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## Policy Implications and Recommendations Concerning the United States' Non-ratification of International Human Rights Treaties

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**Policy Implications and Recommendations Concerning the United States' Non-ratification  
of International Human Rights Treaties**

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## U.S. NON-RATIFICATION OF HUMAN RIGHTS TREATIES

### **Abstract**

This paper delves into the historical background, policy implications, and recommendations concerning the United States' non-ratification of crucial international human rights treaties. The UN treaties analyzed include the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the UN Convention on the Rights of the Child (UNCRC). The United States' refusal to ratify these treaties raises questions about its commitment to human rights and international cooperation. Through examining historical and current rationales, alongside the potential impacts of ratification, this paper argues for the necessity of the United States accepting these treaties, emphasizing the benefits they offer domestically and internationally.

*Keywords:* United States, United Nations, international human rights treaties, ratification, policy implications, ICESCR, CEDAW, UNCRC, sovereignty, national security, human rights violations, economic disparities, gender equality, child welfare, international cooperation

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### **Policy Implications and Recommendations Concerning the United States' Non-ratification of International Human Rights Treaties**

Despite their political, cultural, and societal differences, Iran, Somalia, Sudan, Saudi Arabia, and the United States all possess a shared commonality; all five nations have opted out of endorsing vital international human rights treaties. Considering the reputation of these four countries regarding conflict, human rights violations, and the treatment of women, the United States needs to reassess whether this policy aligns with its principles. The United States is the only developed country and member of the United Nations that refuses to ratify the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the U.N. Convention on the Rights of the Child (UNCRC) (United Nations Human Rights Office, n.d.).

These three treaties are considered core international human rights instruments by the United Nations. Each treaty is designed to protect the rights of people across the world from inhumane treatment, discrimination, and armed conflict. Although the U.N. cannot guarantee the perpetual protection of these rights, it has implemented essential mechanisms to hold nations accountable and address instances of human rights violations. The United States' absence from these treaties speaks volumes, especially for a nation considered the global hegemon.

Therefore, this paper examines the historical and current reasoning behind the United States' non-ratification of international human rights treaties. It will analyze the international community's reaction to these decisions and the resulting unease of the United States' allies. The main emphasis of the analysis will center on the impacts resulting from the U.S. not ratifying these treaties, alongside the benefits it stands to achieve from these core human rights agreements. The objective of this paper is to determine why the United States is placing itself in

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a disadvantageous position by not ratifying these treaties and to make a case for why the United States must accept these three human rights treaties.

### **U.S. Ratification Hesitancy**

While the United States exudes ample influence over the U.N., the nation exemplifies a fear of ratifying treaties that have the power to infringe on national security. As freedom, liberty, and American exceptionalism have long defined the United States, previous administrations have been resistant to appear subordinate to international bodies like the U.N. Therefore, rather than prioritize international cooperation, the United States pursues its national interests, which leads to the protection of American businesses and the nation's freedom to act on national security concerns (Wahal, 2022). Unfortunately, the limited protection of human rights results from such a policy priority.

Beyond an inherent prioritization of national security over international cooperation, the United States experiences a polarized political structure that provides significant barriers to ratification. The polarization is especially apparent in the bill passing structure, where the approval of treaties requires two-thirds majority in the Senate. This explains that while the United States is a signatory of ICESCR, CEDAW, and UNCRC, none of the treaties have been ratified. Additionally, the influence wielded by special interest groups, combined with internal power struggles, significantly hinders the ratification of international treaties, making it exceedingly difficult (Wahal, 2022). While the political structure and concerns over U.S. sovereignty have ensured that the nation is absent from most international human rights treaties, additional concerns are associated with each specific treaty.

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### *International Covenant on Economic, Social, and Cultural Rights*

Established under the United Nations, the ICESCR aims to bring human rights to the front and center of international relations. Article 1 of the covenant states that people have the right to freely “determine their political status and freely pursue their economic, social, and cultural development” (United Nations Human Rights Office, 1979). Such a line would seem to fall directly in line with the U.S. Constitution’s priority of freedom and liberty for all. Nevertheless, throughout American history and across successive administrations, former U.S. presidents have consistently declined to ratify crucial human rights treaties.

