

# Children as subjects of rights: Three waves of emancipation, from past and present cruelty to future creativity?

Jan CM Willems<sup>1</sup>

Department International and European Law, Maastricht University, The Netherlands.

Accepted 21 February, 2019

---

## ABSTRACT

Human rights are a universal language intended to end discrimination and violence, reduce human suffering and promote human development. The implementation of children's rights may prove crucial for the success of the human rights project. We are beginning to understand why this may be so, due in large part to new approaches to the prevention of childhood trauma which may lead to a paradigm shift in children's subject of rights status. The subject of rights status of children is still an international legal stipulation without substantive national implementation. Automatic parental authority over children at child birth – and its logical and factual corollary: unprepared and not empowered or even disempowered parenthood – does not seem compatible with children's subject of rights status. Two waves of emancipation, culminating in the near-universal ratification of the UN Convention on the Rights of the Child (CRC), have not changed this situation. A recent third wave, however, may trigger structural reforms in child protection. In this contribution, the three waves of children's emancipation will be briefly indicated on the basis of the movements and pioneers that played or play a crucial role in them. The first wave of children's emancipation from parental property status started with the first child protection organizations and laws at the turn of the nineteenth and twentieth centuries. The first movement that has tried, and is still trying, to mitigate adult privileges that perpetuate transgenerational transmission of trauma, is the so-called Child Abuse and Neglect Prevention movement. The second wave consists of several advancements in children's social and legal status that, by and large, began after the adoption of the CRC in 1989, culminating in a fastly growing number of states adopting legal bans on corporal punishment in family law at the turn of the twentieth and twenty first centuries. The CRC's monitoring treaty body, the Committee on the Rights of the Child, the Council of Europe, and child rights NGOs and national child rights coalitions together form what may be called a Child Participation movement. The Committee on the Rights of the Child, the Council of Europe and especially one NGO, the Global Initiative to End All Corporal Punishment of Children, launched in Geneva in 2001, are also part of another movement which may be labeled the Hitting Ban movement. A third wave started recently, independently of the CRC and child rights NGOs, in the US. It is spreading around the globe on the basis of the 1998 Adverse Childhood Experiences Study (ACE Study). The ACE Study led to a new science, ACEs science, and a new movement, the ACEs science movement or ACEs movement. These are exciting times, especially in relation to the ACEs movement which may very well trigger structural reforms in the century-old field of child protection. This could happen if the ACEs movement leads to trauma-informed child rights research and advocacy – which in turn would influence and even change the human rights project, as our understanding grows of the historical roots and pervasiveness of prejudice, discrimination and violence against children.

**Keywords:** Children's rights, parental rights, prepared parenthood, corporal punishment, child participation, human development, trauma-informed policies.

---

E-mail: j.willems@maastrichtuniversity.nl.

---

<sup>1</sup> Dr. Jan CM Willems is a researcher of Children's rights and human development at the Maastricht Center for Human Rights at Maastricht University, The Netherlands, a former professor of Children's rights at VU University Amsterdam, and author and editor of several books and articles on children's rights, early childhood and child abuse and neglect. The author would like to thank the *Elisabeth Kinderfonds (Prins Bernhard Cultuurfonds)* for its financial support during the past five years (2014-2018) to facilitate multidisciplinary and pioneering research on early childhood development and trauma-informed children's rights.

*It is only recently in history that we, people of advanced western cultures, have directed our gaze at the experience of children, taking their plight as second class citizens or even property into genuine consideration.<sup>1</sup>*

## 1. INTRODUCTION: WHERE ARE WE TODAY?

In October 2017, the Center on the Developing Child at Harvard University issued a report titled *Three Principles to Improve Outcomes for Children and Families*. The report opens as follows:

'Recent advances in the science of brain development offer us an unprecedented opportunity to solve some of society's most challenging problems, from widening disparities in school achievement and economic productivity to costly health problems across the lifespan. Understanding how the experiences children have starting at birth, even prenatally, affect lifelong outcomes – combined with new knowledge about the core capabilities adults need to thrive as parents and in the workplace – provides a strong foundation upon which policymakers and civic leaders can design a shared and more effective agenda. The science of child development and the core capabilities of adults point to a set of "design principles" that policymakers and practitioners in many different sectors can use to improve outcomes for children and families. That is, to be maximally effective, policies and services should: (1.) Support responsive relationships for children and adults; (2.) Strengthen core life skills; [and] (3.) Reduce sources of stress in the lives of children and families.<sup>2</sup>

From a human rights perspective, one could argue that in order to design new or change existing laws and policies both responsabilization and empowerment are needed. As a matter of fact, responsabilization and empowerment may be seen as two sides of the same coin. Responsibilization refers to specifying by law duties and duty bearers. If a child has rights and the parents are the duty bearers, then their duties – or parental responsibilities – should be transparent and specified by law. Empowerment refers to policies that enable and facilitate duty bearers to fulfill their duties, so for parents to fulfill their legal parental responsibilities. A good example is the legal ban on hitting and humiliating children, which now exists in one in four UN member states.<sup>3</sup> This ban is to be seen as the legal basis to empower parents as to being informed and assisted in relation to effective non-violent forms of discipline.<sup>4</sup>

The three Harvard principles above suggest parental empowerment but not necessarily parental responsabilization. The Convention on the Rights of the Child (hereafter CRC), adopted by the General Assembly

of the UN in 1989, offers a normative framework that may be used to support the Harvard principles. Examples of CRC provisions relating to empowering parents are:

- Article 18.2 CRC: assisting parents in the performance of their child-rearing responsibilities;
- Article 27.3 CRC: assisting parents materially or financially (e.g., in relation to child care: article 18.3);
- Article 24.2 CRC: information, guidance and care in relation to the child's health, starting prenatally;
- Article 19.2 CRC: social programmes to prevent, stop and treat childhood trauma ('abuse and neglect');
- Article 29.1 CRC: education (school curricula) directed to the child's personal and social development;
- Article 39 CRC: childhood trauma reparation (policies to heal childhood trauma and build resilience<sup>5</sup>).

What does the CRC say about parental responsabilization, that is, about specifying parental duties?<sup>6</sup> The hitting ban – a provision in family law to stipulate non-violent discipline and to eliminate the criminal law excuse of 'reasonable chastisement' – is not explicitly mentioned in the CRC, but the CRC's monitoring treaty body, the CRC Committee (Committee on the Rights of the Child), interprets article 19 CRC as to include such a ban.<sup>7</sup> According to the CRC Committee, the adult privilege to hit and humiliate children has to be abolished by national law.<sup>8</sup> To date (November 2018), only six EU member states still allow parents to hit and humiliate their children (five after Brexit): Czech Republic and Slovakia in Eastern Europe, and in Western (and Southern) Europe Belgium, France, Italy and the UK.<sup>9</sup> However, hitting and humiliating children in the name of discipline is but one of several adult privileges. Other examples of adult privileges may be discerned (for a more extensive list, relating privileges to CRC articles, see below paragraph 3.4):

- Unprepared parenthood or automatic parental rights privilege.
- Toxic pregnancy privilege, e.g., smoking and alcohol abuse during pregnancy.
- Privacy privilege: privacy in the home as almost the exclusive right of adults, that is, not including children's personal integrity as privacy's first or core requirement.
- Circumcision of (baby) boys privilege ('male genital cutting/mutilation').
- Non-immunization of children (non-vaccination) privilege.
- Not sending your child to school privilege

(homeschooling privilege). • Smoking near a child privilege (gradually being challenged in some states). • Inappropriate baby naming privilege (although regulated to some degree in several states). • Deprivation of identity privilege, *inter alia* through IVF (in vitro fertilization) and other techniques or procedures with anonymous donors.<sup>10</sup>

In the light of the science of child development these adult privileges could and should be seen as 'traditional practices prejudicial to the health of children' – with the ensuing obligation for states under article 24.3 CRC to 'take all effective and appropriate measures with a view to abolishing' them. Both responsabilization (legal regulation, a legal ban) and empowerment measures would be required. However, most of these privileges, even if undeniably harmful, have not led to much debate on banning them, thus far. What could explain this lack of progress in the responsabilization and corresponding empowerment of parents and other adults, and thus the lack of progress in promoting and protecting children's rights? Or is this asking too much – from a historical perspective? Is it still too early to query 'adult privilege'?

In order to shed some light on this matter this contribution proposes a historical 'waves of emancipation' perspective. The proclamation of the equal rights of men and women in the preamble of the Charter of the United Nations<sup>11</sup> was both preceded and followed by so-called waves of emancipation, that is, of the emancipation of women from their historical status of 'property' of fathers and husbands rather than full subjects of rights. This is a continuing process, on a worldwide scale. The 1989 Convention on the Rights of the Child may be seen as the first (near) universally binding proclamation of the 'subject of rights status' of children. Children are not to be seen as the property of their parents. As the Committee on the Rights of the Child observes in one of its Concluding Observations,

'[T]raditional perceptions of children as objects and as the "property" of parents and elders rather than as subjects of rights hinder their right to express their views and to participate in the family, schools and local communities.'<sup>12</sup>

However, the 'subject of rights' status of children is still an international legal stipulation without substantive national legal implementation. The Dutch legal principle *bekwaam maakt pas bevoegd* (exercise of authority requires competence) does not apply to birth parents. Contrary to adoptive parents, birth parents (the biological mother and the legal father) receive automatic legal rights – 'parental authority' – over their child, without any prior legally required preparation, counseling, therapy, parenting course or psychological screening, not even a minimal parenthood pledge, as proposed by Jack Westman,<sup>13</sup> or a formal ('symbolic') upbringing pledge, as

proposed by Hans Van Crombrugge.<sup>14</sup> Prenatal child protection measures are a rare exception (at least in The Netherlands) rather than a child rights based general preventative practice.<sup>15</sup>

