

*vi Since the adoption of the UN Convention on the Rights of the Child in , Article 12 - the provision that children have a right to express their views and have them.*

Introduction Thank you, Charlie and Zac, and good morning everyone. Can I start by acknowledging the traditional owners of the land on which we are meeting today, the Larrakia people, and pay my respects to elders past and present. Thanks also to the old and young people in the room, for getting up so early and to the create foundation. The reality is that no statutory child protection system should or could intervene in the lives of the ever- increasing numbers of children and families being reported to them. It is also important that all Australians understand that children have rights, as do adults, and that these rights must be upheld. These rights are basic to us all - like being safe, having a family, understanding where we come from, having access to education and health care, to privacy, to play, and to be treated with respect. It also means recognising children as active members of communities with the right to have a say in decisions that affect their lives. Australia is a relatively wealthy country, with universal systems of education, social security and health care, and access to legal protections. Yet, sadly, too many children fall through the gaps in human rights protection. Vulnerable children in particular are much more likely to have their rights breached because they lack power and resources and sometimes visibility. These include Aboriginal and Torres Strait Islander children, children with disabilities, homeless children and young people, children in detention settings of all kinds, refugee and asylum seeking children and children from low socio-economic backgrounds and children from rural and remote areas. While I believe we all want an Australia where every child has an equal chance at life, to have an opportunity to not just survive but to thrive, and to be free from violence, abuse and neglect, it is, perhaps, less understood or acknowledged that this is also the legal right of every Australian child. It is for this reason that I would like to talk a little today about topic of child protection in the context of the international human rights framework. The Convention has four guiding principles: Apart from its ethical and moral force, the Convention is a legal document which sets out standards, and assigns responsibility for ensuring these standards are met. The Convention makes clear that children have the same human rights as adults, but that they also are entitled to special protection because of their unique vulnerabilities as children. When it came into effect in , children were recognised as rights-bearers for the first time in the international human rights treaty system. Article 9 states that children should not be separated from their parents unless it is for their own good. Article 18 says that both parents share responsibility for bringing up their children and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work. Article 27 asserts that children have the right to a standard of living that is good enough to meet their physical and mental needs, and that the government should help families who cannot afford to provide this. Article 34 asserts the need for Governments to protect children from sexual abuse. And Article 39 states that children who have been neglected or abused should receive special help to restore their self-respect. However, in the Australian context it is fair to say that apart from some specific state child protection frameworks and programs, and minor references in federal laws, limited progress has been made on this score. Signing up to the Convention also involves recognising children as active members of families, communities and societies with their own concerns, interests and points of view. The Big Banter We need to find better ways to listen to children and young people " to safeguard them, to empower them, and to make better decisions as adults. Last year I travelled around the country, as part of a project called the Big Banter, and had hundreds of discussions with children and young people. They consistently told me that two of the most important things to them were to be with family and to be safe. They were also particularly concerned about the level of violence, aggression and bullying in their communities. Despite this generalized fear, they are innately fair, care about other children, want to be treated with respect and have a say. Here are just a few examples of responses I received from children and young people, when asked what would make life better for children in Australia: People who you trust make you safe; There was a peace code so that everyone speaks kindly and is a peace maker; Everyone should be treated equally; There should be a limit of

two alcoholic drinks per person per day, if you choose to drink alcohol at all; There should be no violence, bullying and everyone should feel safe; To be comfortable in your own home; To live in a safe world and environment; and To have a good future. For nobody to get hurt and for children to feel safe all the time We all felt safe in a house with a mum and dad All children should have some love from their mum and family Parents to put their children first in front of drugs or alcohol They also recommended rainbows, rivers of chocolate, gooey caramel, pizza, personal robot butlers, rockets as the main mode of transport and lots of bouncing castles and super slides. Personally the combination has me feeling quite ill. Australian Child Protection Statistics There is a lot of great work being undertaken to protect children around Australia and this week, in child protection week, we have a chance to acknowledge that excellent work. However, there are still many issues of concern. The escalating numbers of children washing around the care and protection system is a case in point. The number of children in care is now well over 40, This is not a sustainable paradigm, cost effective or smart. Aboriginal and Torres Strait Islander children continue to be over-represented, and were almost 8 times as likely to be the subject of substantiated child abuse and neglect as non-Indigenous children. Surely these resources would be better directed at preventing abuse and neglecting and helping families to be great carers for their kids. The UN Committee said that while Australia has made some progress, there are still many children who fall through the gaps. The Committee pointed to areas where we can do much better to protect the rights of all children, especially those most at risk, and expressed its concern regarding, amongst other factors: That is, Australia has no comprehensive plan or strategy for realising the Convention as a whole, and lacked a coordinated or child-specific approach to data, budget and activities. To allow us to effectively monitor and report on violence and abuse, and making good on our promises, improvements must be made to existing child maltreatment data, 5 like consistent definitions and collections across the country, like child abuse prevalence data rather than simply administrative data, like data on why children are removed and put into care, and standardised data, covering all forms and combinations of violence against children. For one, the UN human rights treaty system gives us a strong framework for monitoring the promises we have made to children through the Convention “a comprehensive framework for planning and measuring child wellbeing now and into the future. I like to think of the Convention as the blueprint for action on all of the areas of child well-being which we should guarantee to each child in Australia. The recommendations of treaty bodies such as the UN Committee on the Rights of the Child have a persuasive force because they are based on internationally agreed standards of treatment. I invite all of you in this room to join with me in advocating for the collection and analysis of data that would allow us to monitor our progress in honouring our commitments to children against the domains of the Child Rights Convention. I have seen first-hand the impact knowledge of their rights has on vulnerable children. It is wonderful to see how this news helps to make children feel safe and valued. It is like a suit of armour they can put on to make them feel safe and strong. This is not about growing precocious children, but growing capable, free, responsible and informed children. For this to happen more widely, we need to work better at making the Convention and its principles more accessible to children and young people, as well as adults, by, for example, developing and using materials which are child-friendly translations of the Convention. International Conventions and Treaties frequently have optional protocols attached to them that advance human rights further than the source treaty. I would like to briefly discuss two of these, which Australia has not yet ratified, but which will, I believe, significantly empower and afford greater protections for vulnerable children. Children from countries that ratify the Protocol can use the treaty to seek justice if the national legal system has not been able to provide a remedy for the violation. Adults already have this right, children do not. The Committee is able to hear complaints from children, groups of children or their representatives against any State that has ratified the Protocol. Australia has not signed up to or ratified this Protocol, but to do so would show great leadership in our region, and put pressure on the states and territories to ensure that they not only have grievance mechanisms in place for children but they are also accessible and known to children. The OPCAT establishes a system of visits to all places where persons are deprived of their liberty by independent international and national monitoring bodies. While Australia has signed up to this protocol, it is yet to ratify it. The basic premise is that the more open and transparent places of detention are, the lesser the risk for abuse. This includes places where children are held and where they are

