of Manners: The Civilizing Process*, Vol.1, 1939, New York, 1978.
- Engels**, Donald: “The problem of female infanticide in the Greco-Roman world”, *Classical Philology*, 75 (1980), p. 112-120.
- Erikson**, H. Erik: “Human strength and the cycle of generations”, In *Insight and Responsibility*, New York: Norton 1964, p. 109-157.
- Ersoy**, Arife Figen: “İlköğretim Öğrencilerinin Çocuk Haklarına İlişkin Algıları” *İlköğretim Online*, 2011, 10(1): p. 20-39.
- Freud** Sigmund: *Sexuality and psychology of love*, Touchstone, 1991, p. 224.
- Fuller**, Peter: *Uncovering childhood*, in M. Hoyles ed., *Changing Childhood*, London 1979.
- Golden**, Mark: *Children and Childhood in Classical Athens*, Baltimore and London, 1990.
- Gören**, Zafer: “Çocuğun Temel Hakları”, *Anayasa Yargısı Dergisi*, Cilt: 15, 1998, p. 113-176.
- Griswold**, Roger: *Fatherhood in America: A History*, New York: Basic Books, 1993.
- Grossberg**, Michael: *A Historical Perspective on DNA Testing in Child Custody Cases. Genetic Ties and the Family. The impact of paternity testing on parents and children*, Mark A. Rothstein ed. Thomas H. Murray, Gregory E. Kaebnik, Mary Anderlik Majumder, the Johns Hopkins University, Press, Baltimore, 2005, p. 47-63, (DNA Testing).

- Grossberg**, Michael: *Governing the Hearth: Law and Family in Nineteenth Central America*. Chapel Hill: University of North Carolina Press, 1985.
- Gültekin**, Mehmet/**Bayır**, Ömür Gürdoğan/**Balbağ**, Nur Leman: “Haklarımız Var: Çocukların Gözünden Çocuk Hakları”, Adıyaman Üniversitesi Sosyal Bilimler Enstitüsü Dergisi, Sayı: 24, Aralık 2016, p. 971-1005.
- Hardyment**, Christina: *Dream Babies: Child care from Locke to Spock*, Jonathan Cape Ltd, London 1983.
- Harris**, V. William: “The theoretical possibility of extensive infanticide in the Graeco-Roman world”, *Classical Quarterly*, 32 (1982), p. 114-126.
- Heywood**, C: ‘On learning gender roles during childhood in the 19th century France’, *French History*, 5 (1991).
- Houston**, Robert Allan: *Literacy in Early Modern Europe: Culture and Education 1500-1800*, Longman, Harlow 1988.
- Kaboğlu**, İbrahim Özden, *Anayasa Hukuku Dersleri*, İstanbul: Legal Yayıncılık, 2019, p. 456.
- Kahraman**, Pınar Bağçeli/**Kartal**, Tuğçe/**Yıldız**, Süreyya: “Resimli Çocuk Kitaplarında Çocuk Hakları”. *Çocuk Edebiyat ve Dil Eğitim Dergisi*. Cilt 3, Sayı 2, 26.12.2020, p. 138-163.
- Kamen**, Henry: *European Society 1500-1700*, Hutchinson, London, 1984.
- Key**, Ellen: *The century of the Child, 1900*, Putnam, New York and London, 1909.
- Kincaid**, R. James: *Child-loving: The Erotic Child and Victorian Culture*, London 1992.
- Kline**, Stephen: “Out of the Garden: Toys and Children’s Culture in the Age of TV Marketing”, Verso, London and New York 1993.
- Knowles**, Lilian Charlotte Anne: *The Industrial and Commercial Revolutions in Great Britain during the 19th century*, G. Routledge & Sons, Ltd, London 1921.
- Lacey**, W. K.: “Patria Potestas” in Rawson B ed., *Family in Ancient Rome*, Cornell University Press, New York 1987, p. 121-144.
- Locke**, J.: *Of the Conduct of the Understanding* (1697) / J. Locke, -New York: Maynard Merrill and Co,- 1901.
- Locke**, J.: *Some Thoughts Concerning Education* (1693)/J. Locke, - London: Cambridge University Press, 1880, p. 325.