From a political perspective, abolishing or even mitigating automatic parental rights is still utopian – in spite of the clear social and economic advantages of improving parental competence, now studied, *inter alia*, in the new field of childonomics.<sup>16</sup> From a social, cultural or religious perspective, limiting automatic parental rights – as the legal responsabilization basis of parental empowerment – is still highly taboo, or simply dismissed as paternalistic. Although 'licensing parents' – or at least mitigating or limiting automatic authority – has been argued from a philosophical perspective,<sup>17</sup> it has hardly been argued from a legal – constitutional (James Dwyer)<sup>18</sup> or human rights (the present author)<sup>19</sup> – perspective. In the view of the present author, automatic authority over children – and its logical and factual corollary: unprepared and not empowered or even disempowered parenthood – is incompatible with children's subject of rights status. The general acceptance of the *status quo* in this domain and the absence of critical debate even among child rights and other human rights lawyers and activists does not mean, however, that children's social and legal status has not advanced in relation to the limitation or mitigation of the exercise of – automatically granted – parental authority. A clear example, of course, is the legal ban on hitting and humiliating children by their parents in the legal systems of a growing number of states – starting with Sweden in 1979.<sup>20</sup>

In this contribution several advancements in children's social and legal status will be briefly touched upon. These advancements will be labeled as movements and categorized as being part of a wave of emancipation: a wave that started a century before the CRC, a wave that was initiated by or followed after the adoption of the CRC in 1989, and a wave that started recently in the USA (hereafter US) and is not (yet) related to the CRC. Thus it will become clear that children's emancipation, just like women's emancipation, is a continuing process, with the difference that children's emancipation has started much later. That is to say, if we assume that women's emancipation started in 1791 with Olympe de Gouges' *Déclaration des droits de la femme et de la citoyenne*, as a 'follow-up' to the 1789 *Déclaration des droits de l'homme et du citoyen*, and children's emancipation with the first child protection laws a century later – to culminate, internationally, two centuries later in the 1989 Convention on the Rights of the Child.

From an emancipation perspective it may also become clear that participation (article 12 CRC), rather than being some sort of Holy Grail, the 'alpha and omega' of children's rights, as many child rights lawyers and activists seem to assume,<sup>21</sup> is a means, although a crucial one, to end the property status and advance to full subject of rights status of children, which, after all, must

be seen as the object and purpose of the CRC. They are not a property but subjects of general human rights and specific 'developmental' children's rights. These developmental 'best interests' rights prevail over adults' interests and rights, including adult privileges, as is stipulated by article 3.1 CRC for states ('a primary consideration' for all state organs as well as professional public and even private organizations) and by article 18.1 CRC for parents ('their basic concern'). In this continuing process of emancipation, it will be proposed, three waves may be discerned, although none of them directly addresses parentarchy's core privilege of automatic parental rights.

In the next paragraph (paragraph 2) emancipation will be briefly defined and illustrated in relation to children's social and legal status. Paragraph 3 looks at emancipatory CRC articles and presents a non-exhaustive list of adult privileges and relates these to CRC articles. In paragraph 4, the three waves of children's emancipation will be briefly indicated on the basis of the movements and pioneers that played or play a crucial role in them. Paragraph 5 mentions some authors who have put forward proposals to end or at least substantially mitigate the automatic authority privilege with special reference to pioneering authors Jack Westman and James Dwyer. After that follows a conclusion in paragraph 6.

## 2. EMANCIPATION FROM PARENTIARCHY

From a human rights perspective, it may be said that emancipation refers to advancements in the legal status of human beings and their gradual inclusion in the legal *acquis* of human rights. For the purpose of this contribution, emancipation will be defined as the transition of a property or object status towards the status of *de jure* and *de facto* subject of rights. This transition involves the gradual liberation from legal privileges that are related to a property or object status and infringe upon a subject status, such as white, male, and (harmful) adult privileges. Historical examples are the abolition of slavery and the mitigation and gradual abolition of patriarchy. These are ongoing processes, the struggle against prejudice and discrimination, against racism and sexism, goes on.

In patriarchal times and cultures women and children were, or still are, the property of men, subjected to male privileges. In post-patriarchal cultures men and women have equal rights, and the property status of children has 'progressed' from paternal to parental property. Patriarchy has thus progressed towards 'parentarchy.' However, there is still little awareness of children's property status, adult privileges, and related prejudices, although several terms for such prejudices have been introduced in legal, psychological, sociological and philosophical literature, such as juvenile ageism (Westman<sup>22</sup>), childism (Young-Bruehl<sup>23</sup>), juvism and

transism (Willems<sup>24</sup>), and, more generally known, adultocentrism and adultism.<sup>25</sup> In his book *Liberal Child Welfare Policy and its Destruction of Black Lives*, Dwyer frequently refers to – and gives several examples of – 'adult-centeredness' in relation to child protection.<sup>26</sup>

Internationally, children were declared subjects of rights by the UN on 20 November 1989, when the (text of) the Convention on the Rights of the Child (CRC) was adopted by the General Assembly. The CRC is the world's leading piece of legislation to combat the structural violation of children's fundamental<sup>27</sup> human rights: protection of dignity, integrity and autonomy; and to advance their special rights: attachment security, emotional health and holistic (physical, emotional, social, moral and intellectual) development. Today, all UN member states except the US are parties to the CRC.<sup>28</sup> The US is a signatory to the CRC, however.<sup>29</sup> It may therefore be argued that, universally, children are subjects of rights – *de jure*, that is, in an abstract or formal international sense. But nowhere in the world are children subjects of rights *de facto*, that is, in a material or substantive, international and national, sense.

Several states made patriarchal ('ratify and ruin') reservations by declaring that their obligations under the CRC are subject to their national constitutions or to traditional religious laws. In the US, there appear to be particular sentiments against the CRC, arguably because of adult privacy related patriarchal beliefs or convictions ('family values' as patriarchal orthodoxy and adult privacy ideology).<sup>30</sup> But even in the absence of reservations, children, especially newborns, are still seen and treated as parental property all over the world. Nonetheless, the CRC has contributed to a gradual emancipation from parentarchy. Three waves of progress towards a subject of rights status of children may be discerned, although even the third one will not fully achieve that status as long as automatic authority remains a 'sacred cow' in family law and child protection. But before we turn to these waves, let us first have a look at the main emancipatory provisions in the CRC.

## 3. EMANCIPATION AND THE CRC

Five CRC obligations may be seen as crucial in relation to children's emancipation from parentarchy and their patriarchal property status. These obligations are to be found in article 3.1, article 12, the ninth preambular paragraph *juncto* article 24.2(d), article 24.3, and article 31 CRC. These five provisions are interrelated with several other articles of the CRC. Some of them also state or reflect basic developmental (or core emotional) needs of children. In the chapter on basic needs in her book *Growing up in trust*, Justine Mol mentions the following ten social-emotional needs of children: the need for (attachment) security, the need for autonomy, the need for authenticity, the need for recognition, the need for respect, the need for empathy, the need for equality,

the need for loving attention, the need for play and learning, and the need for humor and pleasure.<sup>31</sup> For this contribution, the so-called five L's model of basic developmental needs is used, which is derived from the theory of Schema therapy. These five L's are: Love, Limits, being Listened to (respect for needs and feelings), social-emotional Learning, and Leisure or play.<sup>32</sup> The most relevant interrelated articles are listed below, and all five basic developmental needs are indicated.

### 3.1 Article 3.1 CRC: From Property to Priority

Article 3.1 CRC obliges states to prioritize children's developmental ('best') interests over adults' legal rights and privileges. This implies a higher legal status of children, which can be explained by their basic developmental needs, for the fulfillment of which they are utterly dependent on adults. At the same time, they are extremely vulnerable to adults' physical, sexual and emotional abuse of power. In his book *Moral Status and Human Life: The Case for Children's Superiority*, Dwyer explores the question 'are children of equal, lesser, or perhaps even greater moral importance compared to adults?'<sup>33</sup> On the basis of multiple criteria in moral philosophy for moral status, Dwyer concludes 'that children occupy a moral status *superior* to that of adults.'<sup>34</sup> Article 3.1 CRC appears to support this view, uplifting children's moral and legal status not only from 'property' to 'subjects of rights' but even to subjects with prioritized (developmental) rights. For parents, even stronger wording is used in article 18.1 CRC, which stipulates – and by implication obliges states to 'use their best efforts to ensure'<sup>35</sup> – that the 'best interests of the child' will be his or her parents' *basic concern*.<sup>36</sup> The 'best interests of the child' may be understood as to refer to all basic developmental needs, the five L's (Love, Limits, being Listened to, social-emotional Learning, and Leisure or play). These needs also appear in specific provisions: Love in the sixth preambular paragraph of the CRC ('happiness, love and understanding'); Limits in article 5 ('direction and guidance'); Listening to the child in article 12 (participation, see below); social-emotional Learning in article 29.1 ('development of the child's personality' and, *inter alia*, his or her 'preparation for responsible life in a free society'); and Leisure or play in article 31 (right to play, see below). An interesting and illuminating concept in relation to the 'best interests of the child' is the so-called Circle of Security, which has recently been introduced by Hoffman, Cooper and Powell.<sup>37</sup>

### 3.2 Article 12 CRC: From property to agency

Article 12 CRC gives children the right to be heard and to 'participate.' In its 2009 General Comment No. 12 on article 12, the Committee on the Rights of the Child states that,

'Article 12 of the Convention on the Rights of the Child (...) is a unique provision in a human rights treaty; it addresses the legal and social status of children, who, on the one hand lack the full autonomy of adults but, on the other, are subjects of rights.'<sup>38</sup>

The Committee goes on to observe that,

'A widespread practice has emerged in recent years, which has been broadly conceptualized as "participation," although this term itself does not appear in the text of article 12. This term has evolved and is now widely used to describe ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes.'<sup>39</sup>

Participation is an important means or road towards closing the gap between children's international legal 'subject' status and their national legal and social status as 'objects' or 'property.' Article 12 strengthens the view of children as persons with agency, who should be seen and treated as active participants in family, school and community, entitled to their own contributions and responsibilities in all these settings. Article 12 is seen as the core article where children's subject of rights status is concerned. Several other provisions support and specify the concept of children's participation, and the related developmental needs of 'Listening to the child' (respect for self-expression) and 'social-emotional Learning' (crucial for the development of competence, identity, and autonomy). Examples are to be found in articles 13-17 CRC, respectively on freedom of expression, religion, association, privacy (understood as encompassing the concepts of dignity and personal – physical and psychological – integrity), and information; and, critically, in article 29 CRC, on the personal and social development aims of (school) education.

