



Children's Commissioner for Jersey Promoting and Protecting Children's Rights

The UNCRC and Parental Rights

The Government of Jersey became a signatory of the United Nations Convention on the Rights of the Child (UNCRC) in 2014 and in doing so committed to protecting and upholding children's rights.

All mothers and most fathers have legal rights and responsibilities as a parent. However, these rights must not be seen to conflict with children's rights.

Articles 5 and 18 of the UNCRC provide a framework outlining the relationship between the child, their family and the Government.

Article 5 Parental guidance and the child's evolving capacities:

"States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention."

This means that Governments must respect the rights and responsibilities of parents and carers to provide guidance and direction to their child as they grow up, so that they fully enjoy their rights. This must be done in a way that recognises the child's increasing capacity to make their own choices.

Article 18 Parents' joint responsibilities assisted by the State:

"States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern."

For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible."

This means that both parents share responsibility for bringing up their child and should always consider what is best for the child. Governments must support parents by creating support services for children and giving parents the help they need to raise their children.

Helping children to understand their rights does not mean pushing them to make choices with consequences that they are too young to handle. Article 5 encourages parents to deal with rights issues "in a manner consistent with the evolving capacities of the child". This article explains that parents have a responsibility to guide their children and to teach them about their rights, and as children grow older, to guide them to exercise their rights. This article introduces the idea that



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children should be able to exercise their rights as they acquire the competence to do so. The Government should take Article 5 into account when establishing minimum ages on certain issues.

Some see the UNCRC as the opportunity for the Government to become the 'nanny state' interfering with personal choice of parents and shifting the balance of power to children. Indeed, the UNCRC does challenge the traditional perception that children should be seen and not heard, however children's rights are compatible with family life and parental rights. The Convention does not take responsibility for children away from their parents and give more authority to governments. It is not against families nor puts children's rights above parental rights. The Article is clear that the Government must respect the role of parents. Indeed, it places on governments the responsibility to protect and assist families in fulfilling their essential role as nurturers of children.

This article and the Convention as a whole places parents centre stage in the child's development. However, parental guidance must be directed towards supporting children to exercise their rights and make their own decisions, respecting the extent to which children can do this for themselves. Rights are not contingent upon a child's ability to claim them but extend to all. The concept of the best interests of the child and the evolving capacities of children should be the basis on which children's rights and parental rights are understood.