

A Case Study: Child Influencers on Social Media & Their Rights

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Case Study/Summaries

As technology advances and videos are produced at an unprecedented rate, there is a high likelihood of stumbling across a video featuring family vloggers. Every day, more families join apps like TikTok and Instagram, seeking fame as influencers.

One of these influencers is Ruby Franke, a mother and vlogger for the infamous 8 Passengers YouTube channel. With her ex-husband Kevin, and their six children: Shari, Chad, Abby, Julie, Russell, and Eve, Ruby documented every intimate moment of the family and uploaded it to the channel, which at its peak had two point five million subscribers.¹ Despite the wealth and success, viewers were unaware of the truth behind the camera. On August 30, 2023, Ruby was arrested in Utah and charged with six counts of aggravated child abuse after her twelve-year-old son ran to a neighbor's house emaciated, with duct tape around his wrists, and open wounds. Police found her ten-year-old daughter severely malnourished. Ruby pleaded guilty to four counts of aggravated child abuse on December 18, 2023, and received consecutive sentences of four to thirty years. The case sparked public outrage, with social media users criticizing Ruby's actions and Kevin for being an absent parent.² Tragically, Ruby's case is just one example of children facing abuse and exploitation behind the screen. Another is four-yearold TikTok star Wren Eleanor and her mother, Jacquelyn. Jacquelyn's short-form content mainly features Wren trying on outfits, eating differently shaped food, and engaging in questionable videos, such as pretending to shave her genitals or insert a tampon. As they gained popularity, concerns about exploitation grew, with many pointing out uncomfortable comments from men on their social media. On a Reddit thread titled r/WrenEleanor, posts were created to showcase what comments were being left on their social media pages. User "rahrhasputin6666" commented, "How long till she 18"?³ User "elizteb" commented, "she kinda hot".⁴ More explicit messages were posted, such as, "Why didn't she get naked" with two laughing emojis, from "farzadhadavan82".⁵ In response to heavy criticism, Jacquelyn came out with a video stating that Wren was safe and that Jacquelyn was doing everything in the best interest of her daughter. The backlash was swift, with many people calling out Jacquelyn for her

¹ Ruby Franke, WIKIPEDIA, https://en.wikipedia.org/wiki/Ruby_Franke. (last visited Nov. 13, 2024).

² Ruby Franke, WIKIPEDIA. https://en.wikipedia.org/wiki/Ruby_Franke. (last visited Nov. 13, 2024).

³ *Looked through the comments, it was awful and there were so many more like these*, REDDIT (2022), https://www.reddit.com/r/WrenEleanor/comments/w33pps/looked_through_the_comments_it_was_awful_and/

⁴ *Looked through the comments, it was awful and there were so many more like these*, REDDIT (2022), https://www.reddit.com/r/WrenEleanor/comments/w33pps/looked_through_the_comments_it_was_awful_and/

⁵ *More disturbing comments from J's tagged photos on Insta*, REDDIT (2024), https://www.reddit.com/r/WrenEleanor/comments/1bcffnr/more_disturbing_comments_from_js_tagged_photos_on/.

ignorance and incorrect statement. On the same Reddit thread, r/WrenEleanor, user “pluffypuff” stated, “At this point you clearly don’t want what’s best for YOUR daughter or you would stop smearing HER for strangers”.⁶ Another user “Fit_valuable_878” commented “while the top search is ‘wren cleaning kitty’. yeah i’m sure everyone who watches your tiktok is very innocent”.⁷ Many critics doubled down on the idea that Jaquelyn was exploiting Wren for money; user “sappy__” stated on a Reddit thread, “The fact that she has her e-mail on instagram to contact her privately it’s really weird...that is what a content creator that sponsors products and makes reviews about them...would do, but not someone [whose] content involves a literal child”.⁸ In the present day, Wren and Jaquelyn's social media pages have all gone private; however, that has not stopped the criticism Jaquelyn has faced. Neither of these cases is an extreme or one-off instance; they are incredibly real and the current reality for many family content channels.

These cases are just mere catalysts for the bigger question at hand: why does this exploitation keep happening? A huge factor is the fact that there is no law or legislation put in place to stop family vlogging content, allowing parents to use their children’s livelihood as a means for content, and disregarding their emotional, physical, and mental well-being. However, there is a solution to this problem; ratifying The Convention on the Rights of the Child (CRC), which would then provide a legal framework to protect the rights of child influencers on social media.

The CRC was created by the United Nations (UN) and is an “international human rights treaty that sets out the civil, political, economic, social, health, and cultural rights of children.”⁹ The CRC was signed in 1989 and has been ratified and implemented by every country, except for the United States of America.

