

NATIONAL JUVENILE JUSTICE NETWORK

The Convention on the Rights of the Child THE NATIONAL JUVENILE JUSTICE NETWORK RESPONDS TO OPPOSITION

FACT SHEET | MAY 2010

Introduction

Whenever a nation contemplates participation in an international treaty, it is good policy to scrutinize the positive and negative effects it might have domestically. As the United States determines whether to ratify the Convention on the Rights of the Child (CRC), voices have risen in support of and in opposition to U.S. participation in the Convention. Opposition to U.S. ratification of the CRC centers primarily on the following issues:

1. the self determination of the U.S. and infringements on our national sovereignty; and
2. the importance of maintaining and supporting parental authority and the implications of that authority on corporal punishment, access to abortions, and the ability of children to sue parents.

A close read of the CRC's goals and authorizing power, however, provide clear reassurance that these concerns are without merit.

1. If ratified, the United States alone – not the United Nations or any other participating country – would have the power to enforce the provisions of the CRC.

The benefit of the CRC is that it provides an impetus for ratifying nations themselves to secure and protect the rights of child citizens and residents. The treaty is not self-executing. Internationally, the implementation of the CRC is determined by each ratifying nation.¹ The United States government must take affirmative action to ratify the CRC, with final approval from the Senate. States must then pass their own legislation to accord with the guidelines of the treaty and remain in compliance with the state's constitution.² Additionally, under American law, the Convention, if ratified, would remain subservient to the U.S. Constitution.³

The U.S. in all likelihood would ratify the CRC with certain reservations, understandings, and declarations (RUDs) as to how the ratified Convention would apply to the country. If compliance becomes too problematic, a country may nullify its ratification with a written notification to the United Nations General Secretary.⁴ Lastly, while the CRC would call for the U.S. to make periodic reports to the United Nations Committee on the Rights of the Child (UNCRC), the UNCRC has no authority to penalize party states for non-compliance.⁵ Rather, the power of the CRC is to serve as a framework to help guide and measure the nation's progress towards sufficiently protecting the human rights of children. Recommendations from the UNCRC can help the U.S. to systematically and consistently prioritize children's rights.

(2) The CRC expressly allows parents and families to raise their children as they deem fit.

The CRC acknowledges that the family is the “fundamental group of society” and the natural environment for the growth of its children.⁶ It also states that a child should develop in a loving and understanding familial setting.⁷ The CRC contains no language as to exactly how parents should raise their children. It calls on governments to respect the responsibilities, rights and duties of parents as they make decisions in raising their children.⁸ While the CRC supports programs on institutions focused on child care and development,⁹ it does not mandate any specific actions for independent, individual actors.

(3) The CRC provides parents with the final legal authority over their children.

Far from granting children complete autonomy, the CRC expresses the belief that adults should include children and their opinions when considering situations that children face. This position is tempered by the age and maturity of the child at hand.¹⁰ Again, the CRC provides no supplemental legal remedy for children against their parents, deferring instead to the enacted laws of each ratifying country.

Conclusion

The above discussion demonstrates the misguided nature of the most common oppositions to U.S. ratification of the CRC. Far from weakening the United States' autonomy or parental control over children, ratification of the CRC would encourage the federal government and each state to treat children with respect and dignity, and empower parents to raise their children in an environment of love, understanding, and support.

¹ United Nations Convention on the Rights of the Child, Article 4.

² *Ibid.*, Art. 41.

³ *Reid v. Covert*, 345 U.S. 1 (1957).

⁴ United Nations Convention on the Rights of the Child, Article 52.

⁵ *Ibid.*, Art. 43.

⁶ Ibid., Preamble.

⁷ Ibid.

⁸ Ibid., Art. 5.

⁹ Ibid., Arts. 2 and 3.

¹⁰ Ibid., Art. 12.