

The Conven-
tion on the
Rights of the
Child and
Child
Maltreatment:
Incompatible
Conditions
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State and national leaders repeatedly proclaim that children are our most valuable assets and that their well being is essential to the future of our nation. At the same time, every year large numbers of children in the United States are abused and neglected, while our grossly inadequate systems for prevention and correction of maltreatment are largely ignored. What's wrong with this picture?

Our nation has provided worldwide leadership in setting, promoting, and holding other nations accountable for human rights standards. The United States played a very influential role in the development of the Convention on the Rights of the Child and supported its adoption by the United Nations on November 20, 1989. Nearly ten years later, 191 of the 193 recognized countries of the world, all but the United States and Somalia, have ratified this international treaty. What's wrong with this picture?

It is strongly possible that these two sets of incongruencies are related. It appears that in both situations our national posture and countless political words proclaiming our love for children, their pivotal place in the stream of human progress, and our intentions to assure their protection and healthy development have been rather hollow. In both situations, the view that children are more like property than persons, in both law and practice, seems to have prevailed as national policy. Consequently, children continue to be mistreated and to have their rights ignored.

This failure to live up to national aspirations should not be allowed to stand. Recognition of children's rights and establishment of successful prevention and correction of child maltreatment are strongly related and should be pursued vigorously. In the area of children's rights, the UN Convention presents the best opportunity for advances. In place, as the spirit and law of the land, it can help combat child abuse and neglect.

Why is the UN Convention on the Rights of the Child the proper vehicle for securing children's rights? It is the best representation we have of what Gary Melton termed a "positive ideology" of the child—a shared societal perspective that children are of value as persons in and of themselves, not only for what they can do to benefit others. The Convention is the most widely accepted international human rights treaty in history. It was adopted without dissent by the United Nations General Assembly in November of 1989. It entered into force on September 2, 1990, having received the required twenty ratifications in less than nine months, and reached the status of near universal adoption in just over five years—with more ratifications than any other human rights treaty. The Convention's 41 substantive articles cover all major child issue areas, with standards ranging across basic survival and protection, through nurturance and development, to participation rights. Collectively, these rights require that States Parties (sovereign nations that have ratified the Convention) must assure that children will have their basic needs fulfilled, that they will have support for full development of their potentials, and that they will be prepared for a "responsible life in a free society." The Convention's standards have become the international vision and language for children's rights throughout the world.

What is the Convention's relevance for preventing and overcoming child maltreatment? The treaty in its entirety can be viewed as standing for good treatment and against maltreatment. At the broadest level, it conceives of the child as a person with rights, a person to be respected, protected, and supported toward full and healthy development. Its Article Three, a guiding principle, states "the best interests of the child shall be a primary consideration" in all actions concerning children. These expectations cannot be met in a society that tolerates maltreatment.

Why has the United States not yet committed itself to children's rights by ratifying the Convention on the Rights of the Child? The answer to this question is far from clear. Nearly 300 nongovernmental organizations of some national prominence have formally endorsed the Convention. Included among these are the American Psychological Association, the American Academy of Pediatrics, the American Bar Association, the National Education Association, the American Professional Society on the Abuse of Children (APSAC), and many other professional, advocacy and religious organizations. The U.S. State Department review of the Convention was completed during the Bush administration, but no action was taken. Then, largely because of a death bed plea by James Grant (then head of UNICEF), the United States finally signed the Convention in February of 1995 (Madeline Albright for President Clinton), taking the first step in the ratification process. However, the next step in the ratification process—submission to the U.S. Senate for its constitutionally required "advice and consent"—has not yet been initiated and significant resistance to the Convention has been communicated to the U.S. Congress.

Opposition to ratification of the Convention appears to be based on lack of understanding of international treaties and their implementation processes, and of the specifics of this particular treaty, as well as hostility toward the United Nations and international entanglements, and toward the concept of children's rights. Statements of opposition seem generally to be founded on erroneous thinking about the influence of the UN on the Convention's implementation and about the potential impact of the Convention on the family.