Those who ratify the CRC “agree to take all appropriate legislative, administrative, and other measures to ensure that all children in their jurisdiction have the rights outlined in the Convention. Such rights include life and development...they also include protection from abuse and neglect... CRC calls for the protection of children from economic, sexual, and other forms of

⁶ *I was scrolling some old videos looking through comments...*, REDDIT (2024), https://www.reddit.com/r/WrenEleanor/comments/1brzfr8/i_was_scrolling_some_old_videos_looking_through/

⁷ *I was scrolling some old videos looking through comments...*, REDDIT (2024), https://www.reddit.com/r/WrenEleanor/comments/1brzfr8/i_was_scrolling_some_old_videos_looking_through/

⁸ *Everyone talks about what Wrens mom posts but just think about what happens off camera...*, REDDIT (2024),

https://www.reddit.com/r/WrenEleanor/comments/1be4agq/everyone_talks_about_what_wrens_mom_posts_but/.

⁹ Rachel Caitlin Abrams, *Family Influencing in the Best Interests of the Child*, 24 CHI. J. OF INT’L L. 1 (2023).

exploitation...”¹⁰ So, how could the CRC apply to child influencers in specific? Although the CRC was created long before the rise of social media and child influencers, “its emphasis on protecting the best interests of children is as applicable to the problem of family influencer exploitation as it is to child sex trafficking, domestic abuse, or child labor regulation.”¹¹ Looking at the goals and overall mission of the CRC, it seems like the obvious choice is to ratify the treaty and use it as a framework for our nation’s legislation. So it begs the question: Why has the United States **NOT** ratified the CRC?

The main answer, as provided by the George W. Bush administration, is that the CRC would be a direct threat to the United States’ sovereignty and could cause political and legal conflict with laws that have already been established regarding privacy and family rights.¹² Bill Clinton's administration was the one to sign the treaty; however, it was never ratified due to strong opposition from Congress. When it came around to G.W. Bush’s administration, they did not ratify the treaty, stating, “...that while CRC may be a useful tool for protecting children in countries that have ratified it, it was ‘misleading and inappropriate’ to use the Convention as a ‘litmus test’ for measuring the United States’ commitment to children.”¹³ During Barack Obama's administration and the 114th Congress, there was a bigger push for the U.S. to ratify the treaty. However, many opponents of the CRC ratification argued that it would undermine U.S. sovereignty by allowing the UN to decide what is best for American children.¹⁴ According to the Constitution, signed and ratified treaties are considered “Supreme Law of The Land.” This would mean that the CRC, if ratified, would supersede national and local law, thus forcing the U.S. to cede to the rules and regulations developed by the UN, rather than laws created by the country itself.

Another issue that arises is federal and state governments would delegate work if the CRC were ratified. Having the CRC ratified would force federal law to exceed its power into

¹⁰ Rachel Caitlin Abrams, *Family Influencing in the Best Interests of the Child*, 24 CHI. J. INT’L L. 1. (2023)

¹¹ Cong. Rsch. Serv., *The United Nations Convention on the Rights of the Child*, (July. 27, 2015) <https://crsreports.congress.gov/product/pdf/R/R40484>.

¹² *Convention on the Rights of the Child*, Nov. 20, 1989, 1577 U.N.T.S. 3.

¹³ Cong. Rsch. Serv., *United Nations Convention on the Rights of the Child*, supra note 11.

¹⁴ Cong. Rsch. Serv., *United Nations Convention on the Rights of the Child*, supra note 11

issues that were traditionally handled by state law, such as juvenile justice, child labor, child education, welfare, custody, visitation, and adoption.¹⁶ There is also the moral argument to be made that having the CRC control and regulate the rights of children interferes with the belief that parents have the fundamental right to raise and educate their children as they deem fit.¹⁷

On the opposite spectrum, proponents of ratification say that the CRC is not a threat to U.S. sovereignty. They claim that U.S. federal and state law meets the requirements of the convention, and therefore, sovereignty is not affected. Ratification would instead strengthen the United States' credibility and commitment when advocating for children's rights abroad, as well as enhance U.S. leadership in protecting children worldwide.¹⁸ In response to problems regarding federal and state governments, proponents argue that any issues between the two can be addressed through reservations, understandings, and declarations (RUDs). RUDs usually accompany treaties that are ratified, and the Senate, as well as the President, can add any stipulation they deem necessary for the country to properly implement the treaty.¹⁹ In addition, there would be a distinct line drawn for what state and federal governments could do when implementing the CRC, and in only certain cases could the federal government interfere with issues that are normally handled by the states. When researching and hearing both sides' arguments, it became clear that ratification is needed for the United States. While the concern for sovereignty is noble, the reality is that children have virtually no autonomy when it comes to being exploited on social media. Every day, new families are starting accounts and creating content with young children. Recently, there was a mom on TikTok who revealed she continues having kids so that she can be an influencer (TikTok). But what could ratification do for child influencers exactly?