particularly vulnerable such as juvenile justice centres, immigration detention places, secure residential and respite care units, and psychiatric facilities. I will continue to advocate strongly for the Australian Government to get behind these protocols, and any additional advocacy you could lend when you are in communication with decision makers, both state and federal, would be much appreciated. In part this work arose from my conversations with children and adults during the banter, but also because of the alarming emerging trends for children and young people. Intentional self-harm and suicidal behaviour in children and young people is a serious issue in Australia today. The latest available data from shows that intentional self-harm was the leading cause of death among Australian children and young people aged 15 to And alarmingly, for that same year and cohort, there were over 10, hospitalisations due to self-harming behaviour. And this is just the tip of the iceberg. The aim of my work is to gain a much better understanding about what is happening for young people, and what can be done to improve supportive interventions and increase help seeking behaviour. We have had a very positive response to this investigation so far, and have received submissions, conducted 12 expert roundtables across the country, plus numerous other consultations. Through partnering with organisations who work directly with children and young people who are engaging in intentional self-harm and suicidal behaviours, I have also heard directly from children and their families. This will form the substantive content of my report to Parliament. Conclusion The changes needed to keep children safe and allowing them to thrive is not just about making sure they hear from us and shining a light on their lives, it is changing the way we think and do things. And it is only by putting children at the centre of our thought and practice, and by genuinely and authentically engaging with and listening to children that this will occur. I do not believe that if this had been the case in institutions which had the care of children but where abuse of children flourished, we would need to be having a national royal commission about sexual abuse against children in institutions, today. For all countries the recognition of this right as paramount and the decision to set up both programmes and institutions to ensure child protection is a giant step in the right direction. This award aims to highlight inspiring prevention initiatives that help to create safer communities for children and young people. The FAST program has been engaging and supporting families since , and is active in over 18 locations across the Northern Territory in both urban and remote communities. These teams have delivered FAST activities to around families. FAST is collaborative in design bringing together agencies, school staff and community members to work together to support families in their own community. Congratulations on this fantastic achievement!

Chapter 2 : Children's rights - Wikipedia

*I have the right to be listened to, and taken seriously. One of the things the UNCRRC does is to make it clear that human rights apply to children and young people, just as they do to adults. This is as true in Scotland as it is anywhere else in the world.*

