



**THE AMERICAN CIVIL LIBERTIES UNION**

WRITTEN STATEMENT

FOR A HEARING ON

**“Women’s Rights Are Human Rights: U.S. Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)”**

SUBMITTED TO THE

**Subcommittee on Human Rights and the Law  
of the Senate Committee on the Judiciary**

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## I. Introduction

The American Civil Liberties Union (ACLU) is a national, nonpartisan public interest organization of more than half a million members, countless additional activists and supporters, and 53 affiliate nationwide.<sup>1</sup> Founded ninety years ago, the ACLU is dedicated to protecting the constitutional and civil rights of individuals and has worked to end sex discrimination and to promote recognition and respect for human rights.

The ACLU thanks the Senate Judiciary Subcommittee on Human Rights and the Law for turning its attention to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) by convening this hearing. The ACLU welcomes this opportunity to express its strong support for U.S. ratification of CEDAW – a “bill of rights” for the women of the world.

In this global era, inequality anywhere is a threat to equality everywhere. No matter where they occur, violations of women’s human rights are a matter of pressing concern to the American people.<sup>2</sup> ACLU members share the revulsion of all Americans at atrocities such as the disfigurement of Afghan women by their relatives, and the use of rape as a weapon of war in the former Yugoslavia, the Democratic Republic of Congo, and Sudan. There is an ongoing epidemic of such violence against women and girls around the world, especially in conflict and post-conflict situations. In many countries, moreover, young girls are forced or sold into marriage, trafficked for slavery or forced labor, or denied access to even basic education, among other violations of their fundamental rights. As Americans, we simply do not accept such treatment of women and girls.

CEDAW is a landmark international agreement affirming principles of fundamental human rights and equality for women around the world. It provides a universal definition of discrimination against women so that those who would discriminate cannot claim that a clear definition does not exist. Recognizing that women’s rights are human rights, CEDAW seeks to end sex trafficking and violence against women, prohibit forced marriage and child marriage, expand girls’ access to education, ensure women’s right to vote, fight maternal mortality, and end workplace discrimination against women. By providing a practical blueprint for achieving progress on these and other goals, CEDAW promotes the American values of dignity and equality around the world. For example:

- ***CEDAW seeks to end violence against women:*** Such violence includes domestic violence, dowry deaths, acid attacks, female genital mutilation, and compulsory abortion and sterilization.<sup>3</sup> The United Nations

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<sup>1</sup> This statement was prepared jointly with Lenora Lapidus, director of the ACLU Women’s Rights Project, Mie Lewis, senior staff attorney at the ACLU’s Women’s Rights Project and Jamil Dakwar, director of the ACLU Human Rights Program.

<sup>2</sup> According to a national poll conducted by the Opportunity Agenda, Americans care deeply about human rights here at home and consider human rights to be crucial to our national identity. Opportunity Agenda, *Human Rights in the U.S.: Opinion Research with Advocates, Journalists, and the General Public* (Aug. 2007), available at [http://opportunityagenda.org/files/field\\_file/Human%20Rights%20Report%20-%202007%20public%20opinion.pdf](http://opportunityagenda.org/files/field_file/Human%20Rights%20Report%20-%202007%20public%20opinion.pdf).

<sup>3</sup> CEDAW Committee General Recommendation 19, ¶ 7 (“Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international

Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) has encouraged countries to act to end violence against women through civil and criminal penalties for perpetrators, and assistance to victims such as shelters and counseling.<sup>4</sup> These recommendations reflect the values motivating the U.S. Violence Against Women Act (VAWA) as well laws in all fifty states outlawing violence against women and provide a range of protections and services to battered women.

- ***CEDAW condemns the trafficking of women:*** Worldwide, approximately 12.3 million adults and children are suffering in forced labor, bonded labor, and forced prostitution.<sup>5</sup> One important goal of CEDAW is to “suppress all forms of traffic in women and exploitation of prostitution of women.”<sup>6</sup> Like the U.S. State Department’s Office to Monitor and Combat Trafficking in Persons, the CEDAW Committee identifies States serving as countries of origin, transit, and destination for trafficked women and girls, and encourages the strengthening of efforts to combat and prevent trafficking.<sup>7</sup> CEDAW’s strong stance against trafficking mirrors the U.S. Trafficking Victims Protection Act,<sup>8</sup> which provides stiff penalties for traffickers and assists and protects victims.<sup>9</sup>
- ***CEDAW promotes equal educational opportunity:*** Nearly two-thirds of the world’s illiterate adults are women, and two-thirds of its unschooled children are girls.<sup>10</sup> CEDAW promotes equal educational opportunity and access to learning resources for women and girls at all levels, from preschool to professional training. CEDAW’s focus on education is consistent with the high value Americans place on learning, as well as our recognition of the key role played by public education in allowing all young people to achieve the American dream. Here in the U.S., long-

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law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention.”). *See also id.* ¶¶ 7(b) 11, 20, 22.