Article 12 of the CRC tackles the issue of child consent, specifically stating, "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."²⁰ This relates to social media, as young children cannot always properly consent to the content they are participating in. Even if they are on camera and are smiling and happy, they might not fully understand the extent of the content or what their parents plan to do with the footage. When a camera is shoved into a child's face constantly, it blurs the lines as to what is fiction and reality. Article 32 states, "State Parties recognize the right of the child to be protected from economic exploitation and from performing

¹⁶ Cong. Rsch. Serv., *The United Nations Convention on the Rights of the Child* (July 27, 2015), <https://crsreports.congress.gov/product/pdf/R/R40484>.

¹⁷ Cong. Rsch. Serv., *United Nations Convention on the Rights of the Child*, *supra* note 16.

¹⁸ Cong. Rsch. Serv., *United Nations Convention on the Rights of the Child*, *supra* note 16.

¹⁹ Cong. Rsch. Serv., *United Nations Convention on the Rights of the Child*, *supra* note 16.

²⁰ *Convention on the Rights of the Child*, UNITED NATIONS, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (last visited Nov. 13, 2024).

any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.”²¹ Kids are not kids if they are being used for content creation and the development of a family brand. It hinders their social development since they are being used as an employee of a family brand, instead of doing things that average children do daily. Children who are influencers will sometimes have to film a scene over and over again, just to get the perfect emotional shot that will get them likes. Not only is this harmful to their mental health, but now the child's stressful moments are being exploited for financial gain. Most of the time, children are the reason for high views and monetization, making many of them the sole providers or contributors to the family's finances. Nobody is clicking on a video because Mom and Dad did a ‘Day In My Life’ vlog. They click on the video because the thumbnail shows the kid crying, being scared, or surprised by some event. This ties into Article 16, which states, “No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.”²² It also states in the second section, “the child has the right to the protection of the law against such interference or attacks.”²³ Implementing the CRC into our country's legislation would allow for a line to be drawn about what content family vloggers could post. Reducing the ability to post embarrassing content would significantly decrease the mental stress that children face whenever the camera comes on. Moreover, the second part allows the ability for a child to stand up for themselves, which could provide a legal standing for child stars to go against their parents and take down any unwanted content. These are just a few examples of how the articles in the CRC could protect children. In Illinois, there has already been legislation passed that protects the money child influencers earn, and there is further talk about providing the children the ability to sue their parents if they deem fit.²⁴ When only one state has passed legislation without the CRC, it begs the question of how much more we as a country could do if we ratified the CRC.

As social media advances, it is evident that the number of child influencers will continue to rise. When scrolling through our feed, we might not think of the deeper truths lying behind the screen. However, the possibility of children being exploited behind the screen is always real. However, do not take my word for it; take the words of a kid who lived this reality for so many years, Shari Franke. Recently, she spoke to the Utah Legislative Committee about the impact that family vlogging has on her life, in regards to her mother's sentencing. She stated, “I come today

²¹ *Convention on the Rights of the Child*, Nov. 20, 1989, 1577 U.N.T.S. 3.

²² *Convention on the Rights of the Child*, *supra* note 21.

²³ *Convention on the Rights of the Child*, *supra* note 21.

²⁴ Fortesa Latifi, *These States Are Trying to Require Influencer Parents to Pay Their Kids*, TEEN VOGUE (Feb. 1, 2024), <https://www.teenvogue.com/story/these-states-are-trying-to-require-influencer-parents-to-pay-their-kids>

as a victim of family vlogging...it is more than just filming your family life and putting it online. It is a full-time job...the difference between family vlogging and a normal business however is that all the children are employees.”²⁵ She specifically says, “Children from before they are born to the day they turn 18 have become the stars of family businesses on YouTube, Instagram, and other social media platforms.”²⁶ It seems impossible to imagine that life, from the moment one is born, a camera is shoved in their tiny, scrunched-up face, every waking minute now for the public's enjoyment and scrutiny. Shari's words are extremely powerful and perfectly summarize the danger that these children are in, even if they are unaware of it. The words of a child influencer are proof enough that the United States should ratify the CRC and find a way to incorporate or base more legislation on it. As Shari puts it, “There is no such thing as a moral or ethical family vlogger.”²⁷

²⁵ KUTV 2 News Salt Lake City, *Ruby Franke's Oldest Daughter, Shari, Speaks to Utah Legislative Committee About Child Influencers*, YOUTUBE (Oct. 16, 2024), <https://www.youtube.com/watch?v=yDtYITYeLSk>

²⁶ KUTV 2 News Salt Lake City, *Ruby Franke's Oldest Daughter, Shari, Speaks to Utah Legislative Committee About Child Influencers*, YOUTUBE (Oct. 16, 2024).

²⁷ KUTV 2 News Salt Lake City, *Ruby Franke's Oldest Daughter, Shari, Speaks to Utah Legislative Committee About Child Influencers*, YOUTUBE (Oct. 16, 2024).