Youth rights "In the majority of jurisdictions, for instance, children are not allowed to vote, to marry, to buy alcohol, to have sex, or to engage in paid employment. Parental powers See also: Particular issues in the child-parent relationship include child neglect , child abuse , freedom of choice , corporal punishment and child custody. Some governments have enacted laws creating a rebuttable presumption that shared parenting is in the best interests of children. Parents are subject to criminal laws against abandonment, abuse, and neglect of children. In the absence of duty, no parental right exists. Eve , that parents may not grant surrogate consent for non-therapeutic sterilization. A number of current and historical documents affect those rights, including the Declaration of the Rights of the Child , [11] drafted by Eglantyne Jebb in , endorsed by the League of Nations in and reaffirmed in A slightly expanded version was adopted by the United Nations in , followed by a much expanded version adopted by the General Assembly in It later served as the basis for the Convention on the Rights of the Child. The ICCPR is a multilateral international covenant that has been ratified or acceded to by nearly all nations on Earth. Nations which have become state-parties to the Covenant are required to honor and enforce the rights enunciated by the Covenant. The treaty came into effect on 23 March The rights codified by the ICCPR are universal, so they apply to everyone without exception and this includes children. Although children have all rights, some rights such as the right to marry and the right to vote come into effect only after the child reaches maturity. Its implementation is monitored by the Committee on the Rights of the Child. And calls on States to integrate the Convention on the Rights of the Child into their national action plans. By means of these national action plans and through international efforts, particular priority should be placed on reducing infant and maternal mortality rates, reducing malnutrition and illiteracy rates and providing access to safe drinking water and basic education. Whenever so called for, national plans of action should be devised to combat devastating emergencies resulting from natural disasters and armed conflicts and the equally grave problem of children in extreme poverty. Further, para 48 urges all states, with the support of international cooperation, to address the acute problem of children under especially difficult circumstances. Exploitation and abuse of children should be actively combated, including by addressing their root causes. Effective measures are required against female infanticide , harmful child labour , sale of children and organs, child prostitution , child pornography , and other forms of sexual abuse. It was set up to promote full implementation and compliance with the Convention on the Rights of the Child, and to ensure that child rights were given priority during the UN General Assembly Special Session on Children and its Preparatory process. The United Nations Human Rights Council was created "with the hope that it could be more objective, credible and efficient in denouncing human rights violations worldwide than the highly politicized Commission on Human Rights. United States law Further information: Children are generally afforded the basic rights embodied by the Constitution, as enshrined by the Fourteenth Amendment to the United States Constitution. The Equal Protection Clause of that amendment is to apply to children, born within a marriage or not, but excludes children not yet born. In this trial year-old Gerald Gault of Arizona was taken into custody by local police after being accused of making an obscene telephone call. He was detained and committed to the Arizona State Industrial School until he reached the age of 21 for making an obscene phone call to an adult neighbor. In an 8â€”1 decision, the Court ruled that in hearings which could result in commitment to an institution, people under the age of 18 have the right to notice and counsel, to question witnesses, and to protection against self-incrimination. Simmons that persons may not be executed for crimes committed when below the age of eighteen. It ruled that such executions are cruel and unusual punishment , so they are a violation of the Eighth Amendment to the United States Constitution. Of particular concern is the German and Austrian agency, Jugendamt German: The problem is complicated by the nearly "unlimited power" of the Jugendamt officers, with no processes to review or resolve inappropriate or harmful treatment. By German

law, Jugendamt officers are protected against prosecution. Officers have also disregarded family court decisions, such as when to return children to their parents, without repercussions. Germany has not recognized related child-welfare decisions made by the European Parliamentary Court that have sought to protect or resolve children and parental rights violations.

**Chapter 3 : Understanding Children's Right to Freedom - Humanium â€œ We make children's rights happen**

*Right to be heard in the Healthcare fill this gap by exploring the extent to which children are listened to in the those whose children have long-term and.*

Does a child get to decide with what parent he or she lives? It is more complicated than that. However, as child custody laws in California became more progressive and with the passage of Family Code section and its companion in California Rules of Court 5. In that case, the court shall state its reasons for that finding on the record. While there is no magical significance to the age of 14, the California legislature has drawn that line at that age because the legislature believed that at age 14, the child has enough emotional maturity and capacity to reason and articulate relevant and appropriate reasons for a preference. Even in the context of a sincere choice and good reasons for a change, the court is not mandated to cut off all visitation even if the child requests it from the court. If a child comes to court and he or she states a preference to be in the sole custody of one parent and not be required to see the other, the family court has the wide discretion to still order visitation with the other parent and can even make orders such as court ordered counseling , reunification and other remedial measures to restore the relationship between the child and the parent the child no longer wishes to visit. How does a child voice his or her choice? More family law judges are choosing a direct approach and hearing from a child directly in chambers or in open court. In such situations, the Family Code and the California Rules of Court give the court the following options to consider: Regardless, it is almost assured that a court reporter will be present and taking down the testimony so there is a record of it. The parents will almost certainly not question the child if they are represented by a lawyer. The family law judge does not have to do it this way and both Family Code and California Rules of Court 5. Participation in mediation under Family Code section ; Appointment of a child custody evaluator or investigator. Regardless of the method the court chooses in the place of speaking with the child directly, the report back to the court must be: The experience of a child custody lawyer is very helpful here to ensure the information is properly presented to the court through admissible evidence. Contact us for help. We have offices in Orange County and Los Angeles. You may also complete the form at end of this website page. About the Author B.

**Chapter 4 : Children have the right to be heard”but how do we listen? - Early Childhood Australia**

*We promote children's right to be strong, resilient and listened to by enabling children to have the self-confidence and the vocabulary to resist inappropriate approaches. We help children to establish and sustain satisfying relationships within their families, with peers, and with other adults.*

