PRACTICE AND IMPLEMENTATION

America under Clinton: New hope for ratification?

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The arrival of a new administration in Washington brings with it new hope for ratification of the United Nations Convention on the Rights of the Child by the United States. Standing alone among Western nations and among the only twenty-nine nations worldwide which have neither signed nor ratified the Convention, the United States has to date continued its unfortunate tradition of failing to adopt international treaties vital to the implementation of human rights. Indeed, the United States only recently ratified the International Covenant on Civil and Political Rights.1 President Bush failed to submit the UN Convention to Congress for ratification, despite resolutions passed in both houses of Congress urging him to do so. However, while President Clinton has not yet sent the Convention to Congress for ratification, he has pledged his support for the Convention.2 Significantly, Secretary of State Warren Christopher, in his confirmation hearing before the United States Senate, indicated that ratification of the Convention would be a "high priority" for the administration.3

The impetus for American ratification has been given a significant boost by the issuance in July 1993 of a comprehensive report, entitled America's Children at Risk: A National Agenda for Legal Action, by the American Bar Association's Presidential Working Group on the Unmet Legal Needs of Children and their Families, which was chaired by Hon. A. Leon Higgenbotham, Jr., an eminent jurist recently retired from the federal Court of Appeals in Philadelphia. Issued in July, 1993, the report was presented at the White House in early August and has been embraced by Attorney General Janet Reno. Expanding upon the ABA's 1991 resolution supporting ratification in principle, the report calls unequivocally upon President Clinton to sign the Convention and submit it to the Senate for ratification, with certain "appropriate" reservations, understandings and declarations.4

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3 Shepherd, supra.
4 American Bar Association Presidential Working Group on the Unmet Legal Needs of Children and their Families, America's children at risk: a national agenda for legal action (July, 1993), p. 75. Although not yet formally approved by the governing body of the American Bar Association, a report of the ABA's Working Group on the UN Convention on the Rights of the Child has recommended ratification with the following reservations, understandings and declarations:
Not only does the ABA Presidential Working Group report contain a strong call for ratification, but it also underscores the critical need for the Convention for the protection and advancement of rights of American children and sets forth a blueprint for national reforms in vital areas affecting children which, if implemented, would position the United States significantly closer to compliance with the specific provisions of the Convention. The report marshals compelling statistical evidence painting a disturbing portrait of the plight of children in the United States:

- 14 million American children (including 24% of America's pre-school children) live in poverty and 100,000 children are estimated by the National Academy of Sciences to be homeless on any given day;
- Children are vastly underserved by America's social programs, as compared to other groups in society: According to the Children's Defense Fund, while three quarters of America's elderly are lifted out of poverty by government assistance, including social security and Medicare, only 10% of the nation's children under six are lifted above the poverty subsistence level by virtue of government benefits;
- 8 million American children lack health insurance coverage, which translates into a dismal health status profile: The United States has a higher percentage of low birth-weight babies than thirty-one other nations, ranks nineteenth among developed countries for infant mortality, and seventeenth in the percentage of infants vaccinated for polio by the age of one;

.Reservations: The US would reserve the rights to continue to confine youth within adult correctional facilities, who have committed certain offenses and whose cases have been properly transferred to the adult criminal justice system, notwithstanding that such confinement may not be in their best interests, and to regulate the practice of religion to the extent such regulation is permitted by the United States Constitution.

Understandings: The US would interpret the Convention: to allow involuntary separation of children from their parents, notwithstanding their best interests, if separation is required by appropriate penal considerations; to construe "exceptional circumstances" (Art. 10) with respect to best interests as applied by Art. 9; to construe Art. 28 as prohibiting corporal punishment in schools, thus requiring various conforming laws to be enacted; and to construe Art. 29 as not requiring regulation of private education institutions beyond that which is permitted by the First Amendment to the United States Constitution.


6 Id., p. 9.