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Future Incorporation of the *U.N. Convention on the Rights of Children* into the United States Education System: Case Study of Ohio Department of Education and Sex Education Battle

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FUTURE INCORPORATION OF THE *U.N. CONVENTION ON THE RIGHTS OF CHILDREN* INTO THE UNITED STATES EDUCATION SYSTEM: CASE STUDY OF OHIO DEPARTMENT OF EDUCATION AND SEX EDUCATION BATTLE

I. INTRODUCTION

Kofi A. Anan, Secretary General of the United Nations, emphasized, "Knowledge is power. Information is liberating. Education is the premise of progress, in every society, in every family."¹ As Anan's statements indicate, efforts to educate children receive widespread support throughout the world. As evidence of this, the U.N. Convention on the Rights of the Child (CRC) has been ratified by more nations than any other human rights convention in world history.² In spite of this general agreement on the importance of children's education, debate rages on the manner and specific subjects that should be taught.

As the principles of the Convention come closer to ratification by the United States, anxiety and apprehension over education's content and administration intensifies for Americans. Despite the apparently universal appeal of the values behind the Convention, translation of those principles into actual programs and curriculum will face opposition in the national and local arena.

Because education has traditionally been a local issue, the

1. Kofi A. Anan, *Global Knowledge '97* (last modified June 22, 1997) <<http://www.unicef.org/pdeduc/education/frkquot.htm#dec>>.

2. *Convention on the Rights of the Child*, G.A. Res., U.N. GAOR, 61st plen. mtg., U.N. Doc. A/RES/44/25 (1989). The Convention entered into force September 2, 1990. It was ratified by 191 nations with only two exceptions – Somalia and the United States. Somalia failed to ratify because of problems with recognition of its government. The United States is still considering ratification. The intense process of review the U.S. conducts prior to ratifying a treaty can take decades to finish. The United States took 30 years to ratify the Convention on the Prevention and Punishment of the Crime of Genocide. The United States also tends to only look at one human rights convention at a time, and currently the Convention on the Elimination of All Forms of Discrimination Against Women has top priority.

American people are particularly reluctant to allow outside entities to impose educational requirements on their schools. One of the sharpest, most acute areas of conflict is sex education. The recent conflict in Ohio over sex education serves as a model for this article. By comparing the implementation in the Ohio case to attempted implementations of the CRC, certain problems confronting the UN's attempts to implement the education programs become evident. Ohio serves as a microcosm for analyzing the problems and obstacles the U.N. can anticipate and the strategies available for circumventing these problems.³

In the first section, the focus is on the feud in Ohio. The battle will be analyzed by noting the status quo, identifying the proposed changes to the status quo, and reviewing the responses of parents, the community, and civil groups. The second section will loosely parallel the analysis of Ohio—reflecting on past approaches, examining the goals and proposals of the Convention, and studying an education program in Gambia, where the national government works with United Nations Children's Fund (UNICEF). It should be noted that there are limitations in comparing Ohio to Gambia because of the social, economic, and cultural differences between Ohio and Gambia. The next section will look at the three areas where Ohio had difficulty and compare the UNICEF programs. The article concludes by discussing the type of reception U.N. sex education curricula, like those of UNICEF, can anticipate in the United States. This section will also suggest possible solutions to any obstacles confronting the implementation of UNICEF sex education programs.

II. THE BATTLE IN OHIO OVER SEX EDUCATION.

Controversy in the Ohio legislature escalated in January,

3. The problems faced in Ohio are similar to those faced around the nation. All 50 states receive funding from the Center for Disease Control. The funds are intended for "developing and implementing 'Comprehensive School Health (Sex) Education programs.'" Phyllis Schlafly, *Sex Education Has Become X-rated*, TOWN HALL (September 21, 2000)

<wysiwyg://158/http://www.townhall. . .ts/phyllisschslafly/ps2000921.shtml> [hereinafter Schlafly, *Sex Education*]. In Illinois, the same issue fomented controversy in July 2000. *Id.* See also *CDC Sex Education Grants on Ice in Ohio: Will the General Assembly's Action Set a National Trend?* [hereinafter *CDC Sex Education Grants on Ice*] 172 EDUCATION REP. (May 2000)

<<http://www.eagleforum.org/educate/2000/may00/cdc-grants.html>>.