UN focused opposition is grounded in a fear of coercive United Nations intervention if a country doesn't live up

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to its treaty commitments. In truth, the Convention on the Rights of the Child is an international treaty that obliges ratifying sovereign nations (i.e., States Parties) to abide by voluntarily undertaken commitments. Implementation of the Convention is in the hands of its States Parties, who elect the members of the expert oversight body known as the Committee on the Rights of the Child that reviews State Party reports on treaty compliance (see arts. 43 & 44). Public information and international encouragement and persuasion are the Committee's only tools for ensuring that a State Party adequately implements the Convention. Moreover, when a sovereign nation ratifies the Convention it has the right to attach to its instruments of ratification *reservations* indicating those articles with which it will not comply or it may attach *declarations* or *understandings* to explain how the nation will interpret a particular section of the Convention's text. This gives States Parties the possibility of interpreting and implementing the treaty – within the spirit of the treaty's intent – with allowances for the individual nation's values and patterns of life.

Family focused opposition to the Convention is founded on the fear that the Convention will interfere in the parent-child relationship. Opponents claim that: 1) the Convention doesn't respect the rights of parents, 2) it would disallow home-schooling, 3) it would promote abortion or right to life, and 4) it would give children license to do whatever they want regardless of their age or the wishes of parents. These perspectives simply don't match the facts. The Convention strongly respects the family as the primary base for assuring the healthy development of children and directly states this support for parents throughout the Convention (see the Preamble and arts. 5, 3, 7, 9, 10, 18, 22, 23, 27, 29, 37 and 40). Its standards for education (arts. 28 & 29) assure purpose and opportunity but do not restrict the venue for achieving that education. The Convention does support each and every child's right to life, survival and development (art. 6) but avoids identifying the point at which life begins and does not deal with the topic of abortion, leaving these issues to be determined by the values of each nation. The Convention does support the rights of children to express their views and be heard; to freedom of thought, conscience and religion; to freedom of association; and access to information (arts. 12, 13, 14, 15, 17). However, all these are clearly modified by the treaty's overriding standard that parents have the responsibility, right and duty to provide appropriate direction and guidance in the exercise of rights by the child "in a manner consistent with the evolving capacities of the child" (see art. 5).

There are some opponents of the Convention who fear it will eliminate corporal punishment and/or the right to apply the death penalty to children. It may very well do that eventually. The Convention makes a clear statement against capital punishment for crimes committed by those under 18 (art. 37). The Convention also appears to oppose corporal punishment, most specifically in schools. It proclaims that "school discipline should be administered in a manner consistent with the child's human dignity" (art. 28). The Convention makes additional statements in support of treatment that promotes the child's sense of dignity and worth (art. 40) and it prohibits torture, cruel, inhuman or degrading punishment (art. 37). With the above articles as a foundation, the Committee on the Rights of the Child has recently been inclined to recommend against corporal punishment in general.

What can be done to encourage United States ratification of the Convention on the Rights of the Child and implementation of its standards?

The Convention is sound in its principles and its system of respectful encouragement and assistance to advance children's rights. Individuals and organizations should educate themselves about its nature and implications and then determine what if anything they will do in its support. Those who are concerned about child maltreatment will find the Convention clearly and strongly in support of ending this societal cancer and of assuring protection and help for its present and potential victims. They will find reason to believe that commitment to and implementation of the full Convention will create a tide of higher standards and moral will sufficient to raise all supports for child welfare and to do so in mutually beneficial ways.

Good information sources for the Convention are available online at Children's Rights Information Network, www.crin.org, UNICEF, www.unicef.org; United Nations High Commissioner for Human Rights, www.unhcrh.ch; and the University of Minnesota Human Rights Library, www.umn.edu/humanrts/.

Opposition to the Convention is relatively small in numbers but apparently strong in its efforts to communicate its fears and resistance. So far the opposition seems to have enhanced the longstanding tendency toward inertia on children's issues in national politics. If this is to change, organizations and individuals genuinely concerned about the plight and needs of children in our society will need to do more than sign endorsements. They will need to take action to establish children's rights through support for ratification of the Convention and efforts to implement the spirit of its standards in their work and communities now. State and national political leaders will need to hear from those who want to see our nation commit to children's rights. APSAC has already indicated its intention to help. It's up to individual members to determine the actions they will take in support of APSAC's commitment and in their own personal and professional lives.

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