One fear associated with ratifying the covenant is that such a treaty could provoke lawsuits that the U.S. government would be responsible for paying out. Historically, the United States has been suspicious of recognizing economic, social, and cultural rights as “rights” that might require enforcement. Additionally, U.S. presidents have found that ratifying the treaty could negatively impact their public support or political agenda while in office. For example, the Carter administration refrained from ratifying the ICESCR as it clashed with their policy of advocating gradual rather than immediate change in economic, social, and cultural rights. Similarly, the Bush administration perceived these values not as rights but as objectives. The Obama administration refrained from endorsing the covenant due to concerns that it could clash with policies supporting universal healthcare (Wahal, 2022). While there has been a consensus in American politics that the treaty could enforce certain rights that go against the U.S. legal or political system, continuous American presidents have established individual reasons not to ratify the ICESCR.

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### *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*

Established in 1979, CEDAW is essential to “bringing the female half of humanity into the focus of human rights concerns” (United Nations Human Rights Office, 1979). Article 3 requires states to take "all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men" (United Nations Human Rights Office, 1979). Unfortunately, rather than the focus of CEDAW in the United States being on the opportunities for women, the opposing voices fixate on the convention's threat to family values. Those in opposition to CEDAW see the convention as destroying the traditional family structure of the U.S. by challenging the traditional roles of men and women. Additional concerns are that by implementing CEDAW in the U.S., single-sex schools would be abolished, and gender-neutral books would be required. While the original concern over national sovereignty still resides with the case of ratifying CEDAW, Christian values and traditional family values drive the current opposition (Koh, 2002).

### *UN Convention on the Rights of the Child*

The CRC aims to protect children's rights worldwide and has been ratified by 195 nations, establishing it as the most extensively ratified human rights treaty globally. Critics of the CRC claim it would weaken U.S. sovereignty, as it grants the U.N. power to decide what is best for American children. The opposition also fears the Convention would intrude on family privacy, specifically impacting parental rights in educating and disciplining their children. Additionally, opponents argue that the CRC is an inadequate tool for safeguarding children's rights. They highlight that countries known for violating these rights, such as China and Sudan, are signatories to the Convention (Congressional Research Service, 2015).

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Despite the array of concerns associated with these three human rights treaties, several aspects remain unaddressed by the opposition. The U.N. has ensured that the treaties will not infringe on national sovereignty by including specific articles and policy procedures. The United States possesses its own system of checks and balances, enabling the integration of these treaties into its society. Instead of fixating on the hypothetical and scarce limitations of these agreements, the United States ought to contemplate the broader enhancement of quality of life and its international reputation.

### **Reasons for Ratification**

The argument advocating for the United States' ratification of the ICESCR, CEDAW, and UNCRC centers on two priorities: (1) gaining international momentum, legitimacy, and trust; and (2) enhancing the well-being of its citizens. Additionally, the argument in favor of ratification rests on the primary counterargument that ratification of U.N. treaties does not preclude U.S. sovereignty. In the 21st century, the United States faces threats to its democracy from all sides; terrorism, the axis of resistance led by Iran, and competition for global dominance against China possess the potential to significantly undermine U.S. power and security. Past involvements in the Middle East and strained relations with nations in the global south have contributed to a perception of hypocrisy and distrust regarding the United States. While the U.S. maintains robust alliances with the European Union and the United Nations, discomfort arises among nations due to its choice not to ratify critical human rights treaties. This decision portrays the United States as acting beyond established norms, which fosters fear among its allies and pressures them to look elsewhere for international relationships. Additionally, the United States is signaling to its allies a capacity and willingness to act according to its own discretion (Congressional Research Service, 2015).