If you are under 18 years of age, you are a child, and you have rights. Rights are things that every person needs to survive, to be treated fairly and to reach their full potential. Rights are important because they list very specific things that we have and need to live with dignity and be treated with respect. Human rights are an important part of our everyday lives and they matter for everyone no matter where you come from, your age, culture, religion or any other status. Just like adults, every child has rights. Human rights are universal and often expressed and guaranteed by law in treaties, customary international law, general principles and other sources of international law. Children and young people have the same general human rights as adults, but they also have specific rights that recognise their special needs as children. Just like adults, children have rights. This was written in November , and it lists all the rights that all children have. These rights belong to every child in the world. So if you are under 18 years old ” these are your rights! Why do children have special rights? Even though the rights set out in the Convention on the Rights of the Child are very similar to the rights that adults have, this convention explains that adults and governments have extra responsibilities to make sure that children are able to access all their rights. This is because children are growing, learning and sometimes need extra protection because of their age. What rights do children have? The Convention was the first tool developed to incorporate the complete range of international human rights, including civil, cultural, economic, political and social rights as well as aspects of humanitarian law, that just apply to children. The Convention has four guiding principles and they are core requirements for any and all rights to be realised. The best interests of the child: Every child has the right to express his or her opinion, and can provide advice and valuable insight into how their rights can best be protected and fulfilled. Are there barriers to children accessing their rights? Even though every child always has rights, sometimes there are big barriers that stop them from understanding and using their rights. For example, every child has the right to be protected from all kinds of violence. But every day, many children see or experience violence ” at home, at school or in their communities. Every child has the right to be listened to and to have their opinions taken seriously when decisions are being made about their lives. Governments, adults and children need to work together to get rid of these barriers so that children can enjoy all their rights, and be their very best. Who protects the rights of children? Adults and governments in countries around the world are bound to protect the rights of children. Organisations like UNICEF have an important role to play in reminding governments of their responsibilities to children. We also work with governments to find the best way to this for the largest number of children. We listen to children and young people Children and young people have the right to give their opinions on issues that affect them, and for adults to listen and take them seriously. It is a fundamental right all children and young people should have. We welcome and encourage all comments, questions or complaints about UNICEF and our work from children and young people. Please send them to us via email to support unicef. Support the rights and wellbeing of every child.

**Chapter 5 : Children's Rights (Stanford Encyclopedia of Philosophy)**

*Kellett (, ) describes how children and young people have traditionally been denied the right to participation, and how this perspective has more recently been challenged by researchers, practitioners and policymakers who argue that even young children have important things to say and that their views can help improve services.*

Listen to this article in MP3 , read by Jeff Riggenbach. The entire book is being prepared for podcast and download. These include the goods which he acquires in exchange or as a result of a voluntary gift or bequest. There remains, however, the difficult case of children. The right of self-ownership by each man has been established for adults, for natural self-owners who must use their minds to select and pursue their ends. On the other hand, it is clear that a newborn babe is in no natural sense an existing self-owner, but rather a potential self-owner. Gradually, or all at once? And what criteria do we set forth for this shift or transition? Even from birth, the parental ownership is not absolute but of a "trustee" or guardianship kind. No man can therefore have a "right" to compel someone to do a positive act, for in that case the compulsion violates the right of person or property of the individual being coerced. Thus, we may say that a man has a right to his property i. Applying our theory to parents and children, this means that a parent does not have the right to aggress against his children, but also that the parent should not have a legal obligation to feed, clothe, or educate his children, since such obligations would entail positive acts coerced upon the parent and depriving the parent of his rights. The parent therefore may not murder or mutilate his child, and the law properly outlaws a parent from doing so. But the parent should have the legal right not to feed the child, i. This rule allows us to solve such vexing questions as: Though, as we shall see below, in a libertarian society the existence of a free baby market will bring such "neglect" down to a minimum. Our theory also enables us to examine the question of Dr. Kenneth Edelin, of Boston City Hospital, who was convicted in of manslaughter for allowing a fetus to die at the wish, of course, of the mother after performing an abortion. If parents have the legal right to allow a baby to die, then a fortiori they have the same right for extra-uterine fetuses. Similarly, in a future world where babies may be born in extra-uterine devices "test tubes" , again the parents would have the legal right to "pull the plug" on the fetuses or, rather, to refuse to pay to continue the plug in place. Let us examine the implications of the doctrine that parents should have a legally enforceable obligation to keep their children alive. The argument for this obligation contains two components: Secondly, if a helpless child may be said to impose legal obligations on someone else, why specifically on its parents, and not on other people? What do the parents have to do with it? The answer, of course, is that they are the creators of the child, but this brings us to the second argument, the argument from creation. Considering, then, the creation argument, this immediately rules out any obligation of a mother to keep a child alive who was the result of an act of rape, since this was not a freely undertaken act. Furthermore, if creation engenders an obligation to maintain the child, why should it stop when the child becomes an adult? It is true that the child is no longer helpless; but helplessness as pointed out above is not in and of itself a cause of binding obligation. The scientist is then the "creator. And suppose the child is deformed and ill, scarcely human; does he still have a binding legal obligation to maintain the child? And if so, how much of his resources " his time, energy, money, capital equipment " should he be legally required to invest to keep the child alive? Where does his obligation stop, and by what criterion? This question of resources is also directly relevant to the case of natural parents. As Evers points out: The sickness is grave enough that the parents in order to obtain the medical care to keep the baby alive, would have to starve themselves. Do the parents have an "obligation to lessen the quality of their own lives even to the point of self-extinction to aid the child? And by what criterion? One might want to argue that parents owe only the average minimal care heat, shelter, nutrition necessary to keep a child alive. But, if one is going to take the obligation position, it seems illogical " in view of the wide variety of human qualities and characteristics " to tie obligation to the Procrustean bed of the human average. But this would also entail the alleged "contract" with the fetus that would prohibit abortion, and this falls into all the difficulties with the contract theory as analyzed above. In a very real sense, the rescuer has brought life to the child; does the rescuer, then, have a binding legal obligation to keep the child alive from then on? Apart from that, so long as the child lives

