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Propositions

The following are propositions for the thesis “Legal capacity in international human rights law” by Oliver Lewis:

1. Contrary to its protective intent, guardianship often leads to human rights violations for the individuals affected.
2. International human rights law has evolved and set a new level of aspiration and guardianship laws need to be reviewed in light of these developments.
3. The UN High Commissioner for Human Rights was correct when she said in 2009 that Article 12 of the UN Convention on the Rights of Persons with Disabilities occupies a place of ‘centrality [...] in the structure of the Convention and its instrumental value in the achievement of numerous other rights’.
4. Safeguarding the right to legal capacity requires multi-sectoral actions by people in government, lawyers, judges and international human rights mechanisms.
5. Several governments are understandably sceptical about the view of the UN Committee on the Rights of Persons with Disabilities that legal systems need not have any form of substituted decision-making.
6. The binding nature of the UN Convention on the Rights of Persons with Disabilities on several European countries may increase the need for the European Court of Human Rights to systematically mesh the UN treaty into its jurisprudence.
7. Strategic litigation is an important enterprise in reversing power imbalances and engineering legal capacity law reform.

8. Global torture prevention mechanisms have been slow to demonstrate an interest in monitoring psychiatric and social care institutions which are places of detention, which matters because of the numbers of people in such institutions and the types of torture and ill-treatment to which they are subjected with impunity.
9. Libraries are more conducive to sleep than to study.