However, it is crucial that participation evolves into an inclusive trauma-informed concept (see paragraph 4.2 and 4.2.3 below), and no longer excludes children who have been severely damaged because of state laws forcing them into legal relationships with unfit parents,<sup>40</sup> and who consequently, apart from being denied – by the state – the right to participate in the family, lack the basic emotional and social skills to adequately and fully exercise their right to participate in school and community.

### 3.3 The ninth preambular paragraph and article 24.2(d) CRC: From property to (belly) baby dignity

As a general legal rule, preambular paragraphs can only

be invoked in combination with ('*juncto*') substantive treaty articles (articles 1-42 CRC). However, the ninth preambular paragraph of the CRC (protection before and after birth) cannot be invoked in combination with article 6.1 CRC (right to life) to prohibit abortion: the regulation of abortion is left to national states.<sup>41</sup> The ninth preambular paragraph *juncto* (especially) article 24.2(d) CRC obliges states to provide care and protection 'before and after birth' and, more specifically, prenatal and post-natal health care for mothers. The 'before birth' *provisio* of the ninth preambular paragraph may also be related, for instance, to article 6.2 and article 19.1 CRC, on state obligations to, respectively, ensure survival and development of the child to the maximum extent possible, and protect the child from all forms of abuse or neglect, as long as a pregnant girl or woman does not opt for abortion (as regulated by the state). Under these, as well as other provisions, it may be argued that not only born babies but also 'belly babies' have, to a certain degree, subject of rights status, and are entitled to the protection of their dignity and integrity. One could also argue that children have prenatal rights, as parents have prenatal responsibilities and states have prenatal (responsibilization and empowerment) obligations. Both lines of argument lead to the same conclusion, however, namely that both born babies and 'belly babies' are not a property under international law, that is, with the exception of international law's acceptance or endorsement of the national regulation of abortion.

### 3.4 Article 24.3 CRC: From property to integrity and gender equality

Article 24.3 CRC obliges states to abolish harmful adult practices and privileges. In the *travaux préparatoires* (the legislative history of the CRC) reference is made to, *inter alia*, female genital mutilation (FGM/cutting)<sup>42</sup> and 'boy preference' (preferential treatment for male children).<sup>43</sup> But today several other traditional practices are seen – or are beginning to be seen – as harmful. The following non-exhaustive list of 22 patriarchal (fatherly power related, that is, based on women's and children's traditional object or property status) or parentiarthal (parental power related, that is, based on children's traditional object or property status) privileges may be drawn up.

(1.) Unprepared parenthood or automatic parental rights privilege, which forces many newborn children into harmful relationships with unprepared and unfit parents, constituting a violation by the state of its obligations under, *inter alia*, articles 6, 19 and 24 CRC (promoting health and development of the child and protecting the child against maltreatment), and even amounting to a violation by the state of the inhuman treatment ('torture') prohibition in general international (peremptory) law, codified in several human rights treaties, including the

CRC, in article 37(a).

(2.) Privacy privilege: privacy in the home as almost the exclusive right of adults, that is, not including children's dignity and personal integrity as privacy's first or core requirements (to be read into article 16 *juncto* articles 19 and 24 CRC).

(3.) Deprivation of identity privilege, e.g., through IVF (in vitro fertilization) and other techniques or procedures with anonymous donors, depriving children of their rights under articles 7, 8 and 16 CRC.

(4.) Toxic pregnancy privilege, e.g., smoking and alcohol abuse during pregnancy, depriving children of their rights under articles 16, 19 and 24 CRC.

(5.) Inappropriate baby naming privilege (although regulated to some degree in several states),<sup>44</sup> depriving children of their rights under articles 16 and 19 CRC.

(6.) Circumcision of (baby) boys privilege (male genital cutting/mutilation),<sup>45</sup> depriving children of their rights under articles 12, 14, 16, 19 and 24 CRC.

(7.) Smoking near a child privilege, depriving children of their rights under articles 16, 19 and 24 CRC.

(8.) Abandonment privilege: using child care facilities for babies and/or using child care facilities for toddlers for too many days a week and/or too many hours a day, and/or using understaffed or underqualified child care facilities, compromising children's attachment security needs and their rights under articles 19 and 24 CRC.

(9.) Unequal treatment privilege: favoring one child over another, depriving children of their rights under articles 2 *juncto* 18.1 and 27.1, and article 19 CRC.

(10.) Corporal punishment privilege: hitting and humiliating children in the name of discipline (see paragraph 4.2.2 below).

(11.) Punishment privilege: punishing a child is not the same as setting boundaries or limits (providing appropriate direction and guidance to the child: article 5 CRC). It harms the attachment and trust relationship with the child, causing excessive (possibly toxic) stress, and is therefore both harmful and counterproductive.<sup>46</sup> Punishing a child is thus not a parental right or responsibility but a harmful traditional privilege, depriving children of their rights under articles 5, 16 and 19 CRC.<sup>47</sup>

(12.) Expenditure privilege: using family income for personal rather than children's needs, depriving children of their rights under articles 19 and 27 CRC.

(13.) Malnourishment privilege, e.g., giving children fast food and sweet drinks causing child obesity, or vegan or other diets lacking nutrients, depriving children of their rights under articles 16, 19 and 24 CRC.

(14.) Non-immunization of children (non-vaccination) privilege (see the 'U-turn' in Italy<sup>48</sup>), depriving children of their rights under articles 19 and 24 CRC.

(15.) Indoctrination privilege, depriving children of their rights under articles 12-17 and 29 CRC.

(16.) Intrusion privilege: not respecting (invading) the privacy and intimacy (intimate life) of the child and/or overcontrolling and overprotecting him or her ('helicopter

parents'), and/or excessively pushing the child, depriving children of their rights under articles 16 and 19 CRC.

(17.) Permissiveness privilege: not providing direction and guidance to the child and/or overindulging the child, depriving children of their rights under articles 5 and 19 CRC.

(18.) Homeschooling<sup>49</sup> privilege: not sending your child to school, depriving a child, *inter alia*, of diversity in peer contact and the (other) participatory aims of education in articles 12 *juncto* 29 CRC.

(19.) Segregation privilege: sending your child to orthodox religious schools, depriving a child of diversity in peer contact and the intercultural aims of education in article 29 CRC.

(20.) Isolation privilege: not allowing children to benefit from contact with peers or other people, depriving them of their rights under articles 12-17 and 19 CRC.

(21.) Veto privilege: privilege of one parent to veto (after divorce) the other parent's decision to seek medical or other care or help for their child,<sup>50</sup> depriving children of their rights under articles 19 and 24 CRC.

(22.) Clemency (lenient sentencing) privilege: granting by courts of a relatively lighter punishment for crimes against children (severe and fatal child abuse by parents) as compared to crimes against adults.<sup>51</sup>

### 3.5 Article 31 CRC: From property to spontaneity

Article 31 CRC gives children the right to play and to participate fully in cultural and artistic life. This may be seen as an explicit acknowledgement of the fifth basic developmental need of children (after or rather together with Love, Limits, Listening and Learning): Leisure, that is, spontaneity and creativity in and through play.

## 4. THE HISTORY OF CHILDHOOD: THREE WAVES FROM CRUELTY TO CREATIVITY?

### 4.1 The past – and still today: Cruelty

According to a leading author on parenting and children's rights, Robin Grille,

'Much of the history of childhood in the West is a hellish tale of widespread neglect and abuse, and the further back into history we look, the more brutally we see children treated, with abusive practices institutionalized or embedded in cultural and religious rites.'<sup>52</sup>

Only recently in human history, the paradigm has shifted from patriarchal and parentiarthal notions, such as 'blood tie' (heralding biological privileges) and 'privacy' (heralding adults' rights), towards gradually less adult-centered concepts such as 'the best interests of the child' and 'rights of the child,' ultimately including, and even

prioritizing, a child's attachment security, personal integrity, dignity, autonomy, well-being, participation, and holistic development and health.<sup>53</sup> The González case, decided in 2014 by the treaty body of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW),<sup>54</sup> illustrates how very recent this paradigm shift actually is, and how enormous the gap that still exists between international law and national implementation. The CEDAW treaty body, also called CEDAW (Committee on the Elimination of all forms of Discrimination Against Women), 'convicted' Spain after the death of Andrea, on 24 April 2003 at the age of seven, because she had been treated by the state (child protection agencies and the courts) as the 'property' of her father, who was divorced from her mother Ángela González, and who killed Andrea – and himself.<sup>55</sup> The Spanish state was held accountable for its institutions and courts which, patriarchally and parentiarthically, interpreted Andrea's 'best interests' and 'rights' as having to have contact with her violent father, thus exposing her to grave danger. Although CEDAW thus demonstrated, by upholding both her mother's and Andrea's rights, how the international paradigm has inevitably shifted from male and adult privileges to children's fundamental human rights to life and personal integrity, we are still far away from understanding, and then addressing, the root causes of the gap between international law and national implementation. In this author's opinion, understanding and addressing these root causes begins by facing and analyzing the legal phenomenon that even manifestly unfit parents have, under national family laws, automatic legal rights over children, and how and why this constitutes, under international human rights law, inhuman treatment of newborn babies by the state, that is, the state's legislator.<sup>56</sup>

### 4.2 The future: Creativity? Three waves of children's emancipation

In the past and until this day several waves of emancipation have contributed to and are still contributing to the inclusion of women in the human rights project. Their inclusion has greatly benefited society as more and more women have been and are empowered to use their creative potential in the advantage of all of us. The inclusion of children in the human rights project not only started later but also had and has to deal with special difficulties. First of all, children are too young to form a movement themselves. Early in life they cannot understand what is being done to them or how things could be different, and overcoming early childhood trauma and disempowerment will seldom be possible before adulthood (and will be very difficult, if not impossible, for adults themselves). Secondly, children do not have the right to vote. And thirdly, the human rights project, that has suffered, and still suffers, from cultural relativism,<sup>57</sup> is also still suffering from 'biological

relativism' in relation to parental rights and privileges.<sup>58</sup> In spite of all this, Robin Grille ends his illuminating book *Parenting for a Peaceful World* in a quite optimistic tone:

'A continued social evolution is quite possible, but it depends entirely on our collected efforts to keep improving the emotional lives of children. Our commitment to children's emotional health will ensure our rapid evolution toward a peaceful, just, sustainable and enjoyable existence for all of humanity.'<sup>59</sup>

How have we done so far in improving the emotional lives of children who have been and still are the victims of transgenerational transmission of trauma and emotional, cognitive and material poverty?<sup>60</sup> Will we ever be able to fully include children in the human rights project so that societies all over the world will benefit from their creative potential to contribute to building 'a peaceful world'? This paragraph will briefly indicate several movements and pioneers that have been or are active within three suggested waves of progress towards limiting adult privilege and 'biological property' bias related abuse of power.

