

Do Parents Know Best?

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Abstract

While Article 5 of the UN Convention on the Rights of the Child requires states to respect parents' responsibilities to provide 'appropriate' direction and guidance to their children, Article 18 also proclaims that 'the best interests of the child will be [the parents'] basic concern'. But how can this be done if, as is widely accepted, the 'best interests' standard is too indeterminate safely to allow courts to substitute their assessment of children's interests for those of a child's parents? This reason for privatising such decisions has been reinforced by concerns over the extent of public expenditure on court involvement in and legal aid for such issues, with the possible result of withdrawal of the law from this process. This article argues that there are inherent risks in leaving the arrangements for children of separating parents entirely in the hands of the parents, and considers various ways in which such risks might be reduced.

Keywords

UNCRC Articles 6 and 18 – child arrangements – divorce and separation – best interests of the child – privatisation – de-legalisation

1 Introduction

While there is legitimate discussion about what direction and guidance which parents and some others are responsible to provide their children is 'appropriate' and 'consistent with [their] evolving capacities' in accordance with Article 5 of the UNCRC, Article 18 seems to establish an overall obligation that states shall 'use their best efforts' to ensure that, in doing that, 'the best interests of the child will be [the parents'] basic concern'. This obligation is inevitably somewhat imprecise. Tobin and Seow (2019) suggest it should be

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protection stage children are seen as vulnerable and in need of protection The children s rights stage lays emphasis on children as rights bearers as individuals in their own right with entitlements In this second edition new essays assess the extent to which children s rights have been incorporated into their respective areas of policy and law The authors draw conclusions about what the situation reveals about the status of children in Canada Overall many challenges remain on the pathway to full recognition and citizenship

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Parental Guidance, State Responsibility and Evolving Capacities Claire Fenton-Glynn, Brian Sloan, 2021-10-05 This book arises out of a CRC Implementation Project colloquium on Article 5 of the UN Convention on the Rights of the Child Article 5 protects the responsibilities rights and duties of parents or others to provide in a manner consistent with the evolving capacities of the child appropriate direction and guidance in the exercise by the child of his/her rights In this interdisciplinary collection leading international scholars address the interplay of parental guidance state responsibility and child autonomy within a wide range of fields from gender identity to criminal justice The chapters provide fascinating insights into the vital but enigmatic role of Article 5 **Hearings** United States. Congress. House. Committee on Education, 1971 *How to Pass IELTS Writing - 5 Steps to Write for IELTS* Peter Max Winkler, 2016-09-10 A simple and easy to understand guide that will show you HOW to write for IELTS This book is different than many other IELTS writing books you'll find available today as it explains exactly how the writing is graded and HOW to write for the test This book offers more than just sample answers it shows you the structure for each task type for BOTH Task 1 and Task 2 and for BOTH Academic and General versions of the test How to Pass IELTS Writing will walk you through the key vocabulary for each task as well as a grammar review especially needed for IELTS all in a simple and modern style What you get from this book How the test is scored Academic and General writing instruction Task 1 and Task 2 structures Key Vocabulary Grammar Review

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