

2010

Women's Interest Network

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Recommended Citation

Madeleine Cag Giansanti, *Women's Interest Network*, 44 INT'L L. 415 (2010)
<https://scholar.smu.edu/til/vol44/iss1/27>

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Women's Interest Network

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I. The U.N. Convention on the Elimination of All Forms of Discrimination Against Women

Although the United States signed the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1980, the United States has not yet ratified the treaty.¹ The Senate Foreign Relations Committee held hearings on CEDAW in 1988, 1990, 1994, and 2002, but the Convention has never been considered by the full Senate.² The Obama Administration identified CEDAW on its treaty priority list, and support for ratification increased throughout 2009.

The U.N. General Assembly adopted CEDAW on December 18, 1979.³ The Convention contemplated a committee of experts to monitor member states' implementation of CEDAW (the CEDAW Committee), and that committee was established in 1982.⁴ On October 6, 1999, the U.N. General Assembly adopted an Optional Protocol to the Convention.⁵ As of November 1, 2009, 187 countries have ratified CEDAW and 97 countries have ratified the Optional Protocol.⁶

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1. Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW]. A comprehensive description of the treaty, its history, and ongoing progress in women's rights pursuant to the treaty is *available at* <http://www.un.org/womenwatch/daw/cedaw/>.

2. LUISA BLANCHFIELD, CONG. RESEARCH SERV., THE U.N. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW): ISSUES IN THE U.S. RATIFICATION DEBATE 24 (Aug. 7, 2009), *available at* http://assets.opencrs.com/rpts/R40750_20090807.pdf.

3. G.A. Res. 34/180, U.N. Doc. A/RES/34/180 (Dec. 18, 1979), *available at* <http://www.un.org/documents/ga/res/34/a34res180.pdf>; *see also* BLANCHFIELD, *supra* note 2, at 2.

4. CEDAW, *supra* note 1, art. 17 ("For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee. . . of twenty-three experts of high moral standing and competence in the field covered by the Convention."); The Committee "reports annually on its activities to the U.N. General Assembly through the Economic and Social Council and meets twice a year at the U.N. Office in Geneva." BLANCHFIELD, *supra* note 2, at 3; The CEDAW Committee is also responsible for reviewing the reports on CEDAW implementation submitted by member States. *Id.*

5. G.A. Res. 54/4, U.N. Doc. A/RES/54/4 (Oct. 6, 1999), *available at* <http://www.un-documents.net/a54r4.htm>; *see also* BLANCHFIELD, *supra* note 2, at 3.

6. A listing of all parties to CEDAW and the Optional Protocol is *available at* <http://www.un.org/womenwatch/daw/cedaw/protocol/CEDAW%20Ratification%20Table%20IV-8.en.e>.

The United States is one of seven countries—and the only democracy—that has not ratified CEDAW.⁷ Furthermore, the United States is the only country to have signed but not ratified the treaty.⁸ President George W. Bush's administration did not support the ratification of CEDAW. In two letters to the Senate Committee on Foreign Relations in 2002,⁹ the former administration outlined its concerns regarding “the vagueness of the text of CEDAW and the record of the . . . [CEDAW Committee],” and took special exception to the contents of two CEDAW Committee reports: one that “questioned the celebration of Mother's Day”¹⁰ and another that called for “legalized prostitution.”¹¹ In spite of that administration's concerns, the Senate Committee on Foreign Relations reported the Convention favorably on July 30, 2002¹² (albeit subject to four reservations, five understandings, and two declarations (RUDs)).¹³ However, even with the addition of eleven RUDs, President George W. Bush's administration did not support Senate action on CEDAW.¹⁴

In a marked reversal from the prior administration's position, the Obama administration identified CEDAW as “an important priority.”¹⁵ In a May 2009 letter to the Senate Committee on Foreign Relations, the Obama administration identified CEDAW as a

7. See BLANCHFIELD, *supra* note 2, at 1. The seven countries that have not yet ratified CEDAW are: the United States, Iran, Sudan, Somalia, Nauru, Palau, and Tonga. Qatar, once a member of this group of countries, ratified the treaty on April 29, 2009. *National Campaign and National Day of Action to Ratify CEDAW*, NAT'L ORG. WOMEN (NOW), June 21, 2009, <http://www.now.org/organization/conference/resolutions/2009.html>.