2000, over the Ohio State Board of Education's consideration of incorporation of the Center for Disease Control's (CDC) suggested sex education programs. The programs try to prevent the spread of HIV/AIDS and other sexually transmitted diseases (STD).⁴ The CDC would contribute \$90,000 to the program fund. Ultimately, the programs would be united in a Comprehensive School Health Model Program. However, when parents, the community, and civil groups rose up in protest, the legislature decided to reject the funding from the CDC.⁵ What follows is an explanation for all the conflict and its implications on the successful implementation of sex education programs under the CRC.

A. *Ohio Status Quo: Abstinence-only Programs*

Currently, Ohio sex education classes teach an abstinence-only approach pursuant to both Ohio law and the 1996 Welfare Reform Act. Ohio law states⁶ that sex education materials must "stress that students should abstain from sexual activity until after marriage."⁷ Furthermore, the 1996 Welfare Reform Act allocated a portion of funding to these abstinence-only programs.⁸ Congress designated this money to be used for programs that teach abstinence. The law prescribes:

- that abstinence from sexual activity outside marriage is 'the expected standard for all school-age children,'
- that abstinence is the 'only certain way to avoid' pregnancy and disease,
- that 'a mutually faithful monogamous relationship in the context of marriage is the expected standard,'
- that extramarital sex is 'likely to have harmful psychological and physical effects,' and
- that bearing children out-of-wedlock is likely to have harmful consequences for the child.⁹

Based on this appropriation measure, the emphasis is

4. Diana M. Fessler, *Sex Instruction in the Classroom: Controversial Disease and Pregnancy Prevention Behavior Modification Programs*, (May 14, 1999) <<http://www.fessler.com/reports.htm>>.

5. *Congress Should Investigate Sex Ed Agenda*, ENQUIRER, Jan. 30, 2000, at ¶2.

6. Section 3313.6011.

7. *CDC Sex Education Grants on Ice in Ohio*, *supra* note 3, at ¶3.

8. Schlafly, *Sex Education*, *supra* note 3, at 1.

9. *Id.* (quoting the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, §912, 110 Stat. 2105, 2354 (1996)).

clearly designed to be an abstinence-only focus. There is also no mandate that sex education must be taught.¹⁰ The decision to teach sex education is left up to the local legislators. Basically, abstinence is taught wherever the local entity has decided there is a need for sex education.

B. *Proposed Changes: Programs That Work (PTW)*

The Ohio Department of Education started discussions concerning the implementation of a new Comprehensive School Health Model Program to be used throughout Ohio. The idea behind this program was to “address the ‘risky behaviors’ of our children.”¹¹ The proposed solution was to affect “a ‘behavioral change approach’ – behavior modification – to the classroom.”¹² The desired result for a child, asserts the Board, is “a world with strong assets [as] a *seamless* one at home, at school, and in the community.”¹³ Basically the concept is to merge the efforts of all of these groups in order to help the children make wise decisions about sex and health issues. This model program would be based on the Programs-that-Work (PTW) policy outlined by the CDC.¹⁴

The implementation of PTW would alter the current abstinence-only policy of Ohio law and Title V of the 1996 Welfare Reform Act.¹⁵ Upon review, the Ohio legislature refused to accept CDC funding, in effect undermining the Department of Education’s decision to incorporate PTW into the education system.¹⁶ We will now look at the origins of PTW and what it entails and identify the objectionable elements that led to PTW’s demise in the Ohio legislature.

C. *Origins and Scope of PTW*

The Programs-that-Work originated from the work of the Federal Center for Disease Control and a coalition of health and education groups called Sex Information and Education

10. Fessler, *supra* note 4.

11. *CDC Sex Education Grants on Ice in Ohio*, *supra* note 3, at ¶8.

12. *Id.*

13. *Id.*

14. Fessler, *supra* note 4, at 2-3.

15. Fessler, *supra* note 4, at 3 (quoting Judy Airhart, Ohio Department of Education Inter-Office Memorandum (January 30, 1998)). PTW is designed to “replace information-targeting textbooks and home-grown lesson plans.”

16. *See generally*, *CDC Sex Education Grants on Ice*, *supra* note 3.