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### *Impact on U.S. Strength, Trust and Legitimacy Abroad*

Through its failure to ratify international human rights treaties, the U.S. has the potential to diminish the trustworthiness of these treaties, weaken global partnerships, and cast doubts upon the United States' own dedication to crucial matters. By declining to endorse globally supported treaties, the United States risks losing the trust of other nations and forfeiting its ability to shape future global regulations. Furthermore, this refusal hinders the resolution of critical global and regional issues, allowing other nations to cherry-pick which treaties to follow based on their own interests. Persistently declining to ratify the treaties diminishes U.S. global leadership and communicates to the world that the United States is unwilling to engage in addressing human rights concerns and violations (Patrick, 2023). A steadfast adherence to a limited interpretation of national sovereignty and the notion of American exceptionalism weakens the United States' capacity to engage as a prominent leader and collaborator on the global platform.

Therefore, with the diminishing influence of American power abroad and the deterioration of its reputation, the United States now possesses an opportunity to reverse this trend by ratifying the ICESCR, CEDAW, and UNCRC. By ratifying these treaties, the U.S. would convey a message to both allies and adversaries, demonstrating its willingness for international collaboration and recognition of the U.N.'s vital role in condemning human rights violations. Over the years, adversaries of the U.S. have exploited the nation's human rights record and non-ratification of treaties to undermine its global credibility (Congressional Research Service, 2015). Despite China's notorious human rights record, the country has ratified human rights conventions, granting an authoritarian regime a level of influence over international treaties that the U.S. currently lacks.

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In essence, by endorsing these three human rights treaties, the United States would position itself in a place of strength and legitimacy. In 1979, Patricia Derian, Assistant Secretary of State for Human Rights and Humanitarian Affairs from 1977-1981, emphasized to the Senate that "Ratification by the United States significantly will enhance the legitimacy and acceptance of these standards. It will encourage other countries to join those that have already accepted the treaties. And, in countries where human rights generally are not respected, it will aid citizens in raising human rights issues" (Moravcsik, 2023). Despite the potential for ratification to bolster the United States' international standing and influence, opponents contend that these treaties threaten national sovereignty.

### *Debunking the Threat of Ratification to U.S. Sovereignty*

The United Nations deliberately incorporates mechanisms and provisions into its treaties that respect the sovereignty of member states. Treaties such as the ICESCR, CEDAW, and UNCRC are crafted with clauses and frameworks that acknowledge and accommodate the sovereignty concerns of participating nations. There are five aspects in which the U.N. limits the treaties' impact on national sovereignty: priority of national laws, adaptability of provisions, limited supervision, ability to declare reservations, and U.N. recognition of state sovereignty.

1. *National Laws*: The treaties recognize the priority of national laws and do not seek to override the domestic legal systems of member states. Instead, the treaties require nations to implement human rights principles within their existing legal frameworks.
2. *Adaptability of Provisions*: The U.N. allows for a degree of flexibility by allowing states to adapt the treaty's provisions to their unique cultural, social, and

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legal contexts. Therefore, implementing these treaties is not rigid or universal but designed to accommodate the governmental systems of nation members.

3. *Limited Supervision:* While the treaties still require monitoring of the state, they only ask the state to periodically submit reports detailing their progress in implementing the treaty provisions. Such a clause allows for dialogue and cooperation between the state and the U.N. bodies without imposing direct control.
4. *Ability to Declare Reservations:* Nations are not tied down to the exact wording of each article and have the power to declare reservations when ratifying a treaty. Members can outline any specific aspects that do not adhere to previous national laws. The ratification process is left intact but allows for a mechanism enabling states to bring forward concerns about implementation.
5. *U.N. Recognition of State Sovereignty:* The U.N. articulates safeguards that are explicitly designed to protect national sovereignty within each treaty.

These elements within U.N. human rights treaties are intended to strike a balance between promoting universal human rights standards while respecting the autonomy and sovereignty of member states like the United States (United Nations, 2023). They create a framework for cooperation and progress on human rights without unduly infringing upon a nation's self-governance.

