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### Abstract

*This short text introduces a major international symposium on the forms and norms of children's rights, and the merits and demerits of American ratification of the 1989 United Nations Convention on the Rights of the Child. President Jimmy Carter headlines this collection with a strong rebuke of American Evangelicals and states' rights federalists who have consistently rejected American ratification and who sometimes reject the concept of children's rights as a danger to parental and religious autonomy.*

**Keywords:** children's rights; United Nations; Convention on the Rights of the Child; states' rights; federalism; parental autonomy; religious freedom; American exceptionalism

### Foreword

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On October 20-21, 2005, a crowd of some 500 gathered at Emory Law School to debate the question, "What's Wrong with Rights for Children?" A score of leading churchmen and statesmen, litigators and legislators, jurists and ethicists, UN officials and NGO advocates took up this question, with ample interaction with each other and the audience. The discussion raised a number of more particular questions:

- Is rights talk the right talk for talking about the special needs and concerns, interests and aspirations, callings and duties of children?

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If so, how so? If not, why not? What other normative formulations and currencies besides rights are at hand?

- Is the 1989 UN Convention on the Rights of the Child the best modern formulation of children's rights? What's missing? What's misinformed? What's been misinterpreted? What other authoritative legal formulations are at hand, and how do they compare to the Convention?
- Should the United States ratify the Convention – especially having worked so hard to shape many of its 54 articles, and especially since all other countries besides Somalia have ratified it? What have been the obstacles and objections to American ratification of the Convention: Misunderstanding? Mere politics? American exceptionalism? Religious concerns about family values and parental authority? Cultural concerns about the best interest of the child standard? Aversion to the many second generation social, cultural, and economic rights that the Convention guarantees to children?
- How have other countries, besides the United States, fared who have ratified the Convention, and what comparative legal and cultural lessons might they offer us in protecting children who are the most voiceless, voteless, and vulnerable amongst us?

This special issue of the *Emory International Law Review* presents some of the highlights of this rich two-day discussion. Between opening and closing essays by President Jimmy Carter and Professor Martin E. Marty, the conference proceedings included herein fall into two main parts. The first cluster of articles – by Martin Guggenheim, Howard Davidson, David Smolin, Jeremy Gunn, Patrick Brennan, and Don Browning – take up some of the main cultural, philosophical, and theological critiques of children's rights, both in general and as specifically formulated in the UN Convention on the Rights of the Child. These articles focus especially on the reservations that various religious communities have about the Convention, and the alternative normative foundations that are available to protect the first and most important right of the child, namely, the right to be loved. The second cluster of articles – by David Weissbrodt, Jaap Doek, Cynthia Price Cohen, and Johan van der Vyver – take up the legal and political sources and dimensions of children's rights, particularly as formulated by the UN Convention. These articles do much to underscore the care, cogency, and comprehensiveness of the Convention drafters and to highlight the most controversial provisions for various constituencies in the United States.

This special issue of the *Emory International Law Review* is one of a series of new monographs, anthologies, and journal symposia to emerge from the projects on “Sex, Marriage, and Family & the Religions of the Book” and “The Child in Law, Religion, and Society,” undertaken by the Center for the Study of Law and Religion at Emory University.<sup>2</sup> These projects seek to take stock of the dramatic transformation of marriage and family life in the world today and to craft enduring solutions to the many new problems this transformation has occasioned. The project is interdisciplinary in methodology: It seeks to bring the ancient wisdom of religious traditions and the modern sciences of law, health, public policy, the social sciences, and the humanities into greater conversation and common purpose. The project is interreligious in inspiration: It seeks to understand the lore, law, and life of marriage and family of Judaism, Christianity, and Islam in their genesis and in their exodus, in their origins and in their diasporas. The project is international in orientation: It seeks to place current American debates over sex, marriage, and family within an emerging global conversation.

My colleagues and I in the Center for the Study of Law and Religion wish to express our deep gratitude to our friends at The Pew Charitable Trusts for their generous support of our Center and its projects. We also offer our warm thanks to The John Templeton Foundation and the Institute for Research on Unlimited Love at Case Western University, directed by Dr. Stephen G. Post, for their co-sponsorship of this conference and publication. We wish to express our appreciation to the conference co-conveners and contributors: Professor Dr. Johan van der Vyver, I.T. Cohen Professor of International Law and Human Rights at Emory Law School and Senior Fellow in our Center, and Dr. T. Jeremy Gunn, Director of the Freedom of Religion and Belief Program at the American Civil Liberties Union in New York City and Senior Fellow in our Center. And we wish to thank our superb Center staff – April L. Bogle, Eliza Ellison, Linda B. King, Anita W. Mann, Melanie Still, Amy Wheeler, and Janice L. Wiggins – for lending their rare expertise to the conference planning and proceedings.

My Center colleagues and I have been delighted to collaborate with the editors and staff of the *Emory International Law Review* on the conference and this publication on children’s rights. We give special thanks to the following members of the editorial board for their hard work and visionary commitment to this special issue – Joshua A. Davis, John W. Egan, Christopher J. Kunke, Timothy A. Rybacki, and Andrea E. K. Thomas. We also give thanks to the

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<sup>2</sup> For a complete catalogue of Center projects and publications, see [www.law.emory.edu/csrlr/](http://www.law.emory.edu/csrlr/).

following staff members who worked with the Law Review editors and our Center staff on this conference and publication – Scott Andrews, Corky Gallo, and Amy Tozer.

Our Center has had the privilege of collaborating with the *Emory International Law Review* several times before on symposia dedicated to fundamental issues of democratization, human rights, and religious freedom.<sup>3</sup> Several of these symposia have become anchor texts for scholars, students, and practitioners alike in the United States and abroad. We hope that the articles gathered herein will have their own salutary effect on the literature, litigation, and lobbying that is gathering on behalf of children.

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<sup>3</sup> *International Conference on Christianity and Democracy*, 6 EMORY INT'L L. REV. 190 (1992); W. Cole Durham, Jr. et al., *The Future of Religious Liberty in Russia: Report of the De Burght Conference on Pending Russian Legislation Restricting Religious Liberty*, 8 EMORY INT'L L. REV. 1 (1994); *Religious Human Rights in the World Today: A Report on the 1994 Atlanta Conference*, 10 EMORY INT'L L. REV. 53 (1996); Symposium, *Soul Wars: The Problem of Proselytism in Russia*, 12 EMORY INT'L L. REV. 1 (1998); Symposium, *The Problem of Proselytism in South Africa: Legal and Theological Dimensions*, 14 EMORY INT'L L. REV. 491 (2000); Symposium, *The Permissible Scope of Legal Limitations on Freedom of Religion and Belief*, 19 EMORY INT'L L. REV. 465 (2005).