



**Congress of the United States**

**House of Representatives**

**Committee on the Judiciary**

**Subcommittee on the Constitution and Civil Justice**

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**Proposing an Amendment to the Constitution of  
the United States Relating to Parental Rights**

**Testimony of**

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Thank you for the invitation to address the Subcommittee on the Constitution and Civil Justice on a constitutional amendment on parental rights.

Kids figure out quickly how to argue to get what they want.

First, ask mom. If she says no, ask dad.

Then comes the appeal to an outside source: “Jill’s mom let’s her do it.”

As kids get more sophisticated, they turn to experts. “You know, studies say drinking a lot of beer can keep you from getting sick.”<sup>1</sup>

(It turns out the experts were funded by a beer company.)

Children cannot raise themselves. It takes deep love, perseverance, and intimate knowledge. Parents are responsible – and ultimately held responsible – for their child’s well-being.

Yet some say children are autonomous, able to make their own decisions, and experts trump parents. This view is contrary to Americans’ shared beliefs. So advocates reach outside the U.S. for validation – and a veneer of authority – to the UN.

UN experts on treaties routinely dismiss and undermine the inviolable role of parents. UN agencies like UNICEF say children as young as 10 have rights to access services without their parents’ knowledge, thereby giving greater authority to adults offering such services than to parents. U.S. Supreme Court justices have looked to UN treaties – which the U.S. has not ratified or limited by an explicit reservation to the treaty – to justify their decisions promoting a child’s-rights approach that degrades parental rights.

Opinions from international sources are being crafted and used to override Americans’ deeply-held beliefs and rights regarding children and parents.

The evolution of UN treaties and institutions, their reach into domestic issues like parental rights, with views alien to American rights and norms, is troubling. Even more alarming are government officials, including judges, giving credibility to these UN and foreign sources to threaten established rights like parental rights.

## **UN Treaty Committees**

The threat to parental rights through the evolution of UN agreements comes by design.

Governments carefully negotiate the terms of UN treaties. Then decide whether to join the treaty, which can include agreeing to report regularly to a UN committee that monitors compliance. UN treaty committees are made up of individuals whose influence

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<sup>1</sup> Boehler, Patrick. *Got a cold? Have a Beer!* Time Magazine, Dec. 10, 2012.  
<http://newsfeed.time.com/2012/12/10/got-a-cold-have-a-beer/> (accessed September 6, 2014)

is nothing more than they are knowledgeable on the treaty's subject, and were selected to be on the committee that receives reports and gives recommendations.

These committees, however, have become notorious for re-interpreting and expanding treaties beyond – and at times contradicting – what governments agreed to.

Recently, the Committee on the Rights of the Child said Catholic teaching on abortion violates the human rights of girls. They certainly were not considering the baby girls who are aborted, nor allowed for parents to have a say in protecting their girls from abortion.

The committee also adopted an analysis to drive their decision-making (General Comment 15) stating children (defined as ages 1 – 18 years old in the treaty) have sexual and reproductive rights and should be able to receive services without parental consent. This is especially troubling to the U.S. with our federal system that recognizes states' authority on family issues.

The UN Committee Against Torture repeatedly criticizes restrictions on abortion as tantamount to torture.<sup>2</sup> Recently, a member of the UN Committee Against Torture told the Vatican that opposing abortion may be a form of torture.<sup>3</sup>

This UN specialist is closely aligned with the Center for Reproductive Rights (CRR), an organization dedicated to overturning laws regulating abortion. Two years ago, at a meeting hosted by CRR, she said she looked for opportunities as a member of this UN committee to promote abortion. Being the only woman on the committee, none of the male members would challenge her, she said.

She readily conceded that UN treaty committees have no binding authority. They put opinions “out in the ether and hope others pick it up.” She encouraged groups to use the committee's conclusions in litigation, public advocacy, to “name and shame,” and to demand compensation.<sup>4</sup>

Some groups, she noted, have used recommendations from the UN women's treaty committee to pressure government officials to ensure doctors are trained to do abortions, and incorporated the committee's opinions into human rights training of medical professionals.

No UN treaty mentions abortion. Last week C-Fam released a list of over 275 instances of just one UN committee, for the women's treaty, pressuring countries to legalize abortion. This began ramping up in the mid-1990s.