#### **4.2.1 Wave one: Raising Child Abuse and Neglect (CAN) awareness**

The first wave of children's emancipation from parental property status started with the first child protection organizations and laws at the turn of the nineteenth and twentieth centuries. The first movement that has tried, and is still trying, to mitigate adult privileges that perpetuate transgenerational transmission of trauma, is the so-called CAN (Child Abuse and Neglect) Prevention movement. This movement started with the famous Mary Ellen case and the pioneer who rescued her from abuse, Etta Wheeler.<sup>61</sup>

Animal protection societies – today we would call them Civil Society Organizations (CSOs) or Non-Governmental Organizations (NGOs) – predated child protection societies. Societies for the Prevention of Cruelty to Animals were founded in 1824 in England<sup>62</sup> and in 1866 in the US.<sup>63</sup> The first child protection society was founded in the US in 1875: the New York Society for the Prevention of Cruelty to Children.<sup>64</sup> In the UK, the National Society for the Prevention of Cruelty to Children<sup>65</sup> was founded in 1889, exactly one century before the adoption of the CRC by the UN's General Assembly.

Etta Wheeler turned for help to the founder of the American Society for the Prevention of Cruelty to Animals, Henry Bergh, 'who saw the girl [Mary Ellen] – like the horses he routinely saved from violent stable owners – as a vulnerable member of the animal kingdom needing the protection of the state.'<sup>66</sup> It is nonetheless a legend that Mary Ellen was rescued under animal

protection laws.<sup>67</sup> After the Mary Ellen case, NGOs were created for the Prevention of Cruelty to Children (the terminology later changed into Child Abuse and Neglect and Child Maltreatment). This gradually led to laws and systems of child protection to intervene in family privacy, that is, fatherly, later parental 'property'.<sup>68</sup>

Child protection became more and more a governmental concern, especially after another pioneer, medical doctor Henry Kempe, introduced the term 'Battered Child Syndrome' (in a paper with that term as its title) in 1962.<sup>69</sup> This led to new legislation, including mandatory reporting laws,<sup>70</sup> as well as the founding of a new NGO, the International Society for the Prevention of Child Abuse and Neglect (ISPCAN), established in 1977.<sup>71</sup> Interestingly, both the earlier Societies for the Prevention of Cruelty to Children and later worldwide Societies for the Prevention of Child Abuse and Neglect have the term prevention in their titles although child protection systems until this day are predominantly about intervention in families after harm to children has been noticed and reported.

#### **4.2.2 Wave two: Ending the hitting and humiliating privilege**

The second wave consists of several advancements in children's social and legal status that, by and large, began after the adoption of the CRC in 1989, culminating in a fastly growing number of states adopting legal bans on corporal punishment in family law at the turn of the twentieth and twenty first centuries. The CRC's monitoring treaty body, the Committee on the Rights of the Child, the Council of Europe,<sup>72</sup> and child rights NGOs such as, e.g., Defence for Children International (DCI) and national child rights coalitions,<sup>73</sup> together form what may be called a Child Participation movement.<sup>74</sup> Although child participation is an important tool for the empowerment of children, children's emancipation from parentarchy is not directly addressed. In the present author's view, this implies a rather formal and non-inclusive understanding of the concept of participation, mainly benefiting children who come from securely attached and caring home backgrounds – with all the resulting emotional and social skills.<sup>75</sup> A more substantive and inclusive form of participation, directly addressing children's basic developmental needs and, hence, possible abuse or neglect in the family, has been pioneered in The Netherlands by Willemijn Dupuis, founder of the *JeugdNu* (Youth Now, 1995) and later of the *KinderrechtenNU* (ChildRightsNow, 2009) foundations and author of several inclusive child rights participation instruments such as the Child Rights Checklist and the Children's Reporting Code.<sup>76</sup> Since 1987 Willemijn Dupuis has been working with Child Rights and Youth Ambassadors.<sup>77</sup>

The Committee on the Rights of the Child,<sup>78</sup> the Council of Europe<sup>79</sup> and especially one NGO, the Global Initiative

to End All Corporal Punishment of Children, launched in Geneva in 2001,<sup>80</sup> are also part of another movement which may be labeled the Hitting Ban movement. An important pioneer in this movement has been Peter Newell (UK).<sup>81</sup> A pioneering US author was Murray Straus.<sup>82</sup> For Newell,

‘(...) corporal punishment had a much deeper significance. “It’s not simply about child protection,” he says, “It’s a highly symbolic issue in society. The fact that it’s legal to hit children reflects a concept of ownership of children. Once issues like that are apparent, you can’t leave them until you have won them”.’<sup>83</sup>

A hitting ban in national family law limits parental authority to non-violent discipline – with a corresponding obligation for states to inform and empower parents and professionals in relation to ‘positive parenting.’<sup>84</sup> A total ban on hitting children (including hitting by parents) now exists in one in four UN member states, progressing towards half of UN membership.<sup>85</sup> Both participation, and especially inclusive participation, and positive parenting on the legal basis of a hitting ban may contribute to a paradigm shift from state intervention after harm to children (wave one) towards state facilitated prevention of harm to children (wave two). The prevention paradigm may progress further in the wave to be discussed in the next subparagraph (wave three).

#### **4.2.3 Wave three: Raising Adverse Childhood Experiences (ACE) awareness**

A third wave started recently, independently of the CRC and child rights NGOs, this time again, like the first wave, in the US. It is spreading around the globe, on the basis of the 1998 Adverse Childhood Experiences Study (ACE Study). Adverse Childhood Experiences or,

‘ACEs comes from the CDC-Kaiser Permanente Adverse Childhood Experiences Study (ACE Study), groundbreaking research that looked at how ten types of childhood trauma affect long-term health. They include: physical, emotional and sexual abuse; physical and emotional neglect; living with a family member who’s addicted to alcohol or other substances, or who’s depressed or has other mental illnesses; experiencing parental divorce or separation; having a family member who’s incarcerated, and witnessing a mother being abused. The ACE Study found that the higher someone’s ACE score – the more types of childhood adversity a person experienced – the higher their risk of chronic disease, mental illness, violence, being a victim of violence and several other consequences. The study found that most

people (64%) have at least one ACE; 12% of the population has an ACE score of 4. Having an ACE score of 4 nearly doubles the risk of heart disease and cancer. It increases the likelihood of becoming an alcoholic by 700 percent and the risk of attempted suicide by 1200 percent.’<sup>86</sup>

Two pioneers conducted the ACE Study, medical doctor Vincent Felitti and Robert Anda, but it took nearly two decades before their findings met with broad acceptance. As Laurie Udesky observes,

‘(...) [P]aradigm shifts in science go hand-in-hand with the push-pull of deep resistance to change. What accelerates acceptance is when convincing and persistent champions have gathered clear and convincing evidence, share it, and it lays the stepping stones for a national movement. For the ACEs movement, [Dr. Vincent] Felitti and Dr. Robert Anda, his co-principal investigator in the groundbreaking CDC-Kaiser Permanente Adverse Childhood Experiences Study, are two of those people.’<sup>87</sup>

The ACE Study led to a new science, ACEs science,<sup>88</sup> and a new movement, the ACEs science movement or ACEs movement, united in ACEs Connection.<sup>89</sup> ACEs Connection,

‘(...) is a social network that supports communities to accelerate the global ACEs science movement, recognizes the impact of adverse childhood experiences (ACEs) in shaping adult behavior and health, and promotes trauma-informed and resilience-building practices and policies in all communities and institutions – from schools to prisons to hospitals and churches – to help heal and develop resilience instead of traumatizing already traumatized people.’<sup>90</sup>

A highly effective pioneer in the ACEs movement is pediatrician Nadine Burke Harris, founder of the Center for Youth Wellness (2012),<sup>91</sup> especially after her 2014 TED talk ‘How childhood trauma affects health across a lifetime.’<sup>92</sup> Although the ACEs movement appears to be successful in raising awareness on the scope, effects and costs of childhood trauma, which has even led to trauma-informed legislation in the US,<sup>93</sup> more is needed to end transgenerational trauma transmission and its root cause: unprepared parenthood. This will be the subject of the next paragraph.

