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EDITORIAL

Convention on the rights of the Child. 35 years in Portugal, reinforcing a commitment

Convenção sobre os direitos da Criança. 35 anos em Portugal, reforçando um compromisso

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The foundations for virtually every aspect of human development – physical, intellectual and emotional – are laid in early childhood.

Michael Marmot, 2010

On September 22, 2025, Portugal celebrates the ratification of the Convention on the Rights of the Child, approved by the United Nations, in partnership with the Instituto de Apoio à Criança, Escola Superior de Enfermagem de Lisboa, Sociedade de Ciências Médicas, UNICEF, Sociedade Portuguesa de Pediatria and Fundação Calouste Gulbenkian, entitled *Convention on the Rights of the Child. 35 years in Portugal, reinforcing a commitment*.

This Declaration constitutes a milestone in all areas concerning childhood and adolescence, as Article 1 defines a child as a person from birth to 18 years of age, and the remaining 53 articles establish the responsibilities of parents/guardians, the community and the government, providing legislation and policies for children.

The Convention designates the basic human rights to which children are entitled: *Provision rights* for health and well-being, including family life, food, housing and healthcare; *Development rights*, involving education, play and rest, no discrimination and freedom of thought and religion; *Protection rights* from violence, abuse or any harmful activities; *Participation rights*, including the right to be consulted, to information, to freedom of speech and opinion, and the right to take an active role in community life.

The Convention also enshrines participation and consent, with children being true protagonists in their own lives (Article 12), and the 2025 Portuguese meeting also focuses on the right to involvement, which is why we will have a group of teenagers on the last panel that we want to hear from and involve.

In healthcare, this right is exercised through informed assent and consent. The right to informed consent from the age of 16 has been agreed upon in several European countries such as Portugal, Spain, the Netherlands, Poland, and Norway[1].

According to the Portuguese Civil Code, minors do not have the capacity to exercise rights, but parents must take their children's opinions into account in accordance with their maturity. However, the Portuguese Penal Code guarantees autonomy to minors who are 16 years of age or older and have the discernment to assess the meaning and scope of consent at the time they give it[2].

The UNESCO Declaration on Bioethics and Human Rights (2015) and the Oviedo Convention emphasize that there is a trend towards the progressive autonomy of minors in health matters and not just from a pre-established age (Council of Europe, 1997). There is evidence that growth is associated with gains in maturity

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and discernment, so assessing a child's capabilities is essential to avoid imposing a decision in a situation where the child is incapable or, conversely, excluding them from the decision when they are competent.

At the same time, the progressive autonomy of the child must be recognized and Amelung advocates that the ability to decide involves being aware of values, understanding facts and alternatives, and having the sensitivity to make the best and most appropriate choice[3].

It is increasingly accepted and promoted that some degree of decision-making power should be given to children, which should increase as they get older and as the intervention becomes more relevant to their lives. An intermediate age range was then created, from 14 to 16 years old, in which, after clarification, the child is asked for his or her informed consent, with the consent of his or her parents/guardians being mandatory. Decision-making is a dimension of active participation, a multifaceted concept with different processes that involves the transfer of information and power. It requires a scenario in which the child is the main author[4].

However, even a child who is considered competent lacks life experience and will find it difficult to assess the risks and appreciate the long-term consequences.

Ireland and the United Kingdom use the concept of "Gillick competence," which determines that a child who has sufficient maturity and intelligence to fully understand the nature and consequences of the intervention also has the capacity to consent to that intervention, which has become gradually more common[1].

Despite legislation, studies on hospital practices show that young people's experiences vary between hospitals and within the same hospital[5] and that healthcare professionals demonstrate insecurity or ignorance when communicating with hospitalized children[6]. Doctors are aware of the evidence that active participation facilitates self-esteem, and provides adaptive skills and a sense of empowerment, but there is still a gap between the theory and practice[7]. The child's education and culture, the attitude and role of parents, their communication skills, available time, and the doctors' own knowledge and sensitivity are factors that impact the process[8].

Nevertheless, children deserve to be highly valued for the unique contribution they make simply by being children.

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