- Locke**, John: *An Essay Concerning Human Understanding* (1689), New York, Published by Valentine Seaman, 1824.
- MacMurray**, John: *Persons in Relation*, Faber and Faber Limited London, 1970.
- Maine**, Henry Sumner: *Ancient Law: Its Connection with Early History of Society and Its Relation to Modern Ideas*, London, John Murray, Albemarle Street, 1901.
- Mason**, Mary Ann: *From Father's Property to Children's Rights: The History of Child Custody in the United States*. Chap.2. New York: Colombia University Press, 1994.
- Mintz**, Steven/**Kellogg**, Susan: *Domestic Revolutions: A Social History of American Family Life*, Free Press, New York 1988.
- Mitchell**, R. Brian: *European Historical Statistics 1750-1975*, 2nd revised edn. Macmillan, London, 1981.
- Mols**, R: *Population in Europe, 1500-1700*, in C.M. Cipolla (ed), *The Fontana Economic History of Europe: the 16th and 17th centuries*, London, 1974.
- Murray**, H. Thomas: *Three meanings of parenthood. Genetic Ties and the Family. The impact of paternity testing on parents and children* (The Johns Hopkins University Press, Baltimore, 2005). Edited by Mark A. Rothstein, Thomas H. Murray, Gregory E. Kaebnick, Mary Anderlik Majumder, p. 18-33.
- Nelken**, D.: *Children's Rights and Traditional Values*, Aldershot: Ashgate. 1998, p. 125-142.
- Newson**, J./**Newson**, E.: *Cultural aspects of childrearing in the English-speaking world*, in M.Richards (ed), *The Integration of a Child into a Social World*, Cambridge 1974.
- O'Donovan**, Katherine: "A right to know one's parentage", *International Journal of Law and the Family* 2:31-33, p. 27-45.
- Oğuzkan**, Ferhan: *Eğitim Terimleri Sözlüğü: Türk Dil Kurumu Yayınları*, 1974, p. 261.
- Prout**, Allan/**Allison**, James: "A new paradigm for the sociology of childhood? Provenance, promise and problems". In A. James and A Prout (eds), "Constructing and reconstructing childhood: contemporary issues in the sociological study of childhood. London, Falmer Press, 1997.

- Rawson**, Beryl: Adult-child relationships in Roman society, in R. Bawson ed. *Marriage, Divorce and Children in ancient Rome*, Canberra and Oxford, 1991.
- Razzel**, Peter: "The growth of population in 18th century England; a critical reappraisal", *Journal of Economic History*, 53 (1993), p. 757-780.
- Rothman**, J. David: *The Discovery of the Asylum: Social Order and Disorder in the New Republic*, Boston and Toronto, 1971.
- Rousseau**, Jean Jacques: *Emile or on Education*, ed. P.D. Jimack, London, 1974.
- Schouler**, James: *A Treatise on the Law of Domestic Relations*, 6th ed, 2:2034-35, Little Brown, Boston 1906.
- Seabrook**, Jeremy: *Working-class Childhood: An Oral History*, London 1982.
- Shahar**, Shulamith: *Childhood in the Middle Ages*, Routledge, London 1962.
- Shorter**, Edward, *The Making of the Modern Family*, Basic Books; First printing, 1975, p. 369.
- Skolnick**, A.: "Solomon's children: The new biologism, psychological parenthood, attachment theory, and the best interest standard", In *All Our Families: New Policies for a new century: A Report of the Berkeley Family Forum*, ed. S.D. Sugarman, Oxford: Oxford University Press.1999, p. 236-255.
- Tanrıbilir**, Feriha Bilge: *Çocuk Haklarının Uluslararası Korunması ve Koruma Mekanizmaları*, Yetkin, Ankara 2011.
- Trumbach**, Randolph: *The Rise of the Egalitarian Family: Aristocratic Kinship and Domestic Relations in 18th Century England*, Academic Pr, New York, San Fransisco and London, 1978.
- Vassberg**, E. David: 'Juveniles in the rural work force of the 16th century Castile', *Journal of Peasant Studies*, 11 (1983), p. 62-75.
- Weindling**, Paul: From isolation to therapy: children's hospitals and diphtheria in fin de siècle Paris, London and Berlin, in R. Cooter ed. *In the Name of the Child: Health and Welfare, 1880-1940*, London 1992, p. 124-145.
- Wiedemann**, Thomas: *Adults and Children in the Roman Empire*, Routledge, London 1989.
- Yurdakök**, K.: "Çocuk Hakları Sözleşmesi", *Sosyal Pediatri*, Meteksan, Ankara 1998, p. 139-152.

ABBREVIATIONS

AD	: Anno Domini (lat.in the year of the Lord)
BC	: Before Christ
DNA	: Deoxyribonucleic Acid
ECHR	: European Court of Human Rights
RG	: Resmi Gazete
UN	: United Nations