For example, even if ratified, CEDAW, like most international treaties, would require national legislation in the U.S. to implement the treaty provisions. As made apparent by previous U.S. administrations, when it comes to international treaties, the U.S. Constitution remains the "supreme law of the land" (Wahal, 2022). Such a statement clarifies that if CEDAW were to be

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ratified, there would be exemptions on how it could be applied to American citizens. Article 18 of CEDAW states, "any State Party may propose an amendment to the present Protocol and file it with the Secretary-General of the United Nations" (United Nations Human Rights Office, 1979). This highlights the treaty's allowance for the United States to propose adjustments if any aspects go against its national sovereignty.

The built-in mechanisms and clauses present in U.N. treaties uphold the United States' sovereignty and allow adaptability in their execution. Coupled with the clear checks and balances outlined in the U.S. Constitution, international treaties pose a minimal risk of undermining national security. Consequently, arguments suggesting that ratifying the ICESCR, CEDAW, and UNCRC would diminish American independence and sovereignty lack a substantial foundation. Beyond the adaptability of these three treaties to the United States' governmental system, they offer a better quality of life for American citizens.

### *Positive Impacts of Ratification for U.S. Domestically*

Critics of the United States and capitalism claim that those living below the poverty line are left behind as the rich get richer. The divide of wealth between the poor and rich in the U.S. is exorbitant and continues to grow. Those in support of ratifying the ICESCR claim that the treaty will put the U.S. on the best path to limit poverty and pursue more economic equality among citizens. This is because under the ICESCR, education, living wages, health care, housing, and childcare are all guaranteed. Currently, no source in American law supports a low-income person's right to an adequate standard of living, but the ICESCR would remedy that omission. If ratified, the ICESCR would provide a comprehensive set of positive rights that would establish a framework for decisions about what those living below the poverty line in the U.S. need in order to live meaningful lives (The Scholar, 2010). Another aspect of the

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convention is the enforceable right to just and favorable working conditions, requiring equal pay for equal work. Such a concept would be new to the United States' legal system.

Through the ICESCR, each individual in the United States would possess a legally actionable right to receive fair compensation and maintain a respectable quality of life, irrespective of their age, race, gender, nationality, or religious affiliation. This significant shift would directly impact those living in poverty, altering their stance regarding the fulfillment of fundamental human rights within the U.S. legal system. As a whole, if the United States were to promise to meet people's basic human needs through the ICESCR, the nation would experience narrowing the divide between the rich and poor (United Nations Human Rights Office of the High Commissioner, 1966). Such action would accelerate economic development and access to science and technology for all citizens.

Looking at the application of the ICESCR beyond economics and equality, the convention protects the social rights of individuals during peace and armed conflict. Alone, International Humanitarian Law can instruct nations on how to provide necessary medical care and provide distinctions between civilians and combatants. However, with the addition of social rights, the infrastructure needed for people to enjoy basic public services is further protected (Müller, 2020, p. 393-412). While the United States has not experienced war within its borders since the American Civil War, the ICESCR has the ability to protect the rights of nationals abroad and set up a foundation for if armed conflict ever occurs within the United States.

In considering the impact CEDAW would have on women and children in the United States, citizens would experience an increase in accessibility to health care and protection of critical rights. The United States lacks government-required paid maternity leave, mandatory healthcare, and sufficient accessible childcare and eldercare options. This absence positions the

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nation as the sole advanced economy without these essential rights and programs, leading to increased workloads for employed women (Schalatek, 2019). Critics of CEDAW argue that the convention could impose abortion regulations, a highly divisive topic in the United States. However, CEDAW does not contain clauses or articles that enforce abortions and rather provides a blueprint to "ensure primary education for girls; improve health care services, save lives during pregnancy and childbirth; address human trafficking; pass laws against domestic violence and female genital mutilation; and allow women to own and inherit property" (Kaye, 2010). By stepping away from an abortion-based narrative when it comes to ratifying CEDAW, the United States can focus on implementing policies that promote education, health, and safety for women.

