

Convention on the Rights of the Child: Concerns & Why Not to Ratify

by Thomas W. Jacobson (15 May 2009)

The United Nations' Convention on the Rights of the Child (CRC) has been ratified by 192 nations. The United States is one of a few nations that have not ratified the CRC. The U.S. signed it on 16 February 1995, but has never ratified it. Below is a summary of thoughts and concerns about the CRC, and why the U.S. has not ratified.

Positive: The CRC requires National Parties to:

- “recognize that every child has the inherent right to life” (Article 6), and “the child ... needs special safeguards and care, including appropriate legal protection, before as well as after birth” (Preamble) – [but that protection has not been extended to preborn children in most of these nations].
- “ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child” [with “abuse or neglect” given as examples] (Art. 9.1).
- “protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person” (Art. 19.1; see also Arts. 32, 36 & 37).
- “protect the child from all forms of sexual exploitation and sexual abuse” (Art. 34), and “prevent the abduction of, the sale of or traffic in children for any purpose or in any form” (Art. 35).
- in adoption procedures, requires “the best interests of the child shall be a paramount consideration” (Art. 21).

In addition, the CRC does provide many protections, if implemented, for children in countries or regions where families are separated or destroyed by conflict, or where children are not cherished and protected. Article 8 requires “respect of the child to preserve his or her identity, including nationality, name and family relations.”

Concerns (areas harmful to children, parents and the stability of the family):

1. Broadly, the CRC posits children as equal to, largely autonomous from, and even above their parents; the government above parents; and the Committee on the Rights of the Child above national governments.
2. The CRC places “the best interests of the child” as “primary” over all other considerations (Art. 3), which would appear good, but ignores the role of parents and the impact of decisions upon parents, other family members, or the entire family unit. Also, this presupposes a child has the maturity to know what is best; or that a social worker, government official or judge, with limited knowledge, knows what is best for that child, more than do the parents.

Mr. Jacobson originally wrote this paper in 2009 when he was serving as Representative to the United Nations for Focus on the Family (U.S.A.), from 2001 to 2010.

3. The CRC undermines the legitimate role of parents by failing to recognize their pre-existing, inherent, God-given authority and responsibility to direct the upbringing of their children in all areas. While the CRC requires National Parties to “respect the responsibilities, rights and duties of parents,” the same statement continues with this clarification: “to provide ... appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention” (Art. 5; see also Art. 27.3). Thus parents are viewed as pawns whose primary usefulness is implementing the CRC.
4. The CRC Committee interprets spanking as child abuse and pressures nations to enact laws prohibiting corporal punishment, which many nations have subsequently done.
5. The CRC requires National Parties to guarantee the following as absolute rights to children:
 - “the right to express (their) views freely in all matters affecting the child” (Art. 12.1), including in court [but gives no reference to parents or the importance of honoring them].
 - “the right to freedom of expression,” which “shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice,” with only two restrictions allowed: (a) “respect of the rights or reputations of others” or (b) “protection of national security or of public order or of public health or morals” (Art. 13). [That means, apart from these limitations, a child can say, write or communicate anything, and read, hear or view anything from any source, regardless of parental concerns, rules or guidance. This would seem to guarantee to children a right to watch whatever they want on TV, read or view whatever they want on their computers, etc.]
 - “the right of the child to freedom of thought, conscience and religion,” including the right to “manifest one’s religion or beliefs,” with parents recognized as providing “direction to the child in the exercise of his or her right” (Art. 14). [However, this seems to give a child a right to choose a different religion, which can be good to protect a child who chooses Christianity over a false religion. But this can also make it difficult for parents to train up their children in the knowledge and fear of the Lord, which we as believers are commanded to do, if a child has a guaranteed right to pursue any other religion he chooses while still under the care of his parents.]
 - “the rights of the child to freedom of association and to freedom of peaceful assembly” (Art. 15) – [meaning a child can choose bad friends or groups and ignore his parents].
 - “No child shall be subjected to arbitrary or unlawful interference with his or her privacy ...” (Art. 16). [This may be interpreted to mean that children may receive condoms, abortifacients, or abortions without parental knowledge or consent.]
 - “access to information and material from a diversity of national and international sources” (Art. 17) – [so that people other than parents may shape the child’s mind].
 - “no child is deprived of his or her right of access to health care services” to include “family planning education and services” (Art. 24.1) – [which is being interpreted by the UN as access to contraception and condoms, abortifacients and abortions].
 - “the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development” (Art. 27.1) – [which is precisely what the vast majority of parents strive to achieve at great sacrifice, but this is a socialist ideal which cannot be appropriately or universally determined or guaranteed by civil government].
 - “Make primary education compulsory and available free to all” and ensure that all “educational institutions” are “subject always to the observance of the principles set forth” [in this article of the CRC] and “conform to such minimum standards as may

- be laid down by the State.” (Art. 28) – [This is another socialist ideal requiring governments to fund and control all education, not respecting the God-given directive to parents to educate their children, and likely hostile to home and private education.]
- “education ... directed to ... The development of respect ... for the principles enshrined in the Charter of the United Nations” (Art. 29.1.b) – [some parents may not agree].
6. The CRC requires governments to help parents raise their children, which is not a civil government duty. National Parties “shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children” (Art. 18.2).
 7. The CRC requires governments to guarantee child-care services: National Parties “shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible” (Art. 18.3).
 8. The CRC prohibits “capital punishment” or “life imprisonment without the possibility of release ... for offenses committed by persons below 18 years of age” (Art. 34.a) – [even if they murdered one or more people].
 9. Special interest groups (NGOs like International Planned Parenthood, the American Psychological Association) may be invited or permitted to review the reports submitted by countries, and then impact the Committee’s view of the country’s compliance with the CRC.

Current status of the CRC within the U.S. Government:

The Office of the President has never sent the CRC to the United States Senate for its “advice and consent” (U.S. Constitution, Art. 2, par. 2), though that could be done any day. Once sent, it would be forwarded to the Senate Foreign Relations Committee (SFRC), and if approved by a majority, then would go to the full Senate. If it is brought up for consideration in the Senate, and “two-thirds of the Senators present concur” (ibid.) – which would be 67 if all 100 Senators were present and voting, but potentially far less if they were not all present – then the Senate would return it to the President with its advice and consent. Their advice may include recommended reservations, understandings and declarations (“RUDs”), which may be difficult to sustain due to international pressure to withdraw any RUDs. Finally, if the President chooses to finalize the ratification, he would state so in a written notice to the Secretary-General of the United Nations.

Why the United States has not ratified the CRC:

1. First and foremost is that within our federal and constitutional forms of government, almost all of the provisions of the CRC fall within state or local jurisdiction, or parental authority. The president and Senate of the United States could not ratify the Convention without violating the U.S. Constitution. (Thus President Clinton, and Secretary of State Madeleine Albright who signed the CRC at his directive in 1995, violated their oaths of office.)
2. If the President and Senate collaborate and ratify the CRC, parents along with local and state governments would lose control over extensive areas of domestic policy. The federal government – with oversight by the UN’s CRC Committee which monitors compliance – would force states to change their laws to conform to the CRC, taking control of policies related to children, adolescents, marriage, family, education, juvenile criminal justice, and more. Also, laws permitting capital punishment or life sentences for capital offenses committed by persons under age 18 would be prohibited.