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What's Wrong With Children's Rights



Synopsis

"Children's rights": the phrase has been a legal battle cry for twenty-five years. But as this provocative book by a nationally renowned expert on children's legal standing argues, it is neither possible nor desirable to isolate children from the interests of their parents, or those of society as a whole. From foster care to adoption to visitation rights and beyond, Martin Guggenheim offers a trenchant analysis of the most significant debates in the children's rights movement, particularly those that treat children's interests as antagonistic to those of their parents. Guggenheim argues that "children's rights" can serve as a screen for the interests of adults, who may have more to gain than the children for whom they claim to speak. More important, this book suggests that children's interests are not the only ones or the primary ones to which adults should attend, and that a "best interests of the child" standard often fails as a meaningful test for determining how best to decide disputes about children.

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Customer Reviews

"As deeply as I've always thought of myself as a children's advocate, much of what I read and hear being advocated in furtherance of children's rights seems to me misguided," writes Guggenheim (*The Rights of Families, The Rights of Young People*). In this well-argued treatise, the veteran lawyer and children's rights activist takes a stand against children's rights policies that undermine parental authority. Why, he asks, should judges and lawyers be allowed to determine what's best for a child and not the child's parents? After a short introduction to the history of children's rights, he examines how the movement has impacted married parents, unwed fathers, third-party parents,

divorced parents, foster parents, adolescents and society as a whole. Guggenheim's main contention is that the best way to secure a child's well-being is not through "children's rights," a term, he argues, that is too often invoked by disputing adults in order to give one party the upper hand-sometimes with disastrous results. Guggenheim does an admirable job outlining the history of children's rights legislation and highlighting the detrimental impact it can have on families, but he offers only vague alternatives. Indeed, he contends that children's well-being should be seen as an integral part of a successful society and writes that "clear rules, quickly enforced, would do far more to protect children's rights than protracted litigation ever could." But what are these rules and who should enforce them? Guggenheim never explains. Nevertheless, his thorough analysis of the topic and his ability to always consider his subject in the larger context of American society makes this book relevant not just for policymakers and academics but for anyone interested in the country's social dilemmas. Copyright © Reed Business Information, a division of Reed Elsevier Inc. All rights reserved.

[An] exceptionally thought-provoking new book...Guggenheim makes a passionate and compelling call to policy makers, practitioners and scholars who care about children to shift the course of our dialogue on how best to serve children's interests. (Theo Liebmann New York Law Journal 2005-06-16)

Professor Guggenheim's book is an insightful and ambitious project that discusses the ways in which adults and various interest groups use the mantle of "children's rights" to forward their own agendas--even when those agendas are in fact contrary or unrelated to the welfare of children. He provides a sharp and detailed look into the particular legal movement associated with children's rights that has arisen over the past forty years, and the contradictory impact that movement has had on various parts of family law, from divorce to removal of children by the state. At the same time he grounds this analysis in the broader historical context of both legal doctrines and social movements on behalf of children. His conclusions are fascinating and have important implications for anyone concerned with the welfare of children--be they attorneys, policy makers, social workers or interested citizens. Not all readers may ultimately agree with Guggenheim, but all will benefit from this thought-provoking work. If our policies in the name of children in fact cause dramatic and irreparable harm to them, then why are those policies in place? Whom do they serve? Those who are preoccupied by the empty slogan of "children's rights" but refuse to engage with the substantive impact that "children's rights" policies have do all of us a disservice. (Speaking of which, the

dissonance between the comments of some readers on this website and the content of this book is so great that I wonder whether they did more than read the jacket cover.)

The two 1-star reviews below (or above) could not possibly have read the entire book, because much of what they advocate, Guggenheim advocates. This is a thought-provoking, insightful book written by a liberal ACLU lawyer who has seen the utter destruction caused by government intervention into the lives of families. He takes a libertarian position of granting parents as many rights as possible in order to keep children in their homes. He makes this argument not based on his disregard for the welfare of children (his whole career has been dedicated to that) but out of respect to the parents of children. (Who is the "state" to tell me how to raise my child, anyway?) He writes that we have to be OK with parents who are "minimally fit" simply because the overwhelming evidence is that when children are taken out of their "minimally fit" homes, their lives get worse. This book is more a critique of government intervention and the failures of the foster system than anything else. It might be wrong to allow children to suffer under bad parents, but that is not an argument for state intervention. He does think there is a place for foster homes, as some parents are not even minimally fit, but according to a myriad of studies 40-70% of children placed there do not need to have their lives disrupted. Last, he notes that the rhetoric over children's rights has been exploited for political gain by both the left. Court cases have dragged on too long, cost too much money, and actually been detrimental to children. In short, he argues that there is no such thing as children's rights. For example, does a child have a "right" to a relationship with her parent? No. A child cannot sue and make an adult be a part of her life. The "rights" children receive are the "rights" judges, who don't know them, tell them they have. Framing the debate about "children's rights" is just another way to win political points with a voting base.

Guggenheim delivers an important shot in the arm to anybody who verges on self-satisfaction about the state's intervention in the family. Throughout this important book, he illustrates ways that racial and economic inequities become reinforced and furthered by the current US foster care system. Identifying that this is often done in the name of "saving children" is one of the most important teachings to any critical thinker involved in the children's rights movement. I am grateful to this important contribution to the field and wish more people would read, engage with, and debate the propositions set forth in this book.

This book is premised on an ancient ideology which insists that parents are like gods to their

children and that children are basically property. The guy starts with his premise and then goes on to manipulate statistics and ignore the obvious to promote his beliefs. In many cases in the United States when it comes to cruelty dogs have more rights than kids. Children are defenseless and to say that parents know and love their kids because they are biologically theirs is an incredibly ignorant statement. There is ample evidence that many parents are incapable of caring for a child. Brutalized children often grow up to be destructive adults. What our society needs is a book on how to deal with this problem realistically, which we have not been doing. In the original 13 colonies killing your child for various reasons including rebellion was legal, is that what we want?

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