Council of the United States (SIECUS). The CDC teamed up with SIECUS to create a blueprint for comprehensive school health education programs.¹⁷ CDC contracted with SIECUS to “rewrite and expand sexuality education to all school children.”¹⁸

In formulating programs, SIECUS operates under the premise that the majority of adolescents will be involved in sexual relationships.¹⁹ The coalition arrived at this conclusion based on seven assumptions.²⁰ First, in dealing with adolescent sexuality, one must understand that adults are the problem, not adolescents.²¹ Basically, adolescents lack a positive role model. In fact, a majority of unintended and out-of-wedlock pregnancies happen to adults.²² Second, formation of sexual identity is central to the process of child development.²³ Third, almost all adolescents participate in some form of sexual behavior—kissing, petting, etc.²⁴ Fourth, adolescents “need support for abstinence.”²⁵ Fifth, teens can engage in sex responsibly.²⁶ Sixth, some federal and state policies deny adolescents the information necessary to make informed decisions.²⁷ Finally, SIECUS asserts that America needs a new paradigm for moral sexual relationships.²⁸ This new paradigm consists of any sexual relationship that is “consensual, nonexploitative, honest, mutually pleasurable, and protected against STDs and pregnancy if any type of intercourse occurs.”²⁹

Having examined the premise and the formulating group’s assumptions, the focus can now turn to the programs themselves. There are various programs under PTW. The programs

17. *Congress Should Investigate Sex-Ed Agenda*, *supra* note 5.

18. *Id.* at 1.

19. Debra W. Haffner, *Facing Facts: Sexual Health for American Adolescents*, 22 J. ADOLESCENT HEALTH 453 (1999).

20. *Id.* at 453.

21. *Id.* at 454.

22. *Id.*

23. *Id.*

24. *Id.* at 455.

25. *Id.* at 453-54. Of the teens who had intercourse before age 15, 75% report doing so involuntarily. See The Alan Guttmacher Institute, PREVENTING PREGNANCY: PROTECTING HEALTH (Alan Guttmacher Institute 1990).

26. Haffner, *supra* note 19, at 454.

27. *Id.*

28. *Id.* at 457.

29. See *Id.* at 2. “These criteria are the same for adults and adolescents, gays and straights, and single and married partners.” *Id.*

that deal specifically with HIV/AIDS, STDs, and also pregnancy prevention include:

- 1) Be Proud! Be Responsible!³⁰,
- 2) Becoming a Responsible Teen³¹,
- 3) Reducing the Risk³²,
- 4) Get Real About AIDS³³, and
- 5) Focus on Kids³⁴.

Tested and found to work in case studies, the CDC strongly encourages states to adopt these programs and incorporate them into the education curriculum. In fact, the CDC almost succeeded in Ohio; the Board of Education approved the program but the funding was never approved. Selected teachers had even taken seminars on how to teach these classes and disseminate information.³⁵

Unfortunately, many of the principles and elements of PTW were objectionable to parents, members of the community, and civil groups. These groups objected to such factors as the "confidentiality" factor, the lack of support for abstinence combined with graphic content, and the fact that the program came "backdoor" through a federal regulatory agency.

The "confidentiality" requirement in the sex education programs fomented a great deal of opposition because it excludes parents from participating in their child's education. For example, in "Be Proud!," students are encouraged to make a contract to keep everything that goes on in the classroom confidential.³⁶ Teachers are to stress that consensus on confidentiality is

30. LORETTA SWEET JEMMOT, ET AL., BE PROUD! BE RESPONSIBLE!: STRATEGIES TO EMPOWER YOUTH TO REDUCE THEIR RISK FOR HIV INFECTION, 5th ed. Curriculum Manual (Select Media, Inc. 1996). Fessler notes that this curriculum "was developed pilot-tested, and evaluated in studies funded by the American Foundation of AIDS Research (1988-1989) and the National Institute of Child Health and Human Development (1988-1992) under grant number R01/HD 24921 and the National Institute of Mental Health." See Fessler, *supra* note 4, at 22.

31. JANET S. ST. LAWRENCE, BECOMING A RESPONSIBLE TEEN: AN HIV RISK EDUCATION PROGRAM FOR ADOLESCENTS (ETR Assocs. 1996).

32. RICHARD P. BARTH, REDUCING THE RISK: BUILDING SKILLS TO PREVENT PREGNANCY STD & HIV, 3rd Ed. (ETR Assocs. 1996).

33. GET REAL ABOUT AIDS (Altschul Group Corp. 1995).

34. FOCUS ON KIDS (ETR Assocs. 1996).

35. In 1993, a meeting was held in Mohican State Park where 60 of Ohio's health and education representatives developed a plan of action for institutionalizing the program by the year 2000. *CDC Sex Education Grants on Ice in Ohio*, *supra* note 3, at ¶9.

