



Where Does America Stand at the 25th Anniversary of the United Nations Convention on the Rights of the Child?

Yvonne Vissing, Salem State University

Twenty-five years ago in 1989, the United Nations created what has become the most ratified human rights treaty in the history of the world, the Convention on the Rights of the Child. All member nations have signed, ratified, and implemented the treaty – except for two: Somalia and the United States of America.

Because the United States touts itself as the world's leader in human rights, many find this failure shocking or at least embarrassing. The original wording of the Convention was crafted with input from leaders in the Republican presidential administrations of Ronald Reagan and George Bush and the treaty was signed by the Clinton administration. But then ratification failed in Congress. How did it come to pass that children – the group on which the future of the world rests – are not seen as entitled to the same rights as people of different races, genders, religions or sexual preferences? Elderly people have their rights protected, even when they are sick, vulnerable, or impaired, but there is no U.S. national ratification of rights for children and youth. In fact, there is active pushback and, recently, U.S. advocates put forward a Parent's Rights Amendment to the U.S. Constitution to ensure that parental prerogatives will be enshrined rather than children's rights.

Legal Reasons for Opposition to U.S. Ratification

Several issues help to explain U.S. refusal to ratify and carry out the Convention on the Rights of the Child that most other nations have endorsed:

- **Overall U.S. reluctance to support international human rights treaties.** According to data compiled by University of Minnesota's Human Rights Library, only 17 of 72 international human rights amendments have been ratified by the United States. Others not ratified include the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Enforced Disappearance, the Mine Ban Treaty, the Convention on Cluster Munitions, or the Convention on the Rights of Persons with Disabilities.
- **Heightened concerns about national sovereignty and states' rights.** The U.S. Constitution is designed to protect state rights and avoid outside intervention in U.S. internal affairs. Critics argue that constitutional violations would occur if the Convention on the Rights of the Child was ratified, and their concerns have so far prevailed even though advocates argue that there are ways around such concerns and argue that the Convention is a tool rather than a rule that, if ratified, would elevate the discussion of child rights into every policy debate.
- **Debate about whether the Convention is necessary.** Critics argue that child protections are already in place in the United States, so the Convention would add little, especially since it does not include

enforcement provisions. Supporters respond that, although many articles of the Convention are covered by U.S. laws, others are not – including articles covering child protection, sexual exploitation, and victimization; articles covering children deprived of a family environment or put in placement; and articles dealing with adoption, children with disabilities, and health care for children. Other articles that would add to current U.S. provisions include those dealing with school truancy and dropouts, child labor, and juvenile justice.

Cultural Flashpoints

Additional sources of opposition to ratification of the Convention are rooted in more fundamental social and cultural divergences in American society – over issues such as childhood dependency and parental prerogatives.

Are children entitled to personhood or the same human rights as everyone else? Or are they better understood as developmentally immature and dependent upon adults to care for and guide them until a time when they are able to successfully care for themselves? Stressing the needs of young, homeless, sick, disabled, abused and refugee children, one camp of advocates sees adults as necessary to protect children and negotiate for them. But others regard children as empowered with significant agency for making decisions about their own lives.

More fundamental are disputes over parental prerogatives. Supporters say that the Convention specifically respects parental rights and has strengthened parent-child ties in other nations. But opponents worry about possible uses of articles invoking “the best interests of the child”:

- Article 16 states that “no child shall be subjected to arbitrary or unlawful interference with his or her privacy” and critics are concerned this would take away parents’ rights to search their children’s rooms or know if their child has had an abortion.
- Article 13(1) gives children the right to freedom of expression, which critics say could be interpreted to allow children to speak their minds without regard for parental authority.
- Critics worry that article 14(1) requiring respect for “the right of the child to freedom of thought, conscience and religion” could give children the right to object to parents’ beliefs.
- Article 17 calls for children to have access to information from a diversity of sources, which critics fear could let children read, watch, or view materials that parents find objectionable; they also fear that article 28(1) protecting the right of the child to a quality education could be used to eliminate or regulate home schooling and private schools.
- Critics fear limits on discipline or spanking at school or by a parent or guardian might be justified by Article 19(1), which states that “no child should be subjected to physical or mental violence, injury or abuse, neglect, maltreatment or exploitation.”

As the world celebrates a quarter-decade acknowledging the rights of children and youth, the United States refuses to join the international community in this endeavor. Political and ideological arguments rage with no end in sight, despite countless efforts to bring about ratification. How long will it take before U.S. children have their rights fully recognized?
December 11, 2014

Read more in Yvonne Vissing, "Child Rights in the USA," United Nations 25th Anniversary on the Convention on the Rights of the Child, November 2014.