Nations that have endorsed CEDAW have seen women collaborate with their governments, initiating a national conversation regarding the status of women and girls. Consequently, these collaborations have led to alterations in laws and policies, fostering increased safety and opportunities for women and their families. For example, after ratifying CEDAW, Pakistan implemented co-education in primary schools in 1996-97, resulting in a significant surge in girls' enrollment, while Kuwait granted women voting rights in 2005 upon the CEDAW Committee's suggestion to remove discriminatory clauses from its electoral law. Should the U.S. ratify CEDAW, it would enhance the treaty's legitimacy and promote the adoption of improved policies for women, as seen in Pakistan (Kaye, 2010). As established earlier, CEDAW would not supersede U.S. laws or impose controversial aspects of women's health; rather, it would prompt the United States to examine gender discrimination issues and formulate strategies for resolution systematically.

Supporters advocating for the U.S. ratification of the UNCRC assert that the Convention's primary goal is not to undermine parental authority but rather to shield children

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from potential government intrusion and maltreatment. They highlight the strong support within the CRC for parental roles and the family structure (Congressional Research Service, 2015).

Moreover, proponents argue that existing federal and state laws in the U.S. largely align with the standards outlined in the CRC, suggesting that ratification would enhance the nation's credibility in advocating for children's rights globally.

For instance, the House of Representatives passed a resolution in September 1990 emphasizing the significance of children's rights and welfare both within the United States and on a global scale. Advocates stress that the CRC aims to protect children from governmental interference and abuse, not from their parents. They cite examples such as Article 16, which focused on a child's right to privacy, which seeks to shield children and families from state intrusion rather than parental control. Similarly, they argue that Article 13, centered on a child's freedom of expression, safeguards children from states impeding parental authority regarding a child's right to various forms of expression (Congressional Research Service, 2015). These articles stress the importance of restricting the influence of states on a child's life in favor of parental rights, which diminishes popular critiques of CRC.

Human Rights Watch highlights how numerous countries have utilized the CRC as a foundation for strengthening existing laws, thereby enhancing children's rights. Additionally, UNICEF notes that the CRC has contributed significantly to the establishment of more than 60 independent human rights institutions dedicated to children in 38 different countries. These instances underscore the tangible positive impact the CRC has had globally in fortifying legal frameworks and institutions aimed at safeguarding and promoting children's rights. Ratifying the UNCRC would allow the United States to align itself more fully with these international

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standards and contribute positively to the global advocacy for the protection and welfare of children (Congressional Research Service, 2015).

### **Conclusion**

The United States can no longer be seen as superior to international human rights. The consequences of failing to ratify the ICESCR, CEDAW, and UNCRC exceed the concern over perceived threats to national security. The arguments against ratification revolve around apprehensions regarding national sovereignty, yet the U.N. has deliberately incorporated mechanisms within these treaties to respect the autonomy of member states. Each treaty includes provisions allowing nations to adapt their principles to their cultural, social, and legal contexts while maintaining their existing legal frameworks. If the three treaties were to be ratified, the U.S. Constitution would remain the supreme law.

These treaties can bolster the United States' global standing, trustworthiness, and influence. The nation's abstention from these treaties raises doubts among allies and adversaries regarding its commitment to human rights and international cooperation. By ratifying these agreements, the United States could reaffirm its dedication to upholding universal human rights, strengthen global partnerships, and shape future global regulations.

Beyond its international status and cooperation, citizens of the United States would benefit greatly from ratifying such human rights treaties. The ICESCR could narrow economic disparities and provide essential rights, such as education, healthcare, and decent wages, ensuring a dignified standard of living for all. CEDAW could foster gender equality and empower women while protecting family values and not infringing on national laws. The UNCRC safeguards children's rights, supporting parental roles and strengthening existing laws concerning child welfare. In essence, the United States stands at a critical juncture with an opportunity to reverse



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its trend of non-ratification. It is imperative for the nation to move beyond the limitations of sovereignty concerns and recognize the broader enhancement of quality of life, international credibility, and leadership that these treaties offer.

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