## **5. A FOURTH WAVE AT THE HORIZON?**

The tradition of automatic parental rights when a child is

born, the automatic authority privilege, perpetuates a culture of unprepared parenthood. Since unresolved childhood trauma is transmitted to the next generation one way or the other (the so-called transgenerational trauma transmission cycle of Adverse Childhood Experiences, see paragraph 4.2.3 above), this culture is extremely harmful to children. As Anderson observes, 'Growing up in a trauma transmitting household changes a part of you that makes it difficult to seek true inner happiness.'<sup>94</sup> For adults, trauma may be harmful but may also be a wake-up call, or enhance resilience. Children, however, are formed by trauma. As Martine Delfos observes,

'Children will not always be traumatised by the same events as adults, and children can be deeply traumatised by events that adults will not consider traumatising because of their knowledge of the world leading to a more mature perspective.'<sup>95</sup>

On the US Department of Health and Human Services CDC (Centers for Disease Control and Prevention) website, it is said that '[c]hildhood experiences, both positive and negative, have a tremendous impact on future violence victimization and perpetration, and lifelong health and opportunity.'<sup>96</sup> So, what is being done to promote positive and prevent negative – traumatic, adverse – childhood experiences? According to US legal pioneer James G. Dwyer,

'[T]he state (...) severely undermines many infants' psycho-emotional and physiological development by placing them into legal and custodial relationships with biological parents incapable of providing adequate nurturing. (...) It is imperative – morally and constitutionally [and under human rights law, JW] – that states stop doing this to children. They must make much greater effort to get parentage right at the outset for all children. (...) The state's failure to exercise any care whatsoever in selecting children's first parents is patently unjustifiable.'<sup>97</sup>

This touches directly on the automatic authority privilege. Several authors have challenged the harmful tradition of automatic parental rights when a child is born, thus trying to move the automatic authority privilege out of the denialism stage and into the awareness and advocacy stages of human rights implementation,<sup>98</sup> such as philosophers Hugh LaFollette and Mark Vopat,<sup>99</sup> and psychiatrist (and president of Wisconsin Cares) Jack Westman.<sup>100</sup> In 2013, Westman, a pioneering author on the subject of automatic parental rights, published a new book titled *Parent Power: The Key to America's Prosperity*.<sup>101</sup> Although written for a US audience, and in a rather patriotic tone, it is outstanding in the way it both

explains discrimination against children as a group (introducing the concept of juvenile ageism) and addresses the root causes of gross human rights violations against newborn babies and children: unprepared parenthood and inadequately supported new parents – which, according to Robin Grille (see paragraphs 4.1 and 4.2 above) may very well be the root causes of many other gross human rights violations as well. Westman attempts to open up the debate on one of the world's greatest taboos: the (gradual) abolition of automatic legal parental rights. He does this by proposing parenthood certification and a parenthood pledge, which may be an important step in the direction of ending our failure to prevent the gross violation of children's rights, not only in the US but everywhere – including the EU and other high-income states and rich economies. Westman's book is about justice, accountability and reform: justice for children conceived by adults who are not qualified to take care of a child; accountability of adults as (future) parents, professionals, bystanders, and citizens qualified to vote; and reform of parental rights (family law) and child protection. The title of his book should be read as Parent Empowerment to end Parent Power Abuse.

A Belgian pedagogue, Hans Van Crombrugge, met a great deal of resistance upon his modest and mainly symbolic proposal of the Upbringing Pledge.<sup>102</sup> It may be a long way from gradually mitigating the trauma transmission privilege of unprepared parenthood towards ending denialism of the automatic authority privilege, let alone by banning the privilege itself through systems of parental licensing. As James Dwyer observes,

'Parentage laws in many countries now pay little or no heed to the welfare of children, and they are the ultimate cause of so much suffering for children and of so many societal problems that they cry out for reform. [One reform proposal is the mandatory parental licensing idea] often attributed to Hugh LaFollette [1980]. (...) [T]here are innumerable analogies one can draw to other practices of professions for which one must secure a license from (...) the state – including, most tellingly, parenthood by adoption. But the very idea of state licensing of every parent would be so offensive to so many people that it is politically pointless to push it.'<sup>103</sup>

It would be tempting – but rather futile – to replace 'the very idea of state licensing of every parent' by, circa 1800, 'the very idea of abolishing slavery ...'; circa 1900, 'the very idea of equal rights of men and women ...'; circa 1950, 'the very idea of children having rights ...' Fortunately, in his latest book *Liberal Child Welfare Policy and its Destruction of Black Lives* (2018),<sup>104</sup> Dwyer not only thoroughly analyzes adult-centrism in child protection but also makes cogent proposals on ending the transgenerational cycle of poverty and trauma by

bringing together childhood development science and a legal-constitutional children's rights approach. Dwyer proposes to reform child protection in a child-centered way, terminating parental rights in case of manifestly unfit adults in the first months of a newborn person's life (before meeting the infant's attachment security needs becomes urgent), thus ending the adult-centric practice that forces babies into extremely damaging and even life-threatening relationships by the state.

As we have seen in paragraph 3 above, the CRC contains many provisions that could support Dwyer's US constitutional arguments and reform proposals. A system of Prepared Parenthood, such as the SMECC model proposed by the present author,<sup>105</sup> is a CRC based Trias pedagogica<sup>106</sup> of State-Parent-Child in which the state creates the conditions for competent (authoritative, sensitive and responsive) parenting and (thus) for meeting the basic developmental needs of all children in its jurisdiction. Such a system would, parallel to the family law norm on not hitting and humiliating children, require a minimum standard for exercising parental rights in family law, based, e.g., on the criteria proposed by Vopat and integrated in the responsabilization-plus-empowerment SMECC model.<sup>107</sup>

## 6. CONCLUSION: WHERE TO FROM HERE?

Human rights are a universal language intended to end discrimination and violence, reduce human suffering and promote human development. The implementation of children's rights may prove crucial for the success of the human rights project. We are beginning to understand why this may be so, due in large part to ACEs science and related new approaches to the prevention of childhood trauma. According to a recent online article,

'A new generation of public health researchers has identified the reasons people can't seem to cycle out of poverty. They aren't related to economics or race but instead amount to a neurological phenomenon: an epidemic of childhood trauma.'<sup>108</sup>

And Chelsey Perkins wonders,

'What if one area of research could prevent some of society's biggest problems? Researchers say an ever-expanding pool of data on the effects of childhood trauma – and how to counteract those effects – might be the key to alleviating countless societal problems. These include criminality, substance abuse, mental health problems and some of the leading causes of death.'<sup>109</sup>

This area of research, ACEs science, and the ACEs

movement based on it, are presented in this contribution as the beginning of a third wave of children's emancipation towards a full subject of rights status. This wave started in the US and gained global membership and support with pediatrician Nadine Burke Harris (TED talk 2014) as a prominent pioneer. Two waves preceded this third wave. The first wave introduced and expanded child protection against abuse and neglect in the US with the pioneering work of Etta Wheeler (1875) and Henry Kempe (1962). The second wave began with the adoption (1989) and near-universal ratification (since 2015 with the only exception of the US<sup>110</sup>) of the UN Convention on the Rights of the Child and the resulting Child Participation and Hitting Ban movements. A fourth wave would be needed, however, to bring together the ACEs movement and child rights NGOs building upon the analysis and proposals by US legal pioneer James Dwyer (2018) in order to shift child protection's tradition and paradigm from state intervention after harm to children to prenatal and neonatal responsabilization-and-empowerment of caregivers. Only then will it be possible to answer and address ACE Study pioneer Vincent Felitti's question and concerns about primary prevention:

'A serious question is what primary prevention would look like. One suspects that improving parenting skills across the nation might be the crucial issue here. The number of adults is myriad – including physicians – who have had no firsthand experience of supportive parenting. How might we address that serious lack on a population basis? The impact of a successful approach here might be as great as that of a major vaccine. Resistance to obtaining and acting on this information from childhood is to be expected. It will be the result of several factors: the awakening of personal ghosts, discomfort in breaking taboos, lack of training or knowledge, concern over upsetting parents, and perceived lack of time and reimbursement.'<sup>111</sup>

The great challenge for the twenty first century is not only 'safeguarding children's rights in immigration law'<sup>112</sup> but also, and in this author's opinion most urgently, safeguarding children's rights in parentage decision-making family law. In this author's understanding, this would create the necessary legal basis to progressively contribute to trauma-informed pedagogics and other social disciplines, and thus to trauma-informed families, schools, social work and all social and professional groups and institutions, working together more effectively for parents and children.

These are exciting times, especially in relation to the ACEs movement which may very well trigger structural reforms in the century-old field of child protection. This could happen if the ACEs movement leads to trauma-informed child rights research and advocacy – which in

turn would influence and even change the human rights project, as our understanding grows of the historical roots<sup>113</sup> and pervasiveness<sup>114</sup> of prejudice, discrimination and violence against children. Is 'continued social evolution' indeed possible, as Robin Grille believes?<sup>115</sup> Will persisting cruelty against children one day turn into global human creativity?