36. JEMMOT ET AL., *supra* note 30, at 27.

37. *Id.* at 26.

imperative and “crucial to the program.”³⁷ The teachers and students must work through any “disagreements until everyone can reach a level of comfort with the rules. . . until all obstacles have been overcome.”³⁸ Students must keep secret the classroom sessions from everyone, including their parents. The perception held by many parents was that while confidentiality may encourage more open dialogue in the classroom, it effectively stifles communication and dialogue in the home. For this reason, many parents opposed PTW. These parents lobbied the Ohio legislature and were successful in halting acceptance of CDC funding for the programs.

The diminution of the importance and primacy of abstinence also provoked a negative response from many of the parents, members of the community, and some civil groups. Teachers traditionally taught abstinence as the primary method for avoiding the spread of HIV/AIDS and preventing pregnancy. The new proposals only reference abstinence. Some of PTWs discuss the benefits of abstinence. However, such discussions are countered by discussing how unrealistic or “not cool” abstaining from sex is.³⁹ Diana Fessler, a member of the Education Writers Association and a member of the Ohio State Board of Education, was very vocal and thorough in her condemnation of the programs and PTW’s lack of emphasis on the practice of abstinence.⁴⁰ Inspired by her criticism, Enquirer, a conservative Internet news source, also called people to action to enjoin the programs and prevent the funding from passing the legislature.⁴¹

Explicit programs replaced abstinence-based lessons. The programs could supplant, even undermine, parents’ ability to pass onto their children their religious beliefs and morals.⁴²

38. *Id.*

39. Fessler, *supra* note 4, at 5.

40. *Id.*

41. *Sex-ed: Who’s in Control?* ENQUIRER (October 20, 1999)

<wysiwyg://237/http://enquirer.com/. . . 1999/10/20/loc_sex-ed_whos_in.html>; *Experimenting with Children*, ENQUIRER (October 7, 1999)

<wysiwyg://18/http://enquirer.com/sexed/loc_experimenting_with.html>; *Stop the Stealth Attack on Parents and Schools*, ENQUIRER (October 7, 1999)

<wysiwyg://16/http://enquirer.com/sexed.html>; Linda Cagnetti, *Following Content May Not Be Suitable For Ohio’s School Children*, ENQUIRER (October 28, 1998)

<wysiwyg://246/http://enquirer.com/editions/1998/10/25/loc_sexed25.html>.

42. *But see* Olivia Barker, *Groups Decry Abstinence Lesson Without Birth-Control Backup*, USA TODAY, 14D (December 15, 1999); Joseph, *Abstinence-Only Sex Ed is a Recipe for Disaster* (visited November 20, 2000) <http://www.humanismby-

Particular sections drawing the most negative attention include: 1) role plays that require two females to discuss AIDS concerns in a lesbian relationship;⁴³ 2) teachers demonstrating the use of condoms with their hand and a penis model;⁴⁴ and 3) visits to a health clinic with your partner.⁴⁵ Instead of teaching abstinence, these programs are designed to teach the consistent practice of safe sex.⁴⁶ Parents and other groups feared that the programs would reduce inhibitions and contradict counsel given by parents.⁴⁷

Finally, parents and other groups objected to the backdoor approach used by the CDC to implement PTW by bypassing the legislature. Constituents resented “[t]he use of federal grants by unelected bureaucrats” as a “stealthy way to influence what’s taught in schools.”⁴⁸ Instead, local school districts wished to retain control of the appropriate types of sexual education for children.⁴⁹ In order to protect the interest in retaining decisions on sex education on the local level, parents and others revolted against the perceived insurgence.⁵⁰

The funding measure failed in the Ohio legislature because it offended the parents, members of the community, and other civil groups. The question for the future of sex education is whether the same fate awaits the Convention on the Rights of the Child and the UNICEF programs stemming from the goals outlined in the Convention. Can we expect similar grass roots uprising at the suggestion of sex education programs? We now examine the Convention and its programs, and divine the answers.

joe.com/republicans.htm>.

43. JEMMOTT, ET AL., *supra* note 30, at 119-23.

44. *Id.* at 75.

45. Barth, *supra* note 32, at 125. Gender neutral language is also used in discussing sexual partners.

46. ST. LAWRENCE, *supra* note 31, at 2.

47. Fessler, *supra* note 4, at 5. She warns that role-playing, for example, can lead to incremental acceptance.

48. *Congress Should Investigate Sex-Ed*, Enquirer, ¶ 3 (Jan. 30, 2000), <http://enquirer.com/...000/01/30/loc_congress_should.html>.

49. In answering questions placed to two candidates for the 25th district in Ohio, Representative Goodman said he would have voted against the funding in order to retain local control. The other candidate, Fagin, agreed. *Goodman, Fagin: Contrasting Answers to Questions* (visited November 20, 2000), <<http://www.thisweeknews.com/10.18-10.25/ele/elenews21.html>>.

