
FOREWORD

by Richard G. Wilkins, J.D.

The U.N. Conference Cycle, beginning in earnest in 1990 with the World Summit for Children, encompasses a series of inter-governmental conferences sponsored by the United Nations. These meetings are held pursuant to UN General Assembly resolutions and the results of the meetings are reported to and adopted by the UN General Assembly.

The Conference Cycle is an important new development in international law. Each conference in the cycle has its own "outcome document" (such as the Habitat Agenda) and each "outcome document" is "reviewed" and "implementation" is encouraged on a regular one-, five- and ten-year timetable. This unprecedented level of international interaction on a broad range of social issues has created "a transnational legal process" that is "normative, dynamic, and constitutive."¹ In somewhat less arcane terms, this international process is developing a body of international law – on issues ranging from water quality to family law to interpersonal relations – that is changing legal expectations more dramatically, and more rapidly, than at any other time in human history.

Precisely why international law has become so powerful is subject to discussion. Some academics (including myself) have observed that the international community's increased attention to the statement, restatement and implementation of new social rules may be facilitating the rapid creation of customary (and enforceable) international law.² Other commentators assert that the U.N. Conference Cycle has produced clouds of rhetoric, but little real-world change.³ At present, the outcome of this debate is unknown: no one can say, for certain, whether the Conference Cycle is producing "law" or merely a cloud of Utopian fancies. But at least one thing is clear: the international community takes the Conference Cycle very seriously.

For more than 25 years, participating states have formally committed themselves to the norms contained in each outcome document of the Conference Cycle. And at the conclusion of each one-, five- and ten-year review of the various outcome documents, participating states recommit themselves to often-reformulated norms flowing from the original papers.⁴ This careful attention to the negotiation, review, re-negotiation and implementation of international norms can be ignored only if one is willing to assume that the international community is completely incapable of formulating and enforcing global law.

I, for one, am not willing to assume that the international community is unable to fashion norms that will become as enforceable in Peoria as in Paris. Indeed, the United States Supreme Court has begun to cite developing international law as "evidence" of the "meaning" of the United States Constitution – a striking development indeed. See, e.g., *Lawrence v. Texas*, 539 U.S. 558 (2003) (creating a constitutional right to consensual homosexual sodomy in express reliance upon UN Conference Cycle language recognizing such a "right;" the Court notes "[o]ther nations . . . have taken action consistent with an affirmation of the protected right of homosexual adults to engage in intimate, consensual conduct"); *Olympic Airways v. Rubina Husain*, No. 02-1348 (February 24, 2004) (Scalia, J., dissenting) (noting that the Court "in recent years has canvassed the prevailing law in other nations" to "determine the meaning of an American constitution that those nations had no part in framing"). Therefore, I believe it is well past time for people around the world to pay attention to what is said and done nowhere near their own backyards. And, while much of what is done beyond our own back yards may be laudable, some of it is not.

That is where this book comes in. It is an invaluable aid for those who desire to support and strengthen the long-standing notions of family and human dignity that have served as the foundation for every successful society in human history. The book provides, not only the source documents used to forge new international norms, but a topic-by-topic discussion of the most distressing (and debatable) social policies now being derived (often through questionable logic) from those documents.

The book also provides acceptable (and even excellent) family- and life-affirming language already embodied in a broad range of negotiated UN documents. This family- and life-affirming language, coupled with the knowledge that can be gleaned from a review of this book, can be used by citizens of the world to reinforce the importance of – and prevent further denigration of – family, human dignity and life on a global scale. There is no effort that is more important.

Richard G. Wilkins, J.D.

