

# ***Americans Should Make Laws for America***

January 15, 2014 - By Michael Farris

***NOTE: This article was understandably scrubbed from the COS website.***

One of the biggest new threats to the authority of the states—and, consequently, the rights of the people—is the use of treaties to control the domestic policy of the United States.

When the Constitution is functioning properly, the states have exclusive jurisdiction over nearly all domestic issues. But the states transfer this jurisdiction to Congress when they enter into a treaty that controls a domestic issue. If we adopt a treaty on education, for example, all educational authority is transferred from the states to Congress.

We should keep in mind, however, that Congress would not even have complete legislative discretion. Its discretion would be limited to deciding how we comply with the standards of international law. Congress would not be free to decide whether international law would be controlling.

Fortunately, the threat of international treaties could be neutralized with an amendment proposed at a Convention of States. This amendment could divide treaties into two classes—truly international treaties and treaties which purport to control domestic jurisdiction. Virtually all United Nations Human Rights treaties seek to control the domestic law of every member state (nation).

Under this amendment, if the President ratifies a truly international treaty, then it must be ratified by a two-thirds majority of the Senate—not merely two-thirds of those present and voting.

But, if there is a treaty aimed at our domestic policy, then it must be ratified by a two-thirds majority of both houses of Congress and by a two-thirds majority of both houses of three-fourths of the several states—in other words, 38 states. This is essentially an impossible standard.

The reason for allowing this improbable path for ratification is this: The Courts are much more likely to strictly adhere to the definition of the two classes of treaties if there is a path whereby both could be ratified. If we simply ban the second type

of treaty, we might see more leeway being given on the definition of the treaty types.

I believe Americans--not foreign nations--should make the laws for America. If you believe the same, join the COS Project today!

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