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# RATIFYING CEDAW: IS THE UNITED STATES FALLING BEHIND ON WOMEN'S RIGHTS?

*by* JESSICA SANCHEZ

**A**s a leader in promoting civil freedoms, the United States is a heavyweight in the advancement of women's rights. And now, after President Barack Obama deemed the U.N. Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW") an "important priority" for his administration, ratification of the convention is once again a possibility.<sup>1</sup>

An international agreement, CEDAW is the most comprehensive instrument addressing women's rights to date.<sup>2</sup> On the global scale, CEDAW is a step

forward in the progression of gender issues, including the legal and civil status of women, their reproductive rights, as well as their cultural and traditional influences.<sup>3</sup>

Adopted by the U.N. General Assembly on Dec. 18, 1979, CEDAW entered into effect on Sept. 3, 1981.<sup>4</sup> In 1995, noting the importance of the agreement, the United States committed to ratifying CEDAW by the year 2000 at the U.N. Fourth World Conference on Women in Beijing, China.<sup>5</sup> But at the end of 2011, the United States remains the only democracy in the world yet to sign on.<sup>6</sup>

#### FORGOING FORMAL RECOGNITION

Somewhat ironically, the United States played an integral role in drafting CEDAW.<sup>7</sup> Upon its adoption by the United Nations, President Jimmy Carter signed the treaty, but it was never ratified.<sup>8</sup> Thirteen years on, during the presidency of Bill Clinton, 68 senators asked to continue the ratification process, to no avail.<sup>9</sup> President George W. Bush's administration also agreed the treaty was "generally desirable and something that should be approved," but took no action.<sup>10</sup>

In Congress, though the Senate Foreign Relations Committee voted favorably in 1994 and 2002 to send CEDAW to the Senate floor, political opposition blocked the ratification process.<sup>11</sup> As chair of the committee in 1995, Sen. Jesse Helms did not allow CEDAW to be considered over concerns that it would infringe upon U.S. sovereignty.<sup>12</sup>

Meanwhile, others in opposition of CEDAW, such as Concerned Women for America, warn ratification could actually deny American women their basic freedoms and rights.<sup>13</sup> One advocate notes, "A privilege of our American system is that we, the people, decide what our laws will be and who will represent us. Advocates of CEDAW intend to use the treaty, and its interpretations dreamed up by the CEDAW Committee, to formulate legislation and challenge existing laws."<sup>14</sup>

More recently, President Obama has identified himself as a "strong supporter" of CEDAW.<sup>15</sup> In a 2010 interview, the President stated, "If it was simply up

to me, it would have already been ratified . . . It is currently pending in the Senate, and we want the Senate to pass it."<sup>16</sup>

Other advocates of CEDAW view non-ratification as an obstacle to effective U.S. foreign policy.<sup>17</sup> "The failure to ratify this treaty for the rights of women undercuts the credibility of our nation's stated intention to engage as a global partner, and weakens the effectiveness of our advocacy for human rights," testified the President and CEO of the Leadership Conference on Civil and Human Rights, before the Senate Subcommittee on Human Rights and the Law.<sup>18</sup>

Linda Tarr-Whelan, current co-chair for the National Advisory Committee for CEDAW, expresses unease. "I was Jimmy Carter's Director of Women's Concerns in the White House, and when his term of office was over, a White House office that had anything to do with women disappeared until Obama won."<sup>19</sup> She added, "With CEDAW, the U.S. could have a permanent international voice for women."<sup>20</sup> This concern has been echoed in recent news as the U.S. government's human rights obligations have come under international criticism.<sup>21</sup>

#### HAS CEDAW PROVED EFFECTIVE IN OTHER COUNTRIES?

International organizations report on the concrete impact of CEDAW in ratifying nations.<sup>22</sup> For example, in preventing sex trafficking, the Netherlands has adopted new legislation on human trafficking in response to queries by the CEDAW Committee.<sup>23</sup> In improving women's economic opportunity, the High Court of Tanzania used CEDAW to rule in favor of a female plaintiff challenging customary law forbidding her to sell land bequeathed to her.<sup>24</sup> And CEDAW has been used in Malaysia and other pluralistic societies with different legal codes, so that citizens have the choice to "opt out" of a system of personal law that might discriminate against them.<sup>25</sup>

A separate study by the International Women's Rights Project further notes, "[I]n countries where there has not been the political will to implement CEDAW to date, women are beginning to use the Convention to organize activist strategies."<sup>26</sup>

## WHAT WOULD RATIFICATION MEAN TO THE UNITED STATES?

First, ratification would create an opportunity for the United States to nominate an expert to the CEDAW committee and call attention to women's rights violations.<sup>27</sup> Nominating an expert would allow the United States to exercise political leadership, influence the progress of women's rights and build accords with foreign governments for improved standards.<sup>28</sup>

Second, ratification of CEDAW would strengthen other treaties already ratified by the United States by sending a signal of American commitment.<sup>29</sup> In 1992, for example, ratification of the International Covenant on Civil and Political Rights obligated the United States to promote gender equality.<sup>30</sup> Ratification of CEDAW would reinforce that agreement and would help meet those obligations.<sup>31</sup>

Finally, ratification would solidify the United States' position as a leader in human rights.<sup>32</sup> As one scholar states, "The United States is obviously a major political force in the world, and what the United States does has an impact far beyond the U.S. itself. When the United States is taking a strong rhetorical stand in favor of human rights and yet chooses to opt out of the international system, it delegitimizes the overall value of the international human rights system."<sup>33</sup>

Is the United States falling behind on women's rights? Ratifying CEDAW would be one powerful answer to that question.

### NOTES

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17 CRR, *supra* note 5.

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20 *Id.*

21 *See, e.g.*, Women's Rights Group, *Failing to Protect Women from Domestic Violence in the U.S.*, AMNESTY INT'L'S HUMAN RIGHTS NOW BLOG (Sept. 6, 2011), <http://blog.amnestyusa.org/women/failing-to-protect-women-from-domestic-violence-in-the-us/>.

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