

ANTHOLOGY OF ARTICLES BASED ON  
PRESENTATIONS AT SYMPOSIUM ON  
WHETHER THE UNITED STATES SHOULD  
BECOME A PARTY TO THE U.N.  
CONVENTION ON THE RIGHTS OF THE  
CHILD

INTRODUCTION

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The majority of articles appearing in this issue of the *Michigan State International Law Review* are based on presentations made by the authors at an April 2013 symposium on whether the United States should become a party to the Convention on the Rights of the Child (“the Children’s Convention” or “the Convention”). The event was organized and funded by the Lori E. Talsky Center for Human Rights of Women and Children at Michigan State University College of Law (“the Talsky Center” or “the Center”).<sup>1</sup>

As the director of the Center, it was my privilege to open the proceedings by introducing the speakers, leading experts who have contributed mightily to the development, strengthening,

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1. The “Symposium on Whether the United States Should Become a Party to the U.N. Convention on the Rights of the Child” (hereinafter “the symposium”) took place on the evening of April 4<sup>th</sup> at the East Lansing Marriott and all day on April 5<sup>th</sup> at Michigan State University College of Law. The symposium was sponsored by the Lori E. Talsky Center for Human Rights of Women and Children [hereinafter “the Talsky Center”]. However, the administration and staff of the Michigan State University College of Law also provided certain essential support services without which the symposium would not have been possible. The Center’s director and the symposium participants are most grateful for this assistance.

and spread of children's rights under international law.<sup>2</sup> If ever there were super-jurists without borders, these are them.

The rationales for inviting this impressive roster, and at this particular time, were twofold. First, with each passing day, the United States' longstanding refusal to ratify the Children's Convention becomes an increasingly onerous drag on this country's international prestige.<sup>3</sup> It has been said that the measure of a society is the way in which it treats its children.<sup>4</sup> The Convention, as a treaty exclusively devoted to furthering children's interests, has required each of its states parties to strive for and ultimately meet a "measure" of which the party can be proud.<sup>5</sup> Indeed, the Convention has, in retrospect, become a real marker of human progress on the ethical front and of mankind's advancement in understanding children's needs. Failure to ratify it does not speak well of a country's moral backbone or commitment to human rights.

To make matters worse, the United States is one of only three nations in the world that have failed to ratify.<sup>6</sup> The other two are Somalia<sup>7</sup> and South Sudan.<sup>8</sup> Being linked with them in

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2. The symposium speakers' abbreviated biographies are set forth in the footnotes accompanying their articles herein.

3. University of Minnesota Human Rights Library, *Ratification of International Human Rights Treaties-USA*, <http://www1.umn.edu/humanrts/research/ratification-USA.html> (last visited Oct. 2, 2013) [hereinafter "Ratifications"].

4. The saying, or similar versions of it, have been attributed to such illustrious figures as Nelson Mandela. *E.g.*, *Nelson Mandela: Quotes*, GOOD READS, [http://www/goodreads.com/author/quotes/367338.Nelson\\_Mandela?page=2](http://www/goodreads.com/author/quotes/367338.Nelson_Mandela?page=2) (last accessed Oct. 7, 2013).

5. See Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, available at <http://www2.ohchr.org/english/law/pdf/crc.pdf> [hereinafter CRC].

6. Anthony C. Gooch, *The US, an Outlier in Ratifying the Children's Rights Treaty*, PassBlue Covering the UN, Ralph Bunche Institute, CUNY Graduate Center (Mar. 26, 2013), <http://passblue.com/2013/03/26/the-us-an-outlier-in-ratifying-the-childrens-rights-treaty/>. See also Ratifications, *supra* note 3 and accompanying text.

7. See also Ratifications, *supra* note 3.

8. Anthony C. Gooch, *The US, an Outlier in Ratifying the Children's Rights Treaty*, PassBlue Covering the UN, Ralph Bunche

this regard makes for a rogue triumvirate further eroding that prestige.