## REFERENCES

- <sup>1</sup> Mason Krolick (University of Southern California), Take home exam Rights of the Child, University College Maastricht, June 2018.
- <sup>2</sup> Center on the Developing Child at Harvard University (2017), *Three Principles to Improve Outcomes for Children and Families*, <https://developingchild.harvard.edu/resources/three-early-childhood-development-principles-improve-child-family-outcomes/> (accessed 15 November 2018).
- <sup>3</sup> See Global Initiative to End All Corporal Punishment of Children, Global progress, <https://endcorporalpunishment.org/global-progress/>, <http://endcorporalpunishment.org/wp-content/uploads/legality-tables/Global-progress-table-commitment.pdf> (October 2018).
- <sup>4</sup> See General Comment No. 8 (2016) by the CRC committee, *The right of the child to protection from corporal punishment (...)*, <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>, paragraphs 38 *sqq.* Also see Global Initiative to End All Corporal Punishment of Children, Implement prohibition – From prohibition to elimination, <https://endcorporalpunishment.org/prohibition-to-elimination/> (accessed 10 November 2018).
- <sup>5</sup> Another term for childhood trauma is Adverse Childhood Experiences (ACEs), on which see ACEs Science 101 at <https://acestoohigh.com/aces-101/> (see paragraph 4.2.3 below).
- <sup>6</sup> For an extensive list of parental empowerment and responsabilization provisions in the CRC, see Jan CM Willems, 'Children's Rights at a Dignitarian Horizon of Responsible Parenthood,' in: Stephan Parmentier, Hans Werdmölder, Michaël Merrigan (eds.), *Between Rights and Responsibilities: A Fundamental Debate*, Cambridge-Antwerp-Portland: Intersentia, 2016, pp. 157-185. For an earlier online version (March 2008), see <https://pub.maastrichtuniversity.nl/6ff5108e-4195-49af-8074-7e4172e98fd7>.
- <sup>7</sup> See Committee on the Rights of the Child, General Comment No. 8 (2016), above note 4, paragraph 20.
- <sup>8</sup> *Ibid.*, paragraph 22; also see paragraphs 26-29.
- <sup>9</sup> See Global Initiative to End All Corporal Punishment of Children, <https://endcorporalpunishment.org/>, <https://endcorporalpunishment.org/countdown/> (accessed 10 November 2018).
- <sup>10</sup> See Jan CM Willems, 'The Convention on the Rights of the Child at 25: Theory, Reality, Ideology, Opportunity – A TRIO Review,' in: Michiel Matthes *et al.* (eds.), *Improving the Quality of Childhood in Europe Volume 6*, Brussels: Alliance for Childhood European Network Foundation, 2016, pp. 122-141, at p. 132; online <http://www.allianceforchildhood.eu/publications>, Volume 6, Chapter 10. Also see Jan CM Willems, 'Too Close to Home: The Denial of Prejudice and Discrimination Against Children,' in: Roland Moerland, Hans Nelen, Jan CM Willems (eds.), *Denialism and Human Rights* (Maastricht Series in Human Rights), Cambridge-Antwerp-Portland: Intersentia, 2016, pp. 69-96, at pp. 92-94.
- <sup>11</sup> Charter of the UN (1945), preamble, second paragraph: 'We the peoples of the United Nations determined to (...) reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women (...).'
- <sup>12</sup> Committee on the Rights of the Child, Concluding Observations to Malaysia, 25 June 2007 (CRC/C/MYS/CO/1), paragraph 42.
- <sup>13</sup> See Jack C. Westman, *Parent Power: The Key to America's Prosperity*, CreateSpace/Amazon: North Charleston, South Carolina, 2013. Also see Wisconsin Cares (Jack Westman), *The Right of Newborn Babies: An Opportunity to Succeed in Life (Is a newborn baby a person or property?); A proposal for affirming parental rights by a parenthood pledge*, available at <https://apha.confex.com/apha/138am/webprogram/Paper217562.html> or <http://www.wisconsincares.net/wp-content/uploads/2016/03/Parenthood-Pledge-Brochure.pdf> (accessed 11 November 2018).
- <sup>14</sup> See Hans Van Crombrugge, 'The Upbringing Pledge as a framework for the parent-child relationship,' in: Hans Van Crombrugge, Wouter Vandenhoele and Jan CM Willems (eds.), *Shared Pedagogical Responsibility* (Maastricht Series in Human Rights), Antwerp-Oxford-Portland: Intersentia, 2008, pp. 5-15.
- <sup>15</sup> For a critical analysis of this anomaly and the adult-centered (parentiarthal) bias underlying and sustaining it, together with cogent proposals for urgent change, see James G. Dwyer, *Liberal Child Welfare Policy and its Destruction of Black Lives*, London and New York: Routledge, 2018, especially pp. 64-69, 111-113, and 128-147. In his work, and especially in this book, Dwyer offers some of the strongest arguments for a much needed fourth wave of children's emancipation, as will be discussed below in paragraph 5.
- <sup>16</sup> See Eurochild Network, Childonomics, <https://www.eurochild.org/projects/childonomics> (accessed 13 November 2018).
- <sup>17</sup> See, e.g., Hugh LaFollette, 'Licensing Parents Revisited,' in: *Journal of Applied Philosophy* 2010, pp. 327-343, online: <https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1468-5930.2010.00497.x>; Mark C. Vopat, 'Parent Licensing and the Protection of Children,' in: Samantha Brennan and Robert Noggle (eds.), *Taking Responsibility for Children*, Waterloo, Ontario, Canada: Wilfrid Laurier University Press, 2007, pp. 73-96, online: [http://www.academia.edu/3199700/Parent\\_Licensing\\_and\\_the\\_Protection\\_of\\_Children](http://www.academia.edu/3199700/Parent_Licensing_and_the_Protection_of_Children).
- <sup>18</sup> See James G. Dwyer, *The Relationship Rights of Children*, Cambridge University Press, 2006, pp. 253-290; *Liberal Child Welfare Policy and its Destruction of Black Lives* (above note 15), pp. 147-155.
- <sup>19</sup> See Jan CM Willems, 'Principles and promises in the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities,' in: Lisa Waddington, Gerard Quinn, Eilíonoir Flynn (eds.), *European Yearbook of Disability Law – Volume 3*, Cambridge-Antwerp-Portland: Intersentia, 2012, pp. 59-100, at pp. 67-68 and 92-95; updated online version: 'It takes a SMECC to raise a child; Meeting Basic Developmental Needs of Newborn Persons:

- Principles and Promises in CRC and CRPD,' <https://pub.maastrichtuniversity.nl/2bde406f-987e-456e-9463-94453a464143>. Also see Jan CM Willems, 'Too Close to Home' (above note 10), at pp. 77-78, 85, 93-94 (online on ResearchGate Jan Willems).
- <sup>20</sup> See Global Initiative to End All Corporal Punishment of Children (above note 9), <https://endcorporalpunishment.org/countdown/> (accessed 10 November 2018).
- <sup>21</sup> See – with the excellent exception of Gertrud Lenzer's chapter on 'Violence against children' – Wouter Vandenhoe, Ellen Desmet, Didier Reynaert, Sara Lembrechts (eds.), *Routledge International Handbook of Children's Rights Studies*, London and New York: Routledge, 2015.
- <sup>22</sup> Jack C. Westman, *Parent Power* (2013), see above note 13.
- <sup>23</sup> Elisabeth Young-Bruehl, *Childism; Confronting Prejudice Against Children*, New Haven and London: Yale University Press, 2012.
- <sup>24</sup> Jan CM Willems, 'Too Close to Home' (above note 10), at p. 79. Also see below note 105.
- <sup>25</sup> See Willems, *loc. cit.*, at pp. 75-85; 'The Convention on the Rights of the Child at 25' (above note 10), at pp. 130-131.
- <sup>26</sup> See Dwyer, *o.c.* (above note 15), pp. 6-8.
- <sup>27</sup> On the meaning of the term 'fundamental' (not 'something I strongly desire' but 'foundational, the base upon which the edifice of a life sits, prerequisite to pursuing one's other aims in life'), see Dwyer, *o.c.* (above note 15), pp. 152 *i.f.*-153.
- <sup>28</sup> Adopted by the General Assembly of the United Nations on 20 November 1989, the CRC entered into force on 2 September 1990; 192 (of 193) UN member states plus four other entities (the Vatican and Palestine, the Cook Islands and Niue) are parties to the CRC. The first ratification was by Ghana on 5 February 1990, the 196th ratification by Somalia on 1 October 2015 (see <https://treaties.un.org/>, Status of Treaties, Chapter IV, 11).
- <sup>29</sup> Although the Clinton administration signed the CRC on 16 February 1995, the US never proceeded to ratification. The US is a state party, however, to two of the three Optional Protocols to the CRC (see <https://treaties.un.org/>, Status of Treaties, Chapter IV, 11b-d).
- <sup>30</sup> For a US network campaigning for US ratification of the CRC, see <http://www.childrightscampaign.org/> (accessed 15 November 2018).
- <sup>31</sup> Justine Mol, *Growing up in trust*, Winchester, UK-Washington, USA: O-Books, 2011 (reprinted edition), Chapter 3 ('Basic needs'), pp. 20-28, on pp. 22-26.
- <sup>32</sup> See 'The Convention on the Rights of the Child at 25' (above note 10), at p. 124. Also see Jan CM Willems, *Trauma-Informed Rights of the Child: A Video- and Problem-Based Course Manual – Revised and Updated Edition*, ResearchGate.net, June 2018, [https://www.researchgate.net/profile/Jan\\_Willems/contributions](https://www.researchgate.net/profile/Jan_Willems/contributions), pp. 60-63.
- <sup>33</sup> James G. Dwyer, *Moral Status and Human Life: The Case for Children's Superiority*, Cambridge University Press, 2011, p. 2.
- <sup>34</sup> *Op. cit.*, p. 4 (Dwyer's italics).
- <sup>35</sup> Article 18.1, first sentence.
- <sup>36</sup> Article 18.1, third sentence.
- <sup>37</sup> Kent Hoffman, Glen Cooper, Bert Powell, with Christine M. Benton, *Raising a Secure Child: How Circle of Security Parenting Can Help You Nurture Your Child's Attachment, Emotional Resilience, and Freedom to Explore*, New York-London: The Guilford Press, 2017. Also see their Circle of Security International website, <https://www.circleofsecurityinternational.com>.
- <sup>38</sup> CRC/C/GC/12 (2009), paragraph 1, <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>, General Comments.
- <sup>39</sup> *Ibid.*, paragraph 3.
- <sup>40</sup> See Dwyer, *o.c.* (above note 15), pp. 147-155.
- <sup>41</sup> See Rachel Hodgkin and Peter Newell, *Implementation Handbook for the Convention on the Rights of the Child*, Geneva: Unicef, 2007 (third edition), pp. 2 and 85, with reference to the *travaux préparatoires* (legislative history of the CRC 1979-1989).
- <sup>42</sup> For data see [https://www.unicef.org/media/media\\_90033.html](https://www.unicef.org/media/media_90033.html), for NGOs see, e.g., <http://www.endfgm.eu/>, and <http://integrateuk.org/iuk-projects/myclitoris/> (accessed 6 November 2018).
- <sup>43</sup> See Hodgkin and Newell (above note 41), pp. 371-373.
- <sup>44</sup> See Michael Sherrod and Matthew Rayback, *Bad Baby Names: The worst true names parents saddled their kids with – and you can too!* Provo, Utah: Ancestry Publishing, 2008.
- <sup>45</sup> On baby (and) boy circumcision see, e.g., <http://www.icgi.org/> (International Coalition for Genital Integrity), <https://www.genitalautonomy.org/>, <http://www.intactamerica.org/learnmore>, and (in German) <https://genitale-selbstbestimmung.de/>. Also see, e.g., <http://www.bailii.org/ew/cases/EWHC/Fam/2016/849.html> (CRINmail 20 March 2016): 'An England and Wales high court judge has prevented a father from having his two sons circumcised, ruling that the decision should be left to the boys.' On a proposed Danish male circumcision ban, see <https://www.thelocal.dk/20180927/danish-parliament-to-consider-ban-on-circumcision-in-october-report> (all accessed 6 November 2018).
- <sup>46</sup> For 'appropriate direction and guidance,' see, e.g., Alfie Kohn, *Unconditional parenting; Moving from rewards and punishments to love and reason*, New York: Atria Books, 2006; Justine Mol, *Opgroeien in vertrouwen: Opvoeden zonder straffen en belonen*, Amsterdam: SWP, 2005, 2018 (eleventh edition); English translation: *Growing up in trust*, Winchester, UK-Washington, USA: O-Books, 2008, 2011 (reprinted edition). Also see Justine Mol, *De giraf en de jakhals in ons; Over geweldloos communiceren*, Amsterdam: SWP, 2007, 2018 (tenth edition); English translation: *The Giraffe and Jackal Within: about Nonviolent Communication*, Amsterdam: SWP, 2017.
- <sup>47</sup> In *Growing up in trust* (above note 31 and note 46), Justine Mol discusses several alternatives for both punishing and rewarding children, both of which are forms of manipulation in her view. In the final chapter of her book (Chapter 11, pp. 74-78), she presents a short 'List of [twelve] alternatives to rewards and punishment.'
- <sup>48</sup> Gianluca Mezzofiore, CNN 7 August 2018, Why Italy's U-turn on mandatory vaccination shocks the scientific community, <https://edition.cnn.com/2018/08/07/health/italy-anti-vaccine-law-measles-intl/index.html>.
- <sup>49</sup> On homeschooling see James G. Dwyer and Shawn F. Peters, *Homeschooling: The History and Philosophy of a Controversial Practice*, University of Chicago Press (forthcoming April 2019).
- <sup>50</sup> For an attempt in The Netherlands to circumvent this veto privilege, see *Handreiking Toestemmingsvereiste voor hulp*