<sup>4</sup> CEDAW Committee General Recommendation 19, ¶¶ 9, 24; Jan Arno Hessbruegge, *Human Rights Violations Arising From Conduct of Non-State Actors*, 11 BUFF. HUM. RTS. L. REV. 21, 81 (2005).

<sup>5</sup> Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report 2010* 7 (U.S. Department of State 2010) available at <http://www.state.gov/g/tip/rls/tiprpt/2010>.

<sup>6</sup> CEDAW, Art. 6.

<sup>7</sup> Burundi, ¶¶ 27-28, U.N. Doc. CEDAW/C/BDI/CO/4 (2008); Finland, ¶¶ 17-18, U.N. Doc. CEDAW/C/FIN/CO/6 (2008); Luxembourg, ¶¶ 31-32, U.N. Doc. CEDAW/C/LUX/CO/5 (2008); Nigeria, ¶¶ 35-36, U.N. Doc. CEDAW/C/NGA/CO/6 (2008); Saudi Arabia, ¶¶ 23-24, U.N. Doc. CEDAW/C/SAU/CO/2 (2008).

<sup>8</sup> 22 U.S.C. § 7101 et seq. (2000).

<sup>9</sup> *Id.*

<sup>10</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO), *Gender and Education for All: The Leap to Equality* (2003) 88, 129 available at <http://unesdoc.unesco.org/images/0013/001325/132513e.pdf>.

standing federal and state laws require equal access to educational institutions and opportunities for boys and girls alike.<sup>11</sup>

- ***CEDAW promotes equal access to essential health care services:*** CEDAW seeks to end discrimination against women in health care, and to encourage the provision of prenatal and obstetrical care to all who need it.<sup>12</sup> CEDAW seeks to improve women’s health throughout their life spans, from birth to old age. CEDAW’s focus on health is fully in line with the value placed on promoting women’s health in the United States. For example, U.S. law prohibits sex discrimination in federally funded health care services,<sup>13</sup> and the U.S. National Institute of Health has worked to ensure that women, as well as men, are included in clinical research studies.<sup>14</sup>

It is little wonder that CEDAW’s provisions are so in line with American values, because the United States played an important role in drafting CEDAW prior to its adoption by the United Nations in 1979. In the intervening decades, 186 other nations – almost all the countries of the world – have ratified CEDAW, but the U.S. has not done so. In September 1995, at the historic United Nations Conference on Women in Beijing, the U.S. made a public commitment to ratify CEDAW. The U.S. should make good on this commitment, join the rest of the global community, and affirm the principles of fundamental human rights and equality for women and girls, by ratifying CEDAW.<sup>15</sup>

## **II. Serving American Interests Through CEDAW**

United States ratification of CEDAW would formally reclaim for the U.S. the status of global defender of the rights of women. The benefits of ratification to the U.S. are many. Formally embracing the internationally accepted minimum standards pertaining to women’s human rights would send a powerful message to the rest of the world that the U.S. stands behind its commitment to providing equal opportunity for all – a commitment that is part of our Constitution and laws. It would instantly strengthen the credibility of U.S. criticism of women’s rights abuses in other nations.

Ratification would also entitle the U.S. to participate in the CEDAW Committee, the body charged with monitoring its implementation and advising countries on measures to ensure greater treaty compliance. The U.S. could thereby contribute its unique

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<sup>11</sup> See e.g. U.S. Const. Amend. XIV (Equal Protection Clause); Title IX, 20 U.S.C. § 1681(a) (“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...”).

<sup>12</sup> CEDAW, Article 12.

<sup>13</sup> Affordable Care Act, 42 U.S.C. § 18116.

<sup>14</sup> 42 U.S.C. § 289a-2; see also Office of Research on Women’s Health, Inclusion of Women in Research, available at <http://orwh.od.nih.gov/inclusion.html>.

<sup>15</sup> As set forth in the ACLU’s prior testimony before this body regarding U.S. treaty ratification practices, the adoption of extensive reservations, understandings, and declarations concurrent with ratification may undermine treaty objectives; ratification absent such qualifications is therefore preferred. See American Civil Liberties Union, Testimony Before the U.S. Senate Committee on the Judiciary Subcommittee on Human Rights and the Law, submitted December 16, 2009.

experience, gleaned from its long and successful history of battling sex discrimination, to the developing international expertise on the achievement of gender equality. As a member, the U.S. could participate in the monitoring of individual States' efforts to eliminate discrimination, and the formulation of recommendations conducive to positive change. Additionally, CEDAW ratification would permit the U.S. to have a hand in selecting Committee members, and in this way also shape the Committee's recommendations.

Conversely, participation in the CEDAW process would also create an opportunity for the U.S. to benefit from open dialogue and the exchange of ideas between countries and the CEDAW Committee. Committee members are independent experts in human rights recognized for their knowledge and experience. The Committee's nonbinding observations and recommendations help countries to assess their progress toward full realization of women's human rights and to identify possible means – within the parameters of their existing legal regimes – of accelerating their progress toward that goal. As