The second rationale for the Talsky Center symposium is that, taken as a whole and in light of the United States' unique superpower status, American children are not doing particularly well, as evaluated under several key metrics. A few statistics reveal the dismal conditions in which substantial percentages of this country's children live:

- The United States ranks 31<sup>st</sup> among developed nations in relation to the infant mortality rate.<sup>9</sup>
- 23.09% of American children live in poverty.<sup>10</sup>
- In a 50-nation assessment, the United States ranked 17<sup>th</sup> as to the quality of its educational system, behind such countries as Slovakia and Hungary.<sup>11</sup>
- In a 29-nation assessment, the United States ranked below 16 other developed nations as to the health of its population (adult and juvenile), and also had the highest overall rate of death by violence.<sup>12</sup>

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Institute, CUNY Graduate Center (Mar. 26, 2013), <http://passblue.com/2013/03/26/the-us-an-outlier-in-ratifying-the-childrens-rights-treaty/>. See also Ratifications, *supra* note 3 and accompanying text.

9. UNICEF Office of Research, *Child Well-Being in Rich Countries-United States of America*, UNICEF, <http://www.unicef-irc.org/Report-Card-11/> (last visited Oct. 8, 2013) (select the United States as the country, and then select the "Health and Safety" link).

10. *Id.* (select the United States as the country, and then select the "Material Well-being" link).

11. See Amrutha Gayathri, *US 17<sup>th</sup> in Global Education Ranking; Finland, South Korea Claim Top Spots*, INTERNATIONAL BUSINESS TIMES (Nov. 27, 2012), <http://www.ibtimes.com/us-17th-global-education-ranking-finland-south-korea-claim-top-spots-901538>.

12. Grace Rubenstein, *New Health Rankings: Of 17 Nations, U.S. Is Dead Last*, THE ATLANTIC, <http://www.theatlantic.com/health/print/2013/01/new-health-rankings-of-17-nations-us-is-dead-last/267045> (last visited Oct. 8, 2013).

Behind the statistics, of course, are countless thwarted and deprived children and the nation's loss of staggering amounts of human potential. While this indefensible situation has persisted, children elsewhere are benefitting daily from the added value that the Children's Convention brings them.

Ratification of the Children's Convention can do our children no harm; it can only do them good. Its provisions exist to safeguard children's well-being and enable children to flourish.<sup>13</sup> Moreover, the Convention repeatedly recognizes and supports undiminished, robust parenting roles in the process of enhancing children's lives.<sup>14</sup> The treaty is, in other words, profoundly family-friendly as well as a best friend to children growing up in the 193 countries that have ratified it.<sup>15</sup>

In sum, the central question posed by the symposium – whether the United States should become a party to the Children's Convention – is an urgent one. The article that leads off this anthology, and that constituted the symposium's keynote speech, is an encyclopedic and insightful response to that overarching query.<sup>16</sup> The other articles set forth herein,

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13. See CNC, *supra* note 5, arts. 2-41 (setting forth the provisions endowing children with rights and protections).

14. *Id.* art 3, ¶ 2 (articulating that, when states parties fulfill the article's commitment to ensure the protection and care necessary for the child's well-being, they must take "into account the rights and duties of his or her parents"); *id.* art. 5 (stipulating that "States Parties shall respect the responsibilities, rights and duties of parents . . . to provide . . . appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention"); *id.* art. 18, ¶ 1 (requiring that states parties must "use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child" and stating that parents "have the primary responsibility for the upbringing and development of the child"); *id.* art. 18, ¶ 2 (specifying that, for the purpose of implementing the Convention's rights, "States Parties shall render appropriate assistance to parents . . . in the performance of their child-rearing responsibilities").

15. UNICEF United States Fund, *The Convention on the Rights of the Child: (Almost) The Entire World Endorses Child Rights*, <http://www.unicefusa.org/campaigns/public-policy-advocacy/the-convention-on-the-rights.html> (last visited Oct. 8, 2013).

16. See *infra* pp. 497-530.

save two student-authored articles, are on the subtopics of each of the symposium's three panels, e.g., international humanitarian law and global social movements vis-à-vis the child soldier; selected Children's Convention economic and civil rights that enhance the quality of the child's life; and the experiences of states parties – specifically, Turkey, Israel, and Norway – in trying to fulfill the Convention's standards.<sup>17</sup>

For the reasons detailed above, and because it would be a shame for such high-caliber symposium speeches to simply waft off into the ether, the *Michigan State International Law Review* has come to the rescue, preserving their longevity and impact via publication. The Talsky Center applauds this contribution by the editors to the scholarship on the Children's Convention.

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17. See *infra* pp. 531-636.