- bij kindermishandeling* (November 2016), <https://www.rijksoverheid.nl/onderwerpen/kindermishandeling/documenten/brochures/2016/11/11/handreiking-toestemmingsvereiste-voor-hulp-bij-kindermishandeling> (accessed 15 November 2018).
- <sup>51</sup> See, e.g., the Jaden case in The Netherlands: Cyril Rosman, 'Gruwelijke' mishandeling van Jaden (8) en toch maar drie jaar cel? ('Horrible' abuse of Jaden (8 years) and only three years of prison?), 15 August 2018, <https://www.ad.nl/binnenland/gruwelijke-mishandeling-van-jaden-8-en-toch-maar-drie-jaar-cel--ae7cc4fa/>.
- <sup>52</sup> Robin Grille, *Parenting for a Peaceful World*, Avalon Beach, New South Wales, Australia: Vox Cordis Press, Second edition, 2013, p. 4.
- <sup>53</sup> The General Comments by the CRC's treaty body, the Committee on the Rights of the Child, bear testimony to this paradigm shift. See <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx> for 23 General Comments thus far.
- <sup>54</sup> González Carreño versus Spain, CEDAW/C/58/D/47/2012, available in six languages at <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/JurisprudenceSession58.aspx>.
- <sup>55</sup> For a blog post on this case (in Dutch), see 'Kindwaardig ouderschap gaat vóór zogenaamd gelijkwaardig ouderschap' (posted 17 August 2014 on Maastricht University Law blogs), online on ResearchGate Jan Willems. For similar 'legal torture' cases – caused by preconceived notions, inflexible standards and institutional and judicial stereotyping – in The Netherlands, see (in Dutch) Ischa Bade *et al.*, *Petitie Werkgroep Veilig Opvoeden* [Petition to Dutch Parliament] (...) 18 February 2016, <https://www.socialevraagstukken.nl/behoed-kinderen-voor-beschadigende-bescherming-jeugdzorg/>, *Petitie Verbeter Jeugdzorg* (Petitie Sharleyne), <https://www.petitie24.nl/petitie/529/verbeter-jeugdzorg>.
- For the situation in the US, see Dr. Phyllis Chesler, (Part 1) 'The heroic mothers of lost children' (10 May 2016), and (Part 2) 'How mothers are destroyed when they try to protect their children' (19 May 2016), [https://www.huffingtonpost.com/phyllis-chesler/the-heroic-mothers-of-los\\_b\\_9873326.html?guccounter=1](https://www.huffingtonpost.com/phyllis-chesler/the-heroic-mothers-of-los_b_9873326.html?guccounter=1) (Part 1), and [https://www.huffingtonpost.com/phyllis-chesler/how-mothers-are-destroyed\\_b\\_9995354.html](https://www.huffingtonpost.com/phyllis-chesler/how-mothers-are-destroyed_b_9995354.html) (Part 2). Also see Laurie Udesky, 'Custody in crisis: How family courts nationwide put children in danger,' <https://100r.org/2016/12/custody-2/> ('This two-year investigation uncovered stories of children consigned to suffer years of abuse while parents who sought to protect them were driven to the brink financially and psychologically. These parents have become increasingly stigmatized by a family court system that not only discounts evidence of abuse but accepts dubious theories used to undermine the protective parents' credibility.')
- For a case to be decided by the CRC committee (under Optional Protocol 3 to the CRC), see Finland, 6/2016, Granting of custody over children to allegedly violent father and restriction of mother's visiting rights, <https://www.ohchr.org/Documents/HRBodies/CRC/TablePendingCases.pdf> (Pending cases before the Committee on the Rights of the Child). (All above accessed 15 November 2018).
- <sup>56</sup> Article 37a CRC, article 7 ICCPR (International Covenant on Civil and Political Rights), and article 3 ECHR (European Convention on Human Rights). See Willems, *European Yearbook of Disability Law* (above note 19), p. 67; online version ('It takes a SMECC to raise a child'), p. 9. For a legal analysis based on US constitutional law, see Dwyer, *o.c.* (above note 15), pp. 147-155.
- <sup>57</sup> See Jan CM Willems, 'A note on universality,' *Trauma-Informed Rights of the Child* (above note 27), pp. 73-77. Also see Cleo Freriks, 'Europe should re-establish its enlightened values,' Tans lecture by political activist Maajid Nawaz (Maastricht University 29 October 2018), *Observant* online (accessed 6 November 2018), <https://www.observantonline.nl/English/Home/Articles/articleType/ArticleView/articleId/14242/Europe-should-re-establish-its-enlightened-values>.
- <sup>58</sup> On this biological adult-centric bias or 'child-as-property' and 'family-preservation' ideology, see Dwyer, *o.c.* (above note 15), *passim* (e.g., on pp. 5, 79, 131, 141, 146, 206, 217, 219, 235).
- <sup>59</sup> Robin Grille, *Parenting for a Peaceful World* (above note 52), p. 391.
- <sup>60</sup> For examples and an analysis of this poverty cycle in black US ghettos, see Dwyer, *o.c.* (above note 15), pp. 25-108.
- <sup>61</sup> See John E.B. Myers, *Child Protection in America; Past, Present, and Future*, Oxford University Press 2006, Chapter 2, pp. 27-48.
- <sup>62</sup> See <https://www.spcai.org/about-spcai/our-history/> (accessed 6 November 2018).
- <sup>63</sup> See <https://www.aspca.org/> (accessed 6 November 2018).
- <sup>64</sup> See <https://www.nyspcc.org/about-the-new-york-society-for-the-prevention-of-cruelty-to-children/history/> (accessed 6 November 2018).
- <sup>65</sup> See <https://www.nspcc.org.uk/> (accessed 6 November 2018).
- <sup>66</sup> Howard Markel and M.D. (NYTimes.com 14 December 2009), Case shined first light on abuse of children, <https://www.nytimes.com/2009/12/15/health/15abus.html> (accessed 8 November 2018).
- <sup>67</sup> Myers, *Child Protection in America* (above note 61), p. 33.
- <sup>68</sup> Myers, *o.c.*, pp. 37-38, 47-48 and Chapter 3, pp. 49-80.
- <sup>69</sup> See Myers, *o.c.*, Chapter 4, pp. 81-103, at pp. 84-85. Also see <http://www.kempe.org/about/history/> (accessed 9 November 2018).
- <sup>70</sup> See Myers, *o.c.*, pp. 89-90. Also see Jennifer Crane, 'The bones tell a story the child is too young or too frightened to tell': The Battered Child Syndrome in Post-war Britain and America, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4623854/> (accessed 5 November 2018).
- <sup>71</sup> See <https://www.ispcan.org/who-we-are-2/history/> (accessed 9 November 2018).
- <sup>72</sup> See <https://www.coe.int/en/web/children/participation> (accessed 10 November 2018).
- <sup>73</sup> See <https://defenceforchildren.org/>. Also see <https://www.crin.org/en/home/what-we-do/working-partnership> (accessed 10 November 2018).
- <sup>74</sup> On the concept of participation and related state obligations, see CRC General Comment No. 12 on article 12 (above note 38).
- <sup>75</sup> For a critical analysis of the non-inclusive character and consequences of 'a bottom-up approach' of children's participatory rights, see Gertrud Lenzer, 'Violence against children' (above note 21), pp. 276-294, at pp. 287-289.
- <sup>76</sup> See, in Dutch, <https://kinderrechtenu.nl/>, Producten (accessed 10 November 2018).