50. *Congress Should Investigate Sex-Ed*, *supra* note 5. at ¶3.

III. UNITED NATIONS PROPOSALS: THE CONVENTION ON THE RIGHTS OF THE CHILD AND UNICEF EDUCATION PROGRAMS FOR DEALING WITH HIV/AIDS AND PREGNANCY PREVENTION

A. *The Past Approach: State Parties Responsible for the Education of Children within their Borders*

Prior to the Convention on the Rights of the Child, states created their own education programs and policies. However, many states failed in their attempts to educate children within their borders. Sex education became a weak area. As a consequence, the spread of HIV/AIDS and other STDs continues,⁵¹ and adolescents are still getting pregnant. The Convention realized that “[e]ducation systems must change. They must adjust if state parties are to uphold their responsibilities to children as pledged when they ratified the [Convention on the Rights of the Child].”⁵²

B. *The Convention on the Rights of the Child and the Dakar Conference*

The CRC, adopted by the U.N. General Assembly on November 20, 1989, aimed to protect the rights and interests of children throughout the world.⁵³ Ratifying members are obliged to follow the articles and principles of the document.⁵⁴ To accomplish the education goals of the CRC, The World Education Forum met in April 2000 in Dakar, Senegal, to reaffirm support and formulate a plan of action. In attendance were 1500 representatives from 182 countries, 150 civil society organizations, and numerous bilateral and multilateral development agencies.⁵⁵ The participants identified specific problem areas in

51. *The Dakar Framework for Action and Education for All: Meeting our Collective Commitments* (visited November 3, 2000) <<http://www2.unesco.org/wef/en-conf/dakframeag.shtm>> [hereinafter *Dakar*]. The World Education Forum in Dakar, Senegal adopted the text on April 26-28, 2000. These programs are cross-referenced to the UNICEF programs to be discussed later in the paper.

52. Mary Joy Pigozzi, *Implications of the Convention of the Rights of the Child for Education Activities Supported by UNICEF*, (site visited November 20, 2000) <http://www.unicef.org/pdeduc/education/crc_ed.htm>.

53. CENTRE FOR STUDIES ON HUMAN RIGHTS AND HUMANITARIAN LAW NO. 4, HUMAN RIGHTS: RIGHTS OF THE CHILD, 2 (1997) [hereinafter CENTRE].

54. CENTRE, *supra* note 53, at 11.

55. *Dakar*, *supra* note 51, at Summary.

education that required work. Teaching the prevention of HIV/AIDS was identified as an urgent problem area.

To combat the HIV/AIDS epidemic, the Dakar plan established that it would “implement as a matter of urgency education programmes [sic] and actions to combat the HIV/AIDS pandemic.”⁵⁶ The urgency measures include “redesigning teacher training and curricula and significantly enhancing resources to these efforts.”⁵⁷ The curricula will use a life skills approach, and teachers will be adequately trained to provide HIV/AIDS education.⁵⁸ Dakar incorporated the pro-parent and pro-community language of the Convention into the plan of action. One of the strategies was ensuring “the engagement and participation of civil society in the formulation, implementation, and monitoring strategies. . . .”⁵⁹

In order to oversee the implementation of the Convention and the Dakar Conference, the CRC established an administrative body. Countries who ratify the Convention on the Rights of the Child will report their progress to a committee established by the CRC. The committee consists of ten members who serve in a personal capacity rather than as representative of a particular country. In each country, the committee reports on the status of children’s rights within two years of the country’s ratification of the treaty. The CRC requires an updated report every five years after the initial report.⁶⁰

After the United States ratifies the Convention, the U.S. must meet the standards set by the CRC.⁶¹ “Under international law a treaty creates international legal obligations, with corresponding duties of compliance and remedies, including rights of retaliation, in the event of breach.”⁶² Treaties also create domestic legal obligations.⁶³ So, the United States must follow the guidelines established by the CRC. If the United States

56. *Dakar* at ¶62.

57. *Id.*

58. *Id.* at ¶64.

59. *Id.* at ¶53. Civil society includes: learners, teachers, parents, communities, non-governmental organizations, and other bodies. The expansion of their role will be more than just endorsing and giving monetary contributions to State programs. *Id.* at ¶¶53-54.