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<sup>2</sup> Conclusions and recommendations of the Committee against Torture: Peru, July 25, 2006. (CAT/C/PER/CO/4), para. 23

<sup>3</sup> Berkow, Richard. *UN Tells Catholics to Change Canon Law; not allowing abortion is 'torture' of pregnant girls*, BizPac Review. May 10, 2014. <http://www.bizpacreview.com/2014/05/10/un-tells-catholics-to-change-canon-law-not-allowing-abortion-is-torture-of-pregnant-girls-118154> (accessed September 7, 2014)

<sup>4</sup> Wright, Wendy. *Committee Member Admits Opinions are Not Binding*, Turtle Bay and Beyond, December 14, 2011. <http://www.turtlebayandbeyond.org/2011/turtle-bay-un/committee-member-admits-opinions-are-not-binding/> (accessed September 6, 2014)

In 1996, UN staff, non-governmental organizations (NGOs) and academics met in New York.<sup>5</sup> They shared a core belief in the sexual autonomy of children, especially girls, the redefinition of family and marriage, and abortion.

The UN Population Fund, Office of High Commissioner for Human Rights, and UN Division for the Advancement of Women sponsored the event on "The Roundtable of Human Rights Treaty Bodies on Human Rights Approaches to Women's Health, with a Focus on Sexual and Reproductive Health and Rights."

The meeting summary states, "A human rights approach is premised on the view that reproductive and sexual health rights are integral to recognized human rights -- in particular, to life, liberty and personal security, and the highest attainable standards of health."

They adopted a strategy to harness the UN bureaucratic system of experts to advance new human rights. This approach sidesteps the laborious process of passing laws, or winning the consent of countries at the UN. Rather than sway voters or legislators, only one or a few members of a committee would need to be persuaded.

Simply put, UN treaty committees would regard abortion and other disputed issues (such as children's autonomy) as essential to fulfill already agreed-upon human rights.

With this approach, treaties become evolving documents with understandings different from what was consented to by the state parties – and sometimes contradicting the text. The committee members, individuals with no accountability, craft the interpretations. It turns custodians of international agreements into masters.

UN staff and agencies reinforce new interpretations with "technical guidance" detailing how concocted rights are to be reflected in nations' laws and regulations. For example, the World Health Organization and the Office of the High Commissioner on Human Rights published papers on making abortion accessible without any protections for women or girls, and no parental involvement. Over the last two years, as Christians and religious minorities are slaughtered in the Middle East and Africa, the Office of the High Commissioner on Human Rights devoted attention to producing glitzy publicity campaigns and music videos to advance sexual rights.

People endowed with titles like UN Special Rapporteur claim authority to declare international rights. In 2010, the Special Rapporteur on the Right to Education, Vernor Muñoz, called into question the inviolable role of parents in the sexual education of their children. Juan Mendez, Special Rapporteur on Torture, stated in 2013 restrictions on

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<sup>5</sup> Sylva, Douglas A., and Susan Yoshihara. *Rights By Stealth: The Role of UN Human Rights Treaty Bodies in the Campaign for an International Right to Abortion*; International Organizations Research Group White Paper Number 8, second edition, 2009. <http://c-fam.org/en/white-papers/6581-rights-by-stealth-the-role-of-un-human-rights-treaty-bodies-in-the-campaign-for-an-international-right-to-abortion> (accessed September 6, 2014)

abortion where otherwise legal is tantamount to torture. Anand Grover, the Special Rapporteur on the Right to Health claimed abortion is an international right in his report in 2011. In 2009, the Special Rapporteur on Counter Terrorism Martin Scheinin left the scope of his mandate to define gender as a “social construction.”

UNICEF interpreted the Disabilities treaty as giving children as young as 10 the “right” to reproductive and sexual health services without the knowledge or consent of their parents.<sup>6</sup>

Advocacy groups lobby within countries and file lawsuits, telling legislators and judges these UN-generated opinions are authoritative.<sup>7</sup>

Each reinforces the other, appearing to carry the UN seal of approval, creating a perception of international imprimatur.

Alone, they are just an echo chamber. They only carry weight if national or local officials treat them as authoritative. For some, UN opinions that align with their personal views provide a hook to alter national laws and norms.

Following recommendations by the UN women’s treaty committee, the high courts of Argentina and Colombia struck down abortion bans.