- <sup>77</sup> On Willemijn Dupuis and her work see, in Dutch, <http://kinderrechtennu.nl/archief/wie-zijn-wij/17-wie-zijn-wij/80-willemijn-dupuis>; <https://kennisnetjeugd.nl/blog/418-kinderrechten-niet-zonder-kinderparticipatie>; <https://www.koepeladviesradensociaal domein.nl/blog/je-staat-er-niet-alleen-voor-samen-bedenken-hoe-het-anders-kan>; Merel van Dorp, 'Leer kinderen opkomen voor zichzelf' (interview of Willemijn Dupuis), *Jeugdenco* October 2018, pp. 22-25.
- <sup>78</sup> See General Comment No. 8 (2016), *The right of the child to protection from corporal punishment (...)*, <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>, General Comments.
- <sup>79</sup> See <https://www.coe.int/en/web/children/corporal-punishment>. Also see Council of Europe Strategy for the Rights of the Child (2016-2021), <https://www.coe.int/en/web/children/children-s-strategy>, 'a life free from violence for all children' (accessed 10 November 2018).
- <sup>80</sup> See <https://endcorporalpunishment.org/> (accessed 10 November 2018).
- <sup>81</sup> See Jo Becker, *Campaigning for Justice: Human Rights Advocacy in Practice*, Stanford Studies in Human Rights, Stanford University Press 2013, Chapter 5, Creating a new international priority: Ending violence against children. Also see: *Evaluation of the Global Initiative to end all corporal punishment of children* (2015), <https://endcorporalpunishment.org/independent-evaluation-of-the-global-initiative/>; OHCHR.org, News and events 31 January 2013, <https://www.ohchr.org/EN/NewsEvents/Pages/CorporalPunishment.aspx>; John Plummer, Newsmaker: Children's champion Peter Newell, Co-ordinator, Children are Unbeatable! (9 June 2004), <https://www.thirdsector.co.uk/newsmaker-children-a-poss-champion-peter-newell-co-ordinator-children-unbeatable/article/620855>. However, sadly and tragically, see <https://www.dailymail.co.uk/news/article-5399247/UNICEF-kids-rights-campaigner-jailed-rape-boy-13.html> and <https://www.bbc.com/news/uk-43075546> (16 February 2018, accessed 10 November 2018).
- <sup>82</sup> See <https://www.unh.edu/unhctoday/2016/05/passing-professor-murray-straus-1926-2016> (accessed 10 November 2018).
- <sup>83</sup> Interview with Peter Newell (April 19, 2011) in Jo Becker, *Campaigning for Justice* (above note 81), pp. 104-105, at p. 104.
- <sup>84</sup> See Council of Europe (2006), Recommendation on policy to support Positive Parenting, <https://rm.coe.int/168046d340>, full text at <https://www.crin.org/en/library/legal-database/council-europe-recommendation-rec200619-policy-support-positive-parenting>.
- <sup>85</sup> See <https://endcorporalpunishment.org/countdown/>. Also see <https://violenceagainstchildren.un.org/>, and <https://sustainabledevelopment.un.org/sdg16>, Targets & Indicators, Target 16.2 of the Sustainable Development Agenda 2030: 'End abuse, exploitation, trafficking and all forms of violence against and torture of children' (accessed 10 November 2018).
- <sup>86</sup> Laurie Udesky (26 February 2018), <https://acestoohigh.com/2018/02/26/a-kaiser-pediatrician-wise-to-aces-science-for-years-finally-gets-to-use-it/>. On the CDC-Kaiser ACE Study (data and statistics, major findings), also see <https://www.cdc.gov/violenceprevention/acestudy/about.html> (accessed 11 November 2018).
- <sup>87</sup> Laurie Udesky (blog on ACEsConnection, 30 October 2018), Felitti and Burke Harris inspire 850+ attendees at National ACEs Conference, <https://www.acesconnection.com/blog/felitti-and-burke-harris-inspire-850-attendees-at-national-aces-conference>.
- <sup>88</sup> See ACEs Science 101 at <https://acestoohigh.com/aces-101/> (accessed 11 November 2018).
- <sup>89</sup> See ACEs Connection at <https://acestoohigh.com/aces-too-high-network/>. Also see Campaign for Trauma-Informed Policy and Practice, <https://ctipp.org/> (accessed 13 November 2018).
- <sup>90</sup> See <https://www.acesconnection.com/pages/about> (accessed 15 November 2018).
- <sup>91</sup> See <https://centerforyouthwellness.org/> (accessed 11 November 2018).
- <sup>92</sup> See <https://acestoohigh.com/2015/02/17/nadine-burke-harris-how-childhood-trauma-affects-health-across-a-lifetime/>. Also see her book *The Deepest Well: Healing the Long-Term Effects of Childhood Adversity*, Boston-New York: Houghton Mifflin Harcourt, 2018.
- <sup>93</sup> US Congress Resolution H.Res.443 (passed unanimously 26 Feb. 2018), Recognizing the importance and effectiveness of trauma-informed care, <https://www.congress.gov/bill/115th-congress/house-resolution/443/text>; US Senate (companion) Resolution SR346 (passed unanimously 22 May 2018), <https://www.congress.gov/115/bills/sres346/BILLS-115sres346is.pdf>.
- <sup>94</sup> Patrick Anderson, Is it that easy for 'Overcoming the Three Fears for Success and Happiness'? (16 February 2016), <https://www.acesconnection.com/blog/is-it-that-easy-for-overcoming-the-three-fears-for-success-and-happiness>.
- <sup>95</sup> Martine F. Delfos, *Developmental Perspective on Trauma*, Amsterdam: SWP, 2014, back flap.
- <sup>96</sup> See <https://www.cdc.gov/violenceprevention/acestudy/index.html> (accessed 11 November 2018).
- <sup>97</sup> James G. Dwyer, *Liberal Child Welfare Policy and its Destruction of Black Lives* (above note 15), p. 128.
- <sup>98</sup> See for 'Ten stages of human rights implementation,' Jan CM Willems, 'The Convention on the Rights of the Child at 25' (above note 10), at pp. 133-136.
- <sup>99</sup> See above note 17.
- <sup>100</sup> See <http://www.jackwestman.com/index.html> and <http://www.wisconsincares.net/about-us/> (accessed 15 November 2018). Also see above note 13.
- <sup>101</sup> See above note 13.
- <sup>102</sup> Hans Van Crombrugge, 'The Upbringing Pledge as a framework for the parent-child relationship,' in *Shared Pedagogical Responsibility* (above note 14), pp. 5-15. For 'resistance' and rebuttal see, respectively, Doret de Ruyter, 'The Upbringing Pledge and the flourishing of children and parents,' o.c., pp. 87-103, and Hans Van Crombrugge, 'The Upbringing Pledge: a ritual in support of parents; A rejoinder to Doret de Ruyter's critical analysis,' o.c., pp. 105-117.
- <sup>103</sup> James G. Dwyer, *The Relationship Rights of Children*, Cambridge University Press, 2006, pp. 253-254 and p. 343 note 1.
- <sup>104</sup> See above note 15.
- <sup>105</sup> See Willems, 'It takes a SMECC to raise a child' (above note 19).

- 
- <sup>106</sup> See Jan CM Willems, 'The Children's Law of Nations: The International Rights of the Child in the Trias Pedagogica,' Chapter 4 (pp. 65-106); 'Children's Rights and the Prevention of Child Abuse and Neglect: The Quest for a *Trias Pedagogica* of Children, Parents and Society (...),' Chapter 5 (pp. 107-141); 'The Convention on the Rights of the Child: Orientation and Conceptualization of Children's Rights (Trias Pedagogica versus Transism),' Chapter 6 (pp. 143-186), in: Jan CM Willems (ed.), *Developmental and Autonomy Rights of Children; Empowering Children, Caregivers and Communities* (Maastricht Series in Human Rights), Antwerp-Oxford: Intersentia, 2007 (second edition); online on ResearchGate Jan Willems.
- <sup>107</sup> See Vopat, 'Parent Licensing and the Protection of Children' (above note 17) and Willems, 'It takes a SMECC to raise a child' (above note 19).
- <sup>108</sup> John Schmid, Milwaukee Journal Sentinel (6 April 2018), <https://www.jsonline.com/story/news/special-reports/2018/04/06/foxconn-promised-jobs-boom-could-sputter-few-miles-away-racine/382026002/> (accessed 13 November 2018).
- <sup>109</sup> Chelsey Perkins, 'Could research on childhood trauma change society?' (*Brainerd Dispatch*, 29 May 2016), <http://www.brainerddispatch.com/news/4042791-building-brainerds-resilience-could-research-childhood-trauma-change-society> (accessed 13 November 2018).
- <sup>110</sup> See above note 28 and note 29.
- <sup>111</sup> Vincent Felitti, quoted by Veronique Mead, blog posted 20 March 2015 (accessed 13 November 2018), <https://chronicillnesstraumastudies.com/adverse-childhood-experiences-and-chronic-illness-boyhood/> (referencing V.J. Felitti, 'Adverse childhood experiences and adult health,' *Academic Pediatrics* 2009, pp. 131-132).
- <sup>112</sup> See <http://www.leidenlawconference.nl/55-safeguarding-children-s-rights-in-immigration-law> (accessed 13 November 2018).
- <sup>113</sup> See Grille, *Parenting for a Peaceful World* (above note 52).
- <sup>114</sup> See Westman, *Parent Power* (above note 13) and Willems, 'Too Close to Home' (above note 10).
- <sup>115</sup> Grille, *Parenting for a Peaceful World* (quoted in paragraph 4.2 at note 59), p. 391.

---

**Citation:** Willems, J. C. M. (2019). Children as subjects of rights: Three waves of emancipation, from past and present cruelty to future creativity? *Net Journal of Social Sciences*, 7(1): 28-43.

---