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Article 5 of the UN Convention on the Rights of the Child: parental guidance and the evolving capacities of the child

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Propositions relating to the dissertation

ARTICLE 5 OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD

Parental guidance and the evolving capacities of the child

by Sheila Varadan

1. Article 5 of the United Nations Convention on the Rights of the Child (CRC) should be understood as a right of the child to receive guidance and direction, rather than a right of parents to have their authority respected by the State.
2. Article 5 and the concept of evolving capacities extinguishes any lingering notion of parental rights as ownership rights, transforming the role of parents from rights-holders over their children to duty-bearers to their children in the child's exercise of rights under the CRC.
3. Children need guidance and direction to navigate their everyday lives, and such guidance is likely to come not just from parents but also wider family and community.
4. All children, even very young children, are individual rights-holders, whose voice and agency must be listened to and respected by those adults exercising influence over their everyday lives.
5. The UN Committee on the Rights of the Child treats the concept of evolving capacities as an enabling principle, an interpretative principle and a policy principle, informing not only the manner in which parental guidance is provided under Article 5, but the whole of the Convention.
6. Children have been essentialised as 'non-autonomous' beings in medical research, with priority placed on their protection rather than empowerment in the informed consent process.
7. Article 5 introduces boundaries around proxy or parental decision-making, ensuring that any decision made on behalf of a child is linked with the child's enjoyment and exercise of rights under the CRC.
8. Article 5 introduces a model for the parent-child relationship that is grounded in participation, dialogue, and mutual respect.
9. Informed consent is not only an ethical requirement of research, it is a legal requirement for the recruitment and enrolment of human subjects, including child participants, in clinical research.
10. The absence of specific laws and/or regulations on informed consent can lead to legal uncertainties, which not only have implications for the recruitment and enrolment of child participants, but also for the rights of children in the medical research setting.
11. Being a good parent does not require you to create a perfect life for your child but to give them the tools, support and guidance to create a life that is perfect for them.
12. Good parenting is knowing when to step in, realizing when to step back, and being ready for the moment when you will need to step aside.