at home, it must necessarily come under the jurisdiction of its parents, since it is living on property owned by those parents. Certainly the parents have the right to set down rules for the use of their home and property for all persons whether children or not living in that home. But when are we to say that this parental trustee jurisdiction over children shall come to an end? Surely any particular age 21,18, or whatever can only be completely arbitrary. The clue to the solution of this thorny question lies in the parental property rights in their home. For the child has his full rights of self-ownership when he demonstrates that he has them in nature "in short, when he leaves or "runs away" from home. Regardless of his age, we must grant to every child the absolute right to run away and to find new foster parents who will voluntarily adopt him, or to try to exist on his own. Parents may try to persuade the runaway child to return, but it is totally impermissible enslavement and an aggression upon his right of self-ownership for them to use force to compel him to return. Now if a parent may own his child within the framework of non-aggression and runaway freedom, then he may also transfer that ownership to someone else. He may give the child out for adoption, or he may sell the rights to the child in a voluntary contract. In short, we must face the fact that the purely free society will have a flourishing free market in children. Superficially, this sounds monstrous and inhuman. But closer thought will reveal the superior humanism of such a market. For we must realize that there is a market for children now, but that since the government prohibits sale of children at a price, the parents may now only give their children away to a licensed adoption agency free of charge. The result has been a typical market where the price of the commodity is held by government far below the free-market price: The demand for babies and children is usually far greater than the supply, and hence we see daily tragedies of adults denied the joys of adopting children by prying and tyrannical adoption agencies. In fact, we find a large unsatisfied demand by adults and couples for children, along with a large number of surplus and unwanted babies neglected or maltreated by their parents. Allowing a free market in children would eliminate this imbalance, and would allow for an allocation of babies and children away from parents who dislike or do not care for their children, and toward foster parents who deeply desire such children. Parents would be able to sell their trustee-rights in children to anyone who wished to buy them at any mutually agreed price. The present state of juvenile law in the United States, it might be pointed out, is in many ways nearly the reverse of our desired libertarian model. In the current situation, both the rights of parents and children are systematically violated by the State. In present law, children may be seized from their parents by outside adults almost always, the State for a variety of reasons. Two reasons, physical abuse by the parent and voluntary abandonment, are plausible, since in the former case the parent aggressed against the child, and in the latter the parent voluntarily abandoned custody. Two points, however, should be mentioned: A few recent cases will serve as examples of how broadly the seizure power has been exercised. In the case of *In re Watson*, the state found a mother to have neglected three children by virtue of the fact that she was "incapable by reason of her emotional status, her mental condition, and her allegedly deeply religious feelings amounting to fanaticism. Powers, the court again violated religious freedom as well as parental rights by seizing a child on the ground that the parent was too intensely devoted to a nonconformist religion, and that the child should properly have been studying or playing, rather than passing out religious literature. A year later, in the case of *In re Black*, a Utah court seized eight children from their parents because the parents had failed to teach the children that polygamy was immoral. In , five children were seized from their mother by a court on the ground that the mother "frequently entertained male companions in the apartment. In a recent decision, Justice Woodside of the Pennsylvania Superior Court trenchantly warned of the massive coercive potential of the "best interest" criterion: A court should not take the custody of a child from their parents solely on the ground that the state or its agencies can find a better home for them. If "the better home" test were the only test, public welfare officials could take children from half the parents in the state whose homes are considered to be the less desirable and place them in the homes of the other half of the population considered to have the more desirable homes. Extending this principle further, we would find that the family believed to have the best home would have the choice of any of our children. Compulsory school attendance laws, endemic in the United States since the turn of this century, force children either into public schools or into private schools officially approved by the state. Forcibly prevented from working and earning a living, and forced into schools which they often dislike or are not suited for, children often become "truants," a