60. UNICEF, *CRC* (visited November 3, 2000) <<http://www.unicef.org/crc.htm>>.

61. BARRY E. CARTER AND PHILLIP R. TRIMBLE, *INTERNATIONAL LAW*, 112 (1999).

62. *Id.*

63. *Id.*

fails to do so, it breaches its treaty obligations.⁶⁴ The consequence of breach may be anything from sanctions and condemnation by other countries to children suing for their right to sex education.

C. *UNICEF and Implementation of Programs*

Through United Nations entities like UNICEF, the CRC can successfully implement an effective education program. UNICEF helps implement the ideas and strategies from the Convention and the Dakar plan of action into an actual program. UNICEF works with the national governments to create programs to fit each individual country. Under the UNICEF/National Government designed programs, each country administers its own education plan.⁶⁵

UNICEF's education program includes a section dedicated to the need to prevent the spread of HIV/AIDS and STDs. This section determines the focus as the

need to increase the impact of education on the reduction of the transmission rate of HIV—in other words, the development and use of education materials and teacher-learning methods, both in and out of school, which provide information about HIV/AIDS and encourage the development of attitudes, values, behaviors, and skills that prevent the transmission of the virus.⁶⁶

UNICEF includes the prevention and transmission of HIV/AIDS as part of its Basic Education program.⁶⁷ Using life skills programs, UNICEF combats the negative and destructive impacts of the virus on "education systems, school provision and quality, and children's learning."⁶⁸

1. *Case Study: Gambia*

An example of the life skills program encouraged and

64. Vienna Convention on the Law of Treaties, art. 60 (January 27, 1980).

65. Executive Board of the United Nations Children's Fund, *UNICEF Strategies in Basic Education*, Annual Session (May 22-26, 1995)
<<http://www.unicef.org/pdeduc/education/board95.htm>>.

66. *UNICEF-Programmes Areas of Focus*
<<http://www.unicef.org/programme/education/prog.htm>>.

67. UNICEF, *Basic Education Fundraising Kit*, ¶ 6 (visited July 1999),
<<http://unicef.org/programme/education/frkfacts.htm>>.

68. *Id.*

taught under the UNICEF program is found in Gambia. The UNICEF Gambia group related the story of a young girl named Dinding in "Schoolgirl Pregnancy: Who is to Blame?"⁶⁹ Dinding, a pregnant teen, faced problems plaguing most girls in her situation: dropping out of school, severe social ostracism, parental abuse, and the stigma of being the source of her family's shame. "Of all the negative factors affecting the lives of girls, schoolgirl pregnancy is clearly the most physically and psychologically destructive."⁶⁹

Luckily, UNICEF and Gambia cooperated to start a program to help schoolgirls in Dinding's predicament. The 1999-2003 Gambia Government/UNICEF Programme of Cooperation (Programme) focused on the enrollment and retention of girls in her predicament. Actions taken by Programme included: 1) a study of the prevalence of young pregnancies, 2) raising awareness among parliamentarians and the bar association of legal issues that are involved, 3) advocacy for legislative reforms, 4) "seminars for parents, teachers, and daughters on communication barriers, especially in relation to issues of sexuality," and 5) empowerment of 400 girls as leaders in their respective schools (at the cost of \$550 USD).⁷⁰

Together, UNICEF and Gambia are better able to prevent the pregnancy of adolescents through sex education programs than if each entity were on its own. The goal is to prevent other girls from suffering the anguish felt by girls like Dinding. The United States faces similar challenges to those confronted by Gambia. Problems of adolescent pregnancy and the spread of sexual diseases continue. Like Gambia, many parents and community members are eager to help their children avoid such pain. However, the approach to prevention is controversial; the United Nations groups can effectuate the policies and better aid children everywhere if they are able to learn from the mistakes of the recent past.

69. UNICEF, *Basic Education Fundraising Kit*, ¶ 6 (July 1999), <<http://www.unicef.org/programme/education/frkstory.htm#Gambia>>.

70. *Id.*

71. Mary Joy Pigozzi, *Implications of the Convention of the Rights of the Child for Education Activities Supported by UNICEF*, (site visited November 20, 2000) <http://www.unicef.org/pdeduc/education/crc_ed.htm>.

72. *Id.*

IV. UNICEF PROGRAMS MOST LIKELY WILL SUCCEED IF THEY LEARN FROM OHIO'S MISTAKES.

This section will compare and distinguish the Ohio and UNICEF programs. By analyzing the role of parents in the education process, examining the degree of emphasis placed on abstinence and the level of explicitness in the programs, and by controlling the manner the programs are introduced into the curricula, the Convention may be able to overcome the obstacles that faced the CDC curricula.