*(At the time of this writing Richard G. Wilkins was the
Managing Director of the The Doha International Institute for
Family Studies and Development in Doha, Qatar.)*

1. Koh, "Why Do Nations Obey International Law?" 106 Yale L.J. 2599, 2646 (1998).
2. It has long been recognized that customary international law is enforceable in U.S. courts. *The Paquete Habana*, 175 U.S. 677, 700 (1900). The question, therefore, becomes: what is customary international law? Traditionally, such law has been defined as the widespread practice of states followed out of a sense of legal obligation. *Id.* As thus narrowly defined, the body of customary international law is thin indeed, because there are exceptionally few legal rules routinely observed by the vast majority of states out of a sense of legal obligation. See, e.g., James Shand Watson, "Custom as the True Practice of States," in *Theory and Reality in the International Protection of Human Rights* 79-106 (1999). Beginning about two decades ago, however, international jurists and academics began to broaden the notion of customary law to include – not just what states actually do out of a sense of legal obligation – but what they say or repeat out of a sense of legal obligation. See, e.g., L. Sohn, "The New International Law: Protection of the Rights of Individuals Rather than States," 32 *Am.U.L.Rev.* 1, 12 (1982). See also Koh, note one above (asserting that interaction of states at international conferences "generates a legal rule which will guide future transnational interactions between the parties; future transactions will further internalize those norms; and eventually, repeated participation in the process will help to reconstitute the interests and even the identities of the participants in the process"); Higgins, *The Role of Resolutions of International Organizations in the Process of Creating Norms in the International System*, quoted in Frederic L. Kirgis, Jr., *International Organizations in Their Legal Setting* (second Ed. 1993) at 341 ("[c]ollective acts by states, repeated by and acquiesced in by sufficient numbers with sufficient frequency, eventually attain the status of law").
3. See, e.g., James Shand Watson, note two above.
4. See, e.g., Declaration on Cities and Other Human Settlements in the New Millennium (outcome document of five-year review of the Habitat Agenda), http://www.unchs.org/istanbul+5/declaration_cities.htm ("renewing the commitments" made during the Habitat Conference, "welcoming progress" in "implementing the Habitat Agenda," and "undertaking further actions" to accelerate "the full and effective implementation of the Habitat Agenda").

Richard G. Wilkins, J.D. (1952–2012) was very active in international policy and law prior to his untimely death in 2012. He served as the Managing Director of The Doha International Institute for Family Studies and Development, in Doha, Qatar. Established by Her Highness Sheikha Moza Bint Nasser Al-Missned, Consort of His Highness the Emir of Qatar and President of the Supreme Council for Family Affairs, the Doha Institute sponsored and conducted interdisciplinary international research regarding family life and assisted local, national and international actors with the development and implementation of policies that could strengthen the family as "the natural and fundamental group unit of society" (Universal Declaration of Human Rights, Article 16-3).

Before moving to Doha in 2006, Professor Wilkins was Managing Director of the World Family Policy Center at the J. Reuben Clark Law School, Brigham Young University, in Provo, Utah. He wrote extensively on United States constitutional law, international law, family policy, federal jurisdiction and legal advocacy. He is a former Assistant to the Solicitor General, United States Department of Justice.

Professor Wilkins was the Chair of the NGO Working Committee for the 2004 Doha International Conference for the Family. The Conference negotiated and adopted The Doha Declaration, which reaffirms the international community's commitments to the natural family. The Doha Declaration was noted by the UN General Assembly at its December 6, 2004, Special Session on the International Year of the Family (see page 517).

Professor Wilkins and his wife, Melany Moore Wilkins, are the parents of four children. Melany holds a Masters Degree in Social Work.

PREFACE

by Susan Roylance

This book was prepared to be a resource to those who will be negotiating international documents, particularly at United Nations conferences. The novice reader may find this book difficult to understand, without the background of participation (or observation) in the “consensus” process of the U.N.

The advantage of becoming acquainted with the words from previously negotiated documents (the purpose of this book) is that words and phrases can be suggested during negotiations that are “pre-approved” – the words have already achieved consensus in a previous negotiating session. Sometimes, the consideration of “new” words can take several days to get approval from a nation's capitol, when a timely decision is needed.

As country delegates are well aware, the U.N. negotiations are never a democratic process – with a vote to determine the final outcome. Instead, negotiations will continue, and continue, until “consensus” is reached, or, there is no more disagreement expressed. (The more “sensitive” issues are often decided in the middle of the night.) This process gives considerable power to the Chairman of the negotiations, who can choose who will speak, and make arbitrary decisions as to the outcome of the discussion. And, there is no method for a “count” or “re-consideration” of the “final decision” by the Chair. Once the Chairman states that the matter is “so decided,” all discussion must cease. This is a process that can give greater “power” to a small, but “very vocal” group of negotiators.

