CHAPTER 3

ANALYZING THE OPPOSITION TO U.S. RATIFICATION OF THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD

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The United States is one of only two countries in the world that have not ratified the U.N. Convention on the Rights of the Child (CRC), the most comprehensive legal document dedicated to ensuring the rights and well-being of children. How is it that the United States remains a hold-out while 192 countries have committed to support and implement the CRC? Certainly, we would not think of the United States as "anti-children" or opposed to helping children in need. Yet not only has the United States failed to ratify the CRC, it has actively opposed efforts to recognize the CRC as the leading formulation of children’s rights.1 U.S. opposition to the CRC is even more surprising given that the United States actively participated in the drafting of the CRC and that a number of U.S. proposals became a part of the final version of the Convention.2 As one of the authors of the CRC, the United States seemingly should be a supporter of the Convention. Why then is the United States the only remaining country that actively opposes adoption of the CRC?3

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2 CYNTHIA PRICE COHEN & SUSAN H. BITENSKY, UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: ANSWERS TO 30 QUESTIONS (1996) (noting that articles ensuring the rights of freedom of speech, association, assembly and privacy (Articles 13–16) were among those provisions that came directly from U.S. proposals) [hereinafter CRC, 30 Questions].

3 Aside from the United States, the only other country yet to ratify the CRC is Somalia, which has been unable to ratify international treaties of any kind in recent
The reasons behind the United States’ opposition to ratification of the CRC fall primarily into two categories:

(1) fears that the CRC will undermine the family unit and the role of parents in raising their children; and

(2) concerns that ratification of the CRC, or any other international human rights treaty for that matter, will weaken U.S. sovereignty.4

A. THE CRC, THE ROLE OF PARENTS, AND THE FAMILY UNIT

Opponents of the CRC have voiced concern that the CRC is “anti-parent” and will undermine the role of parents in raising their children. A thorough examination of the language of the CRC and its legislative history (travaux préparatoires) reveals that the CRC places considerable emphasis on the importance of the family and the role of parents (or other legal guardians, if applicable) in the development of the child. The drafters of the CRC never intended the CRC to be anti-parent or in any way undermine the family unit. In the Preamble, the CRC sets forth its view of the family, calling the family “the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children.”5 The Preamble further asserts that the family “should be afforded the necessary protection and assistance” and that children “should grow up in a family environment.”6

The CRC’s support for the family is not limited to the Preamble but also is situated in numerous operative provisions of the Convention. This reflects the views of the drafters of the CRC who saw the development of children’s rights not as pitting children against their parents but as providing legal protections for the millions of children around the globe who are at risk of harm, abuse, and exploitation. Nineteen articles of the CRC expressly acknowledge the importance of parents and the family in the lives

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4 See, e.g., Susan Kilbourne, Placing the Convention on the Rights of the Child in an American Context, 26-SPG HUM. RTS. 27 (1999) [hereinafter Kilbourne, American Context]. Kilbourne notes that the most vocal opposition to U.S. ratification of the CRC has come from several conservative religious organizations and argues that “although the opposition’s claims about the CRC are frightening, they are—for the most part—false.” Id. at 28, 29.


6 CRC, Preamble.