A. Confidentiality and Parent's Role

In Ohio, parents felt excluded from the sex education process because of PTW's confidentiality requirement. Fortunately for the CRC, participants in the convention recognized the necessity of parental involvement. The Convention seeks to strengthen the parental role in a child's education. In discussing the implications of the CRC on parental involvement, Mary Pigozzi, one of the leaders at the convention, stated that education systems must "open up for others, such as parents, communities, and research institutions, to be active participants as well."⁷¹ She explained further that the Convention agreed that "education must be approachable by parents and communities. They must feel positive and comfortable about their roles in the educational process."⁷²

The Convention honored the importance of incorporating the parents and communities into the education process. The CRC has sought to let parents know that it respects their position in the education process. For example, a section of UNICEF's website answering commonly-asked questions about the CRC is dedicated to the CRC's intent to preserve the role of parents in educating children. The CRC stresses parental responsibility and the parental role in education as being of primary importance in a child's education.⁷³ The CRC and UNICEF both try to disseminate information and let parents and communities know that education is a group effort. These articles and "question-and-answer" sections help to achieve the distribution of this message. Formally, the CRC also states the

73. UNICEF, *CRC* (visited November 3, 2000) <<http://www.unicef.org/crc/crc.fulltext.htm>>.

74. *Id.* (citing Convention on the Rights of the Child 44/25, November 20, 1989).

same goals in its Articles of the Convention.

Several sections of the Convention document also evidence the CRC's dedication to maintaining the parents' role. In Article 5, the Convention maintains, "state parties shall respect the responsibilities, rights and duties of parents."⁷⁴ Article 18.1 emphasizes that "parents have the primary responsibility for the upbringing and development of the child."⁷⁵ In fact, the CRC seeks to help parents fulfill their responsibilities to the children. Article 18.2 provides that the "state parties shall render appropriate assistance to the parents. . .in the performance of their child-rearing responsibilities."⁷⁶ Clearly, in the Articles of the Convention, there exists both recognition of the vital role parents should play in the process of their child's education and support for those parents in fulfilling their duties and responsibilities to the children.

Some parents fear that the Convention may infringe upon the parents' prerogative to inculcate their children with certain religious and moral beliefs. The Convention endeavors to not interfere with parents' ability to teach these things to their children.⁷⁷ Article 14.2 dictates, "state parties shall respect the rights and duties of the parents. . .to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child."⁷⁸ The evolving capacities of the child appear to refer to Article 14.1. Here, the Convention tells States to "respect the right of the child to freedom of thought, conscience and religion."⁷⁹ The tight weaving of the parents and community into the decision-making process and the continuing involvement of parents during the education of their children should avoid one of the most contentious issues in Ohio. By repeatedly emphasizing the CRC's determination to include parents and others in the education process, it appears as though parental involvement will not be the problem for the CRC.

75. *Id.*

76. *Id.*

77. UNICEF, *CRC* (visited November 3, 2000)
<<http://www.unicef.org/crc/parentsfaq.htm>>.

78. UNICEF, *CRC*, (site visited November 3, 2000)
<<http://www.unicef.org/crc.htm>>.

79. *Id.*

B. *Abstinence and Explicit Content*

Parents and the community in Ohio rejected programs that did not emphasize abstinence-only and balked at the explicit content of PTW. Until UNICEF actually works with the United States, it is difficult to know what the programs will or will not contain.⁸⁰ Based on the experience in Ohio, the type of sex education program that would receive acceptance is an abstinence-promoting program like those approved in the 1996 Welfare Reform Act.⁸¹ If that is the case, the Convention should be able to meet its goals without parental opposition stemming from explicitness of the programs. However, two provisions in the CRC may prevent an abstinence-only program from being adopted. First, an abstinence-only program would limit the child's right to choose. Second, abstinence-only may not be sufficient to preserve a child's health and safety.

Among the rights granted both to children and parents, the Convention reserves the right for children to choose for themselves. This right potentially conflicts with the rights respected in the Articles to allow parents to teach their children according to their own value systems.⁸² An abstinence-only approach may be too limiting and undermine the child's ability to make informed choices. If the CRC places more weight upon the value of a child's right to choose and make informed decisions over a parent's ability to teach according to his or her values, abstinence-only may be rejected by the CRC committee. These limitations may allow for the overriding of parental duties and rights, especially the right to instill their religious and moral beliefs on their children.