Usually, the individual citizens of a participating country have no idea how they are being represented in United Nations conferences, and there is no way for them to remove the “delegates” for their country, if they are misrepresenting the will of the people, other than changing the President of their country. The country delegates are usually representatives of the State Department, and chosen by the President, or executive branch of the government.

Further, in presenting the family-supportive words in this book, I want to make it very clear that I do not believe family policies should be formulated in the international arena. In the United States of America, the development of family policy is reserved for the States. The only reason we are dealing with these issues, internationally, is because we must. In the decade of the 90s, a large portion of international treaties and United Nations conference documents were devoted to matters of interest and importance to the family unit. While we believe that the only role of the United Nations in domestic policy should be to “encourage” or “promote” – not to mandate (see section on National Sovereignty, page 27) – we must become involved to protect our families from those who would “re-engineer” the social structures of the world.

As presented by Richard G. Wilkins, in the Foreword of this book, the consensus language created in these international settings could become international customary law. And, the ability of a developing nation to access international funds is often tied to compliance with international treaties and conference documents. Some countries have eventually signed treaties and documents out of economic necessity.

Susan Roylance, is the author/compiler of *The Traditional Family in Peril*, *Mothers and Fathers Defending Marriage and Family in the Halls of the UN*, *The UN Negotiating Guide* (four editions), *The Family and the MDGs* and *Family Capital and the SDGs – Implementing the 17 Sustainable Development Goals*. She has participated in many UN conferences, and the follow-up review conferences, over the past 25 years. She has traveled to forty-five countries, visited many orphanage and street children programs throughout the world, and helped develop programs for family-based care of orphans. Susan is a founder of United Families International (1978), and has been actively involved in many pro-family organizations, in addition to serving as a political consultant and CEO/Manager of Roylance Publishing. In response to the AIDS crisis in Africa, Susan initiated an HIV/AIDS education program for children, and their parents, called “Stay Alive.” The program has reached over two million African children in 15 African countries. She and her husband, Robert C. Roylance, spent four years doing humanitarian work in Africa, and they are currently working with refugees resettling in Utah. Susan and Robert are the parents of seven children and thirty-four grandchildren.

How to Use this Guide Effectively

1. Become familiar with the section on the Five Respects, presenting consensus language from UN treaties and conference documents within the categories of:

- **Family** (page 1)
- **Human Life** (page 7)
- **Parents** (page 13)
- **Religious Values** (page 19)
- **Sovereignty** (page 27)

2. Review the first page of each section, which provides several sentences of helpful consensus language. The sentences are generally grouped into:

1. Words or phrases which support the subject
2. Words or phrases which oppose the subject, and
3. Modifying words or phrases which can be inserted to make the sentence, or paragraph more family friendly.

3. Consider specific examples of the words and phrases, as used in previous international treaties and conference documents, under the various topics related to the subject.

For example: See page 2 for paragraphs from treaties and conference documents that specifically use the words, “*The family is the natural and fundamental group unit of society.*” For easy reference to the organization of topics within each section, see the list on the contents page (page iii).

4. Read the full text of the paragraph in the official document. The paragraph can be located by using the official document reference, or by turning to the page number provided. This double reference method is used throughout the book. (The page numbers are only for this book.)

5. Check references to other paragraphs on the same topic in the General Index. (*Note: this index is limited to words or phrases directly related to the five areas of focus, using words and phrases related to topics in the Five Respects section.*)

6. Refer to the Family Index (page 606) for a complete listing of all paragraphs using the word “family” or “families.” This might help you consider an appropriate group of words that would be family-friendly.

In addition to the above reference guidelines, **the key words are in bold** in the Five Respects section, and these same words and phrases have also been **bolded in the actual treaties and conference documents**. This makes it easy to find the information you are seeking, whether it is referenced in the Five Respects section or the General Index. This will save you time in locating the specific words or phrases mentioned in the index.