The American Bar Association created a tool kit to train activists, judges and legislators to use the UN women’s treaty. It was funded by USAID.<sup>8</sup>

The State Department is issuing \$1 million in grants to U.S. and foreign organizations to implement the Disabilities treaty – a UN treaty that the U.S. has not ratified. A 2014 request for proposals seeks to fund programs to assist civil society and governments for “Strengthening Implementation of the Convention on the Rights of Persons with Disabilities.”<sup>9</sup>

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<sup>6</sup> UNICEF director Tony Lake asserted in the agency’s May 2013 report, “Under the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD), all children have the right to the highest attainable standard of health. It follows that children with disabilities are equally entitled to the full spectrum of care – from immunization in infancy to proper nutrition and treatment for the ailments and injuries of childhood, to *confidential sexual and reproductive health information and services during adolescence and into early adulthood*. Equally critical are such basic

services as water, sanitation and hygiene.” UNICEF, *State of the World’s Children 2013*, page 23. Emphasis added. [http://www.unicef.org/sowc2013/files/SWCR2013\\_ENG\\_Lo\\_res\\_24\\_Apr\\_2013.pdf](http://www.unicef.org/sowc2013/files/SWCR2013_ENG_Lo_res_24_Apr_2013.pdf)

<sup>7</sup> For a partial list of lawsuits, see Abortion Law in Transnational Cases, <https://reprohealthlaw.wordpress.com/tag/peru/> (accessed September 7, 2014)

<sup>8</sup> The CEDAW Assessment Tool, [https://apps.americanbar.org/rol/publications/assessment\\_tool\\_cedaw\\_tool\\_2002.pdf](https://apps.americanbar.org/rol/publications/assessment_tool_cedaw_tool_2002.pdf) (accessed September 7, 2014)

<sup>9</sup> Bureau of Democracy, Human Rights and Labor Requests for Proposals: Strengthening Implementation of the Convention on the Rights of Persons with Disabilities (January 9, 2014). <http://www.state.gov/j/drl/p/219515.htm> (accessed June 10, 2014)

Most troubling, U.S. Supreme Court justices have looked to foreign sources to corroborate their decision. In *Roper v Simmons*, the Court cited the Convention on the Rights of the Child, a UN treaty the U.S. has not ratified, and the International Covenant on Civil and Political Rights, to which the U.S. specifically reserved on the relevant issue.

### **Individual Grievances**

In April 2014, a third Optional Protocol to the Convention on the Rights of the Child was adopted. It allows children or groups to file complaints directly to the CRC committee against any country that has ratified the protocol, after exhausting their national system. The committee will investigate, and can direct governments to take action. States report back on steps they took to comply.

If the U.S. ratifies this protocol, complainants who do not like the outcome of their case based on U.S. law could invite UN bureaucrats, with no stake in America or responsibility for the consequences, to sit in judgment of U.S. law and norms.

Distant UN staff will rely on paperwork submitted by self-selecting advocates of this international system. Their perspective will be the child's-rights approach that isolates children as autonomous beings and views parents as infringing on children's rights.

They simply do not have a greater sense of justice, insight or compassion by virtue of sitting on a UN committee. The lack of accountability and oversight for their decisions invites mischief.

### **Murky Motives**

It is important to remember the UN is not like the U.S.

The UN system lacks accountability, transparency, checks and balances, effective measures against corruption. Documents and decisions are not as pure as assumed.

The UN Population Fund (UNFPA) frequently gets staff or supporters onto government delegations that are negotiating UN agreements that can benefit the agency in clout and resources. Its former chief Nafis Sadik told a gathering she used donations to enable activists to be on government delegations to the 1994 Cairo conference on population and development, a turning point in the international abortion debate.<sup>10</sup> At a regional meeting in 2004, more UNFPA staffers were present, on delegations or lobbying, than government representatives.

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<sup>10</sup> Wright, Wendy. *UN Leaders Lament 20-Year Failure to Advance Abortion*, C-FAM Friday Fax, May 2, 2013. <http://c-fam.org/en/2013/2069-un-leaders-lament-20-year-failure-to-advance-abortion> (accessed September 6, 2014)

The International Women's Health Coalition, a key player in the abortion rights-based strategy, recently lamented that "very few activists were named as representatives on government delegations" to a regional UN meeting – as if this were unusual.<sup>11</sup>

Some ambassadors and delegates, particularly from poor countries, or undergoing regime change, or when it comes time to rotate out of New York, seek or are courted for UN positions – simultaneous to representing their country in negotiations.

The MacArthur, Ford and Rockefeller Foundations have generously funded the rights-based groups working this international strategy. Recently these extremely wealthy foundations applied for UN accreditation, giving them direct access and influence into the UN.

### **Guard parental rights for stable societies**

No other institution or individual can replace a mom or dad. The child's-rights approach predominant in international discussions undermines parental rights – and thus harms children, families and societies.

In light of the stated intentions, coordination, and funding propelling the international rights-based movement, defenders of parental rights have cause to be concerned.

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<sup>11</sup> Girard, Françoise. *Taking ICPD beyond 2015: Negotiating sexual and reproductive rights in the next development agenda*. Global Public Health. Vol. 9, Iss. 6, 2014, <http://iwhc.org/resource/taking-icpd-beyond-2015/> (accessed September 6, 2014)