The health exception may also prevent an abstinence-only program from being accepted by the CRC. The concern for health and the urgency of the HIV/AIDS pandemic may cause the government and UNICEF to decide that more than absti-

80. The World Health Organization has some sex education programs similar to those found in PTW. See Joseph, *Abstinence-Only Sex Ed is a Recipe for Disaster* (visited November 20, 2000) <<http://www.humanismbyjoe.com/republicans.htm>>. However, the UNICEF Gambia Programme illustrates how the CRC is not limited to one type of program. The goal of the CRC is to design each program to meet the specific needs of that State.

81. See Fessler, *supra* note 4.

82. *Convention on the Rights of the Child*, *supra* note 2.

83. *Id.*

84. *Id.* (emphasis added).

nence is necessary. Article 14.3 contains the scenario in which an exception could be made to the general grant of freedom to “manifest one’s religion or beliefs.”⁸³ The limitations are as “prescribed by law and are necessary to protect public safety, order, *health* or morals, or the fundamental rights and freedom of others.”⁸⁴ So, the need to prevent the spread of disease may outweigh the interests of the parent in conveying their values to children. In the Ohio case, we saw that the sex education programs came from the CDC as a plan to promote health in the schools. That plan was rejected. If the CRC does not provide some compromise, it will suffer the same fate as PTW.

Some compromise may exist between abstinence-only and “explicit” sex education.⁸⁵ If there is a compromise, abstinence will still be the main focus and the other safe sex methods may be corollaries. If no compromise is reached, the UNICEF programs will probably never enter schools. However, it appears, as in the case with Gambia, that programs like UNICEF are quite capable of coming up with compromises that serve everyone’s interests.⁸⁶

C. “Backdoor” Approach

The “backdoor” approach, evident in Ohio’s case, does not serve to accomplish the ultimate goal of education programs. This approach, while slick and possibly quick, is not an effective method for implementing a program. A proper method requires cooperation and inclusion. While the process of gaining acceptance from the parties involved could take time and require patience, the benefit is accomplishing the goal of protecting the children. In order for the Convention to be able to work properly in the United States, the approach has to be out in the open.

One of the ways to achieve this is through elected officials and full use of the democratic process. The Senate will have to

85. See *authorities*, *supra* note 42. Some parents and community groups agree that the best approach is only that supplements the abstinence lessons with other safe sex information.

86. UNICEF, *Basic Education Fundraising Kit*, *supra* note 69.

87. *Programs, Challenges, and Future Strategies in Basic Education*, UNICEF Executive Board, ¶ 47 (June 7-11, 1999)
<<http://www.unicef.org/pdeduc/education/board99.htm>>.

88. *World Declaration for All* (1990)
<<http://www.unicef.org/pdeduc/education/frkquot.htm#dec>>.

ratify the Convention by a two-thirds vote. The Senate is a democratically-elected body. So, theoretically the people are represented and aware of the policies. The Convention differs from the CDC because it has a democratic base. This should aid in its legitimacy. By emphasizing cooperation and “promoting partnerships and networks focused on human rights,”⁸⁷ the Convention can enter through the front door.

V. CONCLUSION

The goal of sex education is to protect children. “Education can help ensure a safer, healthier, more prosperous and environmentally sound world, while simultaneously contributing to social, economic, and cultural progress, tolerance and international cooperation.”⁸⁸ Parents, communities, and other civil groups want to preserve religious and moral beliefs. In Ohio, the effect these groups can have on determining what is taught to the children is visible. The groups stopped funding for a program they did not endorse. This strength needs to be harnessed so that our children continue to be protected but not at too great of a sacrifice. The Convention illustrates that there is still a need for more education. Children are still contracting HIV/AIDS, STDs, and getting pregnant. A window of opportunity exists where international groups, national governments, and parents can work together to promote the well-being of the world’s future.

In order for the Convention to function and be successful, it needs to focus on incorporating everyone—parents, teachers, commentators, and other groups—into the process of education.⁸⁹ Children should be given options, but the manner for teaching those options should be a collaborative effort to which the groups involved can agree. Concerns for health should be balanced with allowing parents to instill values and morals in their children. Finally, the implementation of the policies should be open to discourse and made public to all. If these obstacles are avoided and compromises are made, children will indeed live in a safer and healthier environment.

Alysson Russell

89. A model UNICEF school would “be community-based: encourage parents, local government and community organizations to help manage and finance education.” *Programs, Challenges, and Future Strategies in Basic Education*, UNICEF Executive Board, ¶ 47 (June 7-11, 1999) <<http://www.unicef.org/pdeduc/education/board99.htm>>.