charge used by the state to corral them into penal institutions in the name of "reform" schools, where children are in effect imprisoned for actions or non-actions that would never be considered "crimes" if committed by adults. It has, indeed, been estimated that from one-quarter to one-half of "juvenile delinquents" currently incarcerated by the state did not commit acts that would be considered crimes if committed by adults. Between the sexes, it is particularly girl children who are jailed in this way for "immoral" rather than truly criminal actions. The percentage of girls jailed for immorality "waywardness," sexual relations rather than for genuine crimes ranges from 50 to over 80 percent. As Beatrice Levidow writes, the Gault and similar decisions: Therefore, the safeguards of Kent, Gault, and Winship do not protect the due process rights of juveniles who are dependent, neglected, in need of supervision, truant, run away, or accused of other offenses of which only juveniles can be guilty such as smoking, drinking, staying out late, etc. As Roscoe Pound has written, "the powers of the Star Chamber were a trifle in comparison with those of our juvenile courts. Thus, Judge Michael Musmanno stated in a Pennsylvania case: Certain constitutional and legal guarantees, such as immunity against self-incrimination, prohibition of hearsay interdiction of ex parte and secret reports, all so jealously upheld in decisions from Alabama to Wyoming, are to be jettisoned in Pennsylvania when the person at the bar of justice is a tender-aged boy or girl. Indeed the rule in contemporary juvenile justice has been to impose a sentence that may leave a juvenile in jail until he reaches the age of majority. Furthermore, in some states in recent years, this evil has been compounded by separating juvenile offenders into two categories – genuine criminals who are called "delinquents," and other, "immoral" children who are called "persons in need of supervision" or PINS. After which, the PINS "offenders" receive longer sentences than the actual juvenile criminals! Thus, in a recent study, Paul Lerman writes: The range of institutional stay was two to twenty-eight months for delinquents and four to forty-eight months for PINS boys; the median was nine months for delinquents and thirteen months for PINS; and the average length of stay was The results of length of stay do not include the detention period; the stage of correctional processing prior to placement in an institution. Analyses of recent detention figures for all five boroughs of New York City revealed the following patterns: A recent study of Hawaii, for example, found that girls charged merely with running away normally spend two weeks in pretrial detention, whereas boys charged with actual crimes are held for only a few days; and that nearly 70 percent of the imprisoned girls in a state training school were incarcerated for immorality offenses, whereas the same was true of only 13 percent for the imprisoned boys. The idea of crime and punishment was to be abandoned. The child was to be "treated" and "rehabilitated and the procedures, from apprehension through institutionalization, were to be "clinical" rather than punitive. These results were to be achieved, without coming to conceptual and constitutional grief, by insisting that the proceedings were not adversary, but that the State was proceeding as *parens patriae* the State as parent. The Latin phrase proved to be a great help to those who sought to rationalize the exclusion of juveniles from the constitutional scheme; but its meaning is murky and its historical credentials are of dubious relevance. In doing so, it does not deprive the child of any rights, because he has none. It merely provides the "custody" to which the child is entitled. On this basis, proceedings involving juveniles were described as "civil" not "criminal" and therefore not subject to the requirements which restrict the State when it seeks to deprive a person of his liberty.

Chapter 6 : Children and Rights | Mises Institute

*Like adults, children have the right to meet in order to consult and react on issues which directly concern their rights and their well-being, but also on news headlines which interest them. Thanks to these liberties, children have the right to participate in the life of their society.*

In what follows this definition will be assumed. Some think it obvious that children do have rights and believe that the only interesting question is whether children possess all and only those rights which adults possess. Others are sceptical believing that given the nature both of rights and of children it is wrong to think of children as right-holders. One background worry against which such scepticism may be set is a currently oft-expressed concern at the proliferation of rights. Rights are, so it is alleged, now promiscuously ascribed in two ways. First, the list of right-holders has been extensively lengthened. Second, many more demands are expressed as rights claims. The concern is properly understood as one that the prodigality of rights attributions is damaging to the cause of rights. If you give away too many rights they may cease to have the value and significance they once had, and ought still to have. A favoured metaphor in this context is monetary: That currency is indeed precious for it is almost universally accepted that rights, insofar as they exist, are things whose possession is of very great advantage to their owners. There are, however, more particular reasons for being suspicious of the idea that children have rights. To appreciate these it is necessary to be clearer about the language of rights. With respect to rights in general we can inquire as to what it is for someone to have a right, or, put another way, we can ask what being a right-holder consists in. There are here two competing accounts, one of which is seen as fatal to the idea of children as right-holders. We can ask a different question, namely what must be true for there to be rights. We can also construct a taxonomy of the different kinds of rights. Finally we can ask what the moral significance of having a right is, or what weight rights have. Others believe the possession of rights to be a weighty consideration but not so weighty as to outbalance every other moral claim. With regard to any acknowledged right we can identify it by means of its content what is it a right to? Some believe that rights never conflict. But, if they do, we need to know which right should have priority. Not all of these questions are relevant when we want to focus on the particular issue of whether or not children have rights, and, if so, which ones. However the first question raised above is especially salient. What is it for someone to have a right? Here there are two competing theories whose respective virtues and vices have been extensively debated without either gaining evident or agreed supremacy. In one camp is the will or choice theory Hart ; Sumner ; Steiner ; in the opposing camp is the welfare or interest theory MacCormick ; Raz ; Kramer The first theory sees a right as the protected exercise of choice. In particular to have a right is to have the power to enforce or waive the duty of which the right is the correlative. What it means, on this theory, for me to have the right to education is for me to have the option of enforcing the duty of some other person or persons to provide me with an education, or to discharge them from the responsibility of doing so. The second theory sees a right as the protection of an interest of sufficient importance to impose on others certain duties whose discharge allows the right-holder to enjoy the interest in question. What it means, on this theory, to have a right to education is for me to have an interest in being educated which is so important that others are under an enforceable duty to provide me with an education. It is natural to think that each theory is more appropriate for certain kinds of rights. The will theory fits rights actively to do things to speak, to associate with others whereas the interest theory fits rights passively to enjoy or not to suffer things to receive health care, not to be tortured. However the distinction between the theories of what it is to have a right is not the distinction between different kinds of rights, even if there are important relations between the two distinctions. The will and the interest theory is each alleged to have failings. But interestingly in this present context one defect of the will theory is its critics argue its exclusion of some humans from the category of right-holders. This is because whilst all humans, and perhaps many classes of non-humans such as animals, have interests that ought to be protected, not all humans have the capacity to exercise choice. Children along with the severely mentally disabled and the comatose cannot thus, on the will theory, be the holders of rights. Of course someone who is convinced of the correctness of the will theory might readily

concede that the theory entails the denial of rights to children but see no reason to abandon the theory. Obviously different claims are being made and the same claims are playing distinct roles in different arguments. The claims in question can be set out as follows: Rights are protected choices Only those capable of exercising choices can be right-holders Children are incapable of exercising choice Children are not right-holders Adults have duties to protect the important interests of children Rights and duties are correlative Children are right-holders To explain 6. An important claim held by many is that for each and every right there is a correlative duty. To say that I have a right to something is to say that someone else has a duty to me in respect of that thing. The correlate rights and duties are, as it were, simply the two sides of one and the same single coin. This of course does not mean that there may not be some kinds of duties which do not correlate with any rights. Now clearly 4 and 7 contradict one another: But insofar as children cannot exercise choice and are required to do so on the will theory if they are to have rights, then it follows that they cannot have rights. If they do then as things stand either the will theory is true and children do not have rights, or the interest theory is true and they do. Or, put another way, either children have rights in which case the will theory cannot be true, or they do not in which case that theory could be true. How might the various protagonists in these debates respond to these different claims? A will theorist who did not want to deny that children have rights might deny 2. He might say that although it is true that children are themselves incapable of exercising choice it does not follow that they cannot still be possessors of rights. For children might have representatives, such as most obviously their parents or guardians, who could exercise the choices on behalf of the children. The representatives would choose for the children as the children would choose if they were capable of choosing for themselves. This proxy exercise of choice would take place only during the period when the children were incapable of exercising choice and in acknowledgment of the fact that the children will eventually be capable of exercising their own choices. In short children still have rights but the choices, which are constitutive of these rights according to the will theory, are made by representatives of the children. Now such a modification must meet a number of challenges. First, how should the representatives be selected? Think of the representation of children as like a trust. The children entrust their decision-making to their representatives who are thus their trustees. Now, second, are the terms of the trust sufficiently clear and determinate? Is it, for instance, perspicuous and evident what a child would choose if capable of choosing? Note that the criterion is not what is in the best interests of the child for, consistent with the will theory, we must appeal to choices rather than interests. It is not easy to say what some adult who cannot currently choose "because she is, for instance, temporarily comatose" would choose if able. It is even harder in the case of someone, a child, who is for the period of childhood simply incapable of making any choices. Third, how is the trust to be enforced and by whom? The representative may be presumed to have a duty to choose as the child would choose if able. If rights are correlative with duties then someone other than the representative and the child must be in a position to enforce or waive this duty. Could this be the state or its representative? These are formidable challenges but assuming they can be met it is within the resources of the will theory to accord rights to children. There are, moreover, two further responses that can be made by the will theorist to the claims listed earlier that challenge the presuppositions of the interest theory. First she might accept 6 "that rights and duties are correlative" but deny or at least significantly modify 5 "that adults have duties to protect the important interests of children. She could say that the duties that are rightly specified under 5 are not the duties that correlate with rights. This is just to say, as all rights theorists will repeatedly say, that rights do not exhaust the moral domain. What we must do because others have rights against us is not everything we must morally do. There are duties beyond those rights-correlated duties. For each and every right there is a correlate duty. This how 6 should be understood. But 6 is not the claim that for each and every duty there is a correlate right. So we should, as adults, ensure that the interests of children are protected and promoted. It does not follow that they have rights against us. In just the same way we ought not cruelly and gratuitously to maltreat animals but we need not think that it follows from this that animals are right-holders. Second a will theorist might accept 5 and 6 as they stand but say that the rights which correlate with these duties are possessed not by the children but by adults who are in the best position to protect the children. Thus even if the duties adults have in respect of children do correlate with rights it does not follow that the rights in question are held by

those whose interests they protect. Indeed it might be argued that it does not matter whether the rights are possessed by those whose interests they protect. The point can be pressed home by asking whether it really matters whether the rights that correlate with adult duties to children are held by the children or by those who would act as best they could for the children Steiner , This review of the will and interest theory has not considered other reasonsâ€”independent of the implications of either theory for the question of whether or not children have rightsâ€”for favouring either theory. Of course even if it is not such a test case there may be other considerations that tell against the will theory and in favour of the interest theory. Or it may be that on balance the interest theory is preferable to the will theory whether or not the latter denies rights to children. We may now address the further questions Ought children to have rights? And, if so, what rights should they have? Note that the rights can be moral or legal. Children do have rights in law under the UN Convention most notably. These need not be accepted as moral rights. However someone could believe that the best way, on balance, to protect the interests of children is by continuing to accord them the legal rights they have under something like the Convention. Someone might also believe that children should have legal rights but not those they are currently accorded. Conversely, if children do have moral rights, these need not be enshrined in law, although there would evidently be a strong presumption that they should.

**Chapter 7 : Child rights information for children - UNICEF Australia**

*Listen to and value children's views and opinions and show that they have been acted upon " young children can tell adults much about daily lives and.*

Can a child ever choose which parent she wants to live with? Hannah is a family law lawyer located in Traverse City, Michigan, who handles divorce, child custody, paternity, adoption, neglect, and other family law matters, and who assists fathers and mothers to exercise their rights to custody and parenting time. I am often asked such questions as: In my realistic and disgruntled approach, I want to say: But the reality of the situation is this: Judges and referees are third parties whose knowledge of the family dynamics and of the needs and best interests of the children are logically much more limited than should be the reasoned knowledge of Mom and Dad. But it is safe to say that in Michigan, there is no specific "age" when a child can dictate with whom she wants to live. In a case decided by the Michigan Court of Appeals more than twenty-five years ago, the court made this very enlightened statement: A child custody determination is much more difficult and subtle than an arithmetical computation of factors. It is one of the most demanding undertakings of a trial judge, one in which he must not only listen to what is said to him and observe all that happens before him, but a task requiring him to discern and feel the climate and chemistry of the relationships between children and parents. This is an inquiry in which the court hopes to hear not only the words but the music of the various relationships. When a year-old child, for example, has a strong and reasoned preference for being with one parent, forcing that child to remain in a home where she does not wish to be could quickly lead to more serious family problems. There, one of the children had a strong preference to live with the father. After interviewing all of the children in camera, the trial court changed custody of all of the children to the father. In dealing with the decided preference of an older child to live with the father, the Foskett Court said: Incumbent on the trial court therefore, is the duty to apply all the statutory best interests factors to each individual child. And, as a child progresses through the different life stages, what they need from each parent necessarily evolves therewith. Accordingly, the best interests factors must be fluid enough in their application to accommodate these differences. The Foskett panel then cited *Weichmann v Weichmann*, Mich App in which the court of appeals stated that "[w]e believe that in most cases it will be in the best interests of each child to keep brothers and sisters together. Generally speaking, there are a few criteria that judges typically consider to one degree or another when deciding a case where the child or children have strong preferences: What reason or reasons does the child cite for wanting to change residences? Is the reason a valid one? Some issues have more importance than others, such as schooling or a need for specialized medical care. How stable and reliable is the parent the child wants to live with? If that parent is unstable or unreliable the judge will not likely approve the change. The parent the child wants to live with must be as capable, as able, and as willing to care for the child as the one the child currently lives with. Does the child show social maturity and emotional and intellectual development? Is the move the child requests against the wishes of either of the parents? Is there any evidence that the child has been pressured, bribed, or manipulated into requesting the move? Without a demonstration that a clear and significant benefit will be derived by the child from the change in residence, a judge will be unlikely to give approval. The benefit s must be obvious and long-term. Will the move separate this child from other children in the family? Is that what is age-appropriate and otherwise appropriate for this child? How clearly and convincingly does the child articulate his or her reasons for desiring to move? The more logically and lucidly a child can explain why she wants a change in the custodial arrangement, the more likely it is that judge will pay attention to her preference. If the child appears uncertain, confused, or insincere, the judge will likely discount or ignore what the child says. In Michigan, when requests for modification of custody or parenting time come to the courtroom, the referee or the judge will talk with the child privately "in chambers," unless the court decides that the child is too young to express a reasoned preference. This allows the child to speak freely without fear of displeasing one parent or the other. Usually, what a child tells a judge in chambers will be kept confidential. In most cases, a judge or referee is likely to state in a decision something along these lines: The court finds that the child is of sufficient age and maturity

to express a preference as to her custodial environment. No specific statements the child makes should find their way into the record, however. It is universally recognized that it is inappropriate for either parent to call a child as a witness. As with anything else, there are always exceptions to the rule, but here, those exceptions are very, very rare. Thus, unless circumstances leave no alternative, children should never be asked or required to testify. Usually, evidence related to child abuse – verbal or physical – or exposure of a child to a known sex-offender boyfriend – can be brought into the record through a protective services worker or through a counselor. I asked that the courtroom be cleared of everyone except the judge, the court recorder, the bailiff and the two attorneys. The parties legally had the right to remain in the courtroom, but I was able to obtain their consent to leave. This freed the child to speak her mind. While I regretted having to call her as a witness, I realize that, for this child, being able to testify was, in some respects, liberating. That said, all parents should avoid putting their children in the middle. Even having the child speak privately with the judge should be avoided, if possible. This feels much like testifying to the child. No child wants to be placed in the position of being asked to choose one parent over the other. The only time parents should consider asking a child to talk privately with the judge is when the child has a genuine and voluntarily desire to speak with her. One of the problems with the child being asked to express preferences or talk to a judge in private is that sometimes the children may be asked about or may talk about issues that were unresolved in the courtroom. It may prove difficult for a judge to ignore what a child has said, as occurred in *Molloy v Molloy*, Mich App In that case, in the hearing before the trial court judge, there was a "he said, she said" kind of stand-off about whether the mother was verbally abusive and mentally unstable. *Foskett v Foskett*, Mich App 1 Hannah welcomes you to contact her regarding any family law lawyer issue, including, but not limited to divorce, child custody and parenting time, child and spousal support, property settlement, pre-nuptial and post-nuptial agreements, paternity, adoption, neglect, and other family law matters. You can contact Ms. Hannah by telephone, E-mail, fax, or at the address listed above.

## Chapter 8 : Why Children Must Be Heard

*I have the right to an education which develops my personality, respect for others' rights and the environment. Article 30  
I have a right to speak my own language and to follow my family's way of life.*

## Chapter 9 : Children's rights and entitlements | Kisharon

*The UN Convention on the Rights of the Child states that all children have a right to participate in decisions that affect their lives - both in their private.*