On November 20, 1989, in an historic action, the General Assembly of the United Nations adopted a treaty statement labeled “The Convention on the Rights of the Child.” It was ratified within 4 months by the required 20 countries to give it treaty status. The American Academy of Pediatrics endorsed it promptly, but it has yet to be ratified by the appropriate governmental body in the United States – the Senate. The United States (US) is the only Western democracy not to have signed; to date over 157 countries worldwide have adopted the Convention – only 30 have not. To understand the reasons why the US has abstained requires outlining some of the major points of the treaty, particularly those that have been the basis for the US inaction.

The preamble affirms the fact that children because of their vulnerability, need special care and attention; it also places special emphasis on the primary caring and protective responsibilities of the family. No pediatrician can dispute these affirmations.

A point of some debate emerges from Article 1, which states that “... a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.” In the US majority is attained at 18 years, but as Article 40
of the Convention outlines, “administration of the juvenile justice system must take the best interests of the child into account.” This has been interpreted by some to mean interference with the trial and sentencing of juveniles who have committed capital offenses. This Article has been cited as one of the reasons the US has not ratified the Convention. Indeed, the US is one of only seven countries now legally permitting the death sentence (in those few states that so approve) for juveniles. The other six are Iran, Iraq, Nigeria, Pakistan, Bangladesh, and Barbados. With the news bringing us examples of juveniles who have been involved in killings in the United States each evening, it is not surprising that this issue seems to some to be a reason to oppose the treaty. As I read this Article, however, I do not see a problem. The Article states that “a child in conflict with the law has the right to treatment which promotes the child’s sense of dignity and worth, takes the child’s age into account, and aims at his or her reintegration into society.” Other parts of this Article guarantee the child the right to be presumed innocent until proven guilty, to have legal assistance for his or her defense, to be judged by an impartial judicial body, and not be compelled to give testimony or confess guilt (all rights that we as adults possess). The Article also stipulates that each country shall establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law. In addition, all the evidence indicates that capital punishment is not deterrent to crime at any age.

Other objections have been raised about children serving in the armed forces, but Article 38 specifically states that “parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities.” Surely, we as a country observe and practice this. Perhaps some would disagree with another section of this Article that states “… in recruiting (for military service) among those persons who have attained the age of 15 years but who have not attained the age of 18 years, states’ parties shall endeavor to give priority to those who are oldest.” The United States allows 17-years-olds to enlist; Article 38 uses the words “shall endeavor,” not the words “prohibit” or exclude” in reference to those under 18 years.

The other Articles seem to me to be ones all pediatricians support, such as supporting the rights of parents to provide guidance; the right of the child to have a name at birth, including a family name; to live with his or her parents (unless this is deemed
incompatible with the child’s best interests); the right to leave and reenter any country, especially for the purposes of maintaining the child-parent relationship; the right to prevent kidnapping; freedom of expression of his or her views, thoughts, religion; and freedom to meet with others for peaceful assembly. There are those who believe that this statement interferes with families’ rights to bring up a child in their own religion. This is part of a larger fear of governments interfering with families. We who support this convention must acknowledge the sincere concern of those who see government as the enemy of family values. My view is that we all want to support families as the best way to support children and there are a number of rights in the treaty designed to protect the family and to ensure that parents have joint responsibility for raising [sic] the child, and more important that the state shall support them in this task. Perhaps some might object to this last point, but we already support parents in many ways. Pediatricians should applaud the Articles that guarantee the right to be protected from maltreatment, abuse and neglect. There are special Articles dealing with the right of children to education and the special concerns of children without families, those who are adopted, are refugees, or are exposed to child labor, drug abuse, and sexual exploitation. There are some families for whom the state must intervene for the benefit of the child, and there have been instances of overzealous state intervention into family life. But the common ground should be the support of parents to do the best for their children.

Health is dealt with in Articles 23 and 24, which state that “a disabled child has the right to special care, education and training, and the right to the highest standard of health and medical care attainable.” Although we have not achieved these health goals in the United States, the entire Convention is a declaration of goals to be working toward, not necessarily the stage where we are today. The final Articles agree to a monitoring system in each country and require periodic reporting concerning the progress made toward reaching these goals. In addition to this Convention being a template by which all countries can be judged, it is a stimulus and guide for all to do better by our children.

In 1995, the XXIst World Congress of Pediatrics, to be held in Cairo, Egypt, from September 10 through 14, will include a pre-Congress workshop to hear the progress of all countries toward achieving these goals and to examine how barriers to achieving these goals have been overcome.
In 1993, the Chapter Presidents Forum of the Academy passed a resolution asking that the Academy promote early ratification of the Treaty. The Executive Board of the American Academy of Pediatrics, in its February 1994, meeting, again endorsed the Convention and urged the United States to promptly submit the Convention to the US Senate for approval. President Clinton in response to a letter I wrote him has asked me and the Academy to help build support for this action:

I share your firm conviction that we must strive to protect the world’s children, and I am determined to address this important challenge.

He has asked the State Department to ask each state to review the Convention to determine if it is consistent with state laws.

Pediatricians in their individual roles as advocates for children, as well as collectively through the AAP should support this action. The US should not have to face the shame of the rest of the world at the 1995 World Congress of Pediatrics. More importantly, pediatricians should work toward implementing the Articles in the Convention in our own country once we have ratified the treaty, so that we can be faithful to our goal of working “for the welfare of all children.”

Copies of the Convention on the Rights of the Child may be obtained from the American Academy of Pediatrics, 141 Northwest Point Blvd., Box 927, Elk Grove Village, IL. 60009-0927.

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