8. BLANCHFIELD, *supra* note 2, at 1.

9. *Id.* at 6 (citing a letter from Sec'y of State, Colin Powell, to Senator Joseph Biden, Chair of the Senate Foreign Relations Comm., July 8, 2002, and a letter from Daniel J. Bryan, Assistant U.S. Attorney General, U.S. Dep't of Justice, to Senator Joseph Biden, Chairman of the Senate Foreign Relations Comm., July 26, 2002).

10. *Id.* The paragraph referred to by Powell and Bryan concerns a portion of the 2000 Committee report in which the Committee comments on the status of the Convention in Belarus, in which the Committee stated that it was “concerned by continuing prevalence of sex-role stereotypes and by the reintroduction of such symbols as a Mothers' Day and a Mothers' Award, which it sees as encouraging women's traditional roles. It is also concerned whether the introduction of human rights and gender education aimed at countering such stereotyping is being effectively implemented.” U.N. Comm. on the Elimination of Discrimination against Women, Report of the Committee on the Elimination of Discrimination against Women, ¶ 361, U.N. Doc. A/55/38(SUPP) (Aug. 17, 2000), available at [http://www.unhcr.org/refworld/category/REFERENCE,CEDAW,,,3f5600ee2,0.html](http://www.unhcr.org/refworld/category/REFERENCE/CEDAW,,,3f5600ee2,0.html). Clearly, legislators do not have to worry about the Committee banning the annual Mother's Day celebration in the United States; the Committee was merely trying to address a specific societal concern in Belarus.

11. BLANCHFIELD, *supra* note 2, at 6. The Committee report on China recommended “decriminalization of prostitution” because of its concern that prostitution is the “result of poverty and economic deprivation.” U.N. Comm. on the Elimination of Discrimination against Women, Report of the Committee on the Elimination of Discrimination against Women, ¶ 288, U.N. Doc. A/54/38/Rev.1(SUPP) (Aug. 20, 1999), available at <http://www.un.org/womenwatch/daw/cedaw/reports/21report.pdf>. The Committee also recommended “due attention be paid to health services for women in prostitution” and urged the Chinese government to “take measures for the rehabilitation and reintegration of prostitutes in society.” *Id.* ¶ 289.

12. BLANCHFIELD, *supra* note 2, at 7.

13. *Id.*; see also Memorandum from Martha F. Davis to the Nat'l Org. for Women (June 12, 2009), available at http://www.nowfoundation.org/issues/global/cedaw_rdu_analysis.pdf (analyzing the eleven RUDs or RDUAs as referred to in the piece).

14. BLANCHFIELD, *supra* note 2, at 6 (citing a letter from Jeffrey T. Bergner, Assistant Sec'y for Legislative Affairs, to Senator Joseph Biden, Senate Comm. on Foreign Relations, Feb. 7, 2007).

15. BLANCHFIELD, *supra* note 2, at 4 (citing *Senate Foreign Relations Comm. Holds Hearing on the Nomination of Susan Rice to be the U.S. Representative to the United Nations*, 111th Cong. (2009) (statement of Susan Rice)).

human rights treaty on which it “supports Senate action at this time.”¹⁶ Considering the new administration’s interest, it is likely that the Senate will have the opportunity to consider ratification of CEDAW in the next year.

The U.S. Government has begun to talk positively about CEDAW again. The Obama administration has made ratifying “the CEDAW women’s rights treaty” a priority initiative and in the “top three UN treaties it wants to ratify[.]”¹⁷ During her nomination hearing to be the U.S. Representative to the United Nations, Ambassador Susan Rice stated her “passion for ratification of CEDAW[.]” and added that ratification “will be an important priority for this administration.”¹⁸ The U.S. House of Representatives, although lacking a constitutional role in providing advice and consent concerning treaties, also renewed its interest in ratification of CEDAW. In January 2009, Representative Lynn Woolsey (D-California), a member of the House Committee on Foreign Affairs, introduced a resolution expressing the House of Representatives’ desire that the Senate should ratify CEDAW.¹⁹

Proponents of CEDAW urged its ratification throughout 2009. For example on March 7, 2009, Kim Gandy, president of the National Association for Women, said, “It would be an important signal to the world that we adopt this critical convention without limitations.”²⁰ On March 30, 2009, Ruth Nadel of the Women’s National Democratic Club was quoted as saying, “We’re at the cusp of a new era and I hope we will ratify CEDAW.”²¹ And on November 2, 2009, Ritu Sharma, a leading women’s rights activist, was quoted as saying, “If Barack Obama wants one important thing to do for women, he will direct the U.S. Senate to ratify CEDAW.”²²

The question really is not whether the Senate will consider ratification, but whether the Senate will consider the CEDAW treaty as written, or as weighed down with the prior administration’s eleven RUDs.²³ Senator Barbara Boxer (D-California) is planning to hold hearings on a “clean” version of CEDAW as part of her agenda for a new Foreign Relations subcommittee chairmanship overseeing global women’s issues.²⁴ The Obama Administration may support such action; it has dispatched the Convention to the U.S.

16. BLANCHFIELD, *supra* note 2, at 4 (citing Treaty Priority List for the 111th Congress in a letter from Richard R. Verna, Assistant Secretary, Legislative Affairs, U.S. State Department, to Senator John F. Kerry, Chairman Senate Committee on Foreign Relations, U.S. Senate, May 11, 2009).

17. Peggy Simpson, *Chances Improve for Ratification of CEDAW*, THE WOMEN’S MEDIA CENTER, Mar. 30, 2009, <https://www.truthout.org/033009WA?print>.

18. *Senate Foreign Relations Committee Holds Hearing on the Nomination of Susan Rice to be the U.S. Representative to the United Nations*, 111th Cong. (2009) (statement of Susan Rice).

19. BLANCHFIELD, *supra* note 2, at 7.

20. Associated Press, *Discord Expected Over Women’s Rights Pact*, MSNBC, Mar. 7, 2009, <http://www.msnbc.msn.com/id/29570022/>.

21. Simpson, *supra* note 17.

22. Haider Rizvi, *Time to Ratify Women’s Treaty, Groups Urge*, IPS INTER PRESS SERV. NEWS AGENCY, Nov. 2, 2009, <http://ipsnews.net/news.asp?idnews=46025>.

23. See BLANCHFIELD, *supra* note 2, at 4-7 (detailing a description of the past two administrations’ policies and Senate action concerning the Convention, including the successively increasing RUDs); see also Memorandum from Martha F. Davis, *supra* note 13 (listing and analyzing the eleven reservations, understandings, and declarations); Am. Bar Ass’n, *Convention on the Elimination of All Forms of Discrimination Against Women: Fear vs. Fact*, http://www.abanet.org/irr/fear_fact.html.

24. Associated Press, *supra* note 20.

Department of Justice to recommend whether it should attach RUDs before sending CEDAW to the Senate.²⁵ CEDAW is expected to come before the full Senate sometime in 2010.

25. Betsy Reed, *A Clean CEDAW*, THE NATION, Mar. 12, 2009, http://www.thenation.com/blogs/notion/416892/a_clean_cedaw (The Department of Justice was tasked to consider “whether to attach conditions—called reservations, understandings and declarations (“RUDs”)—before it goes to the Senate (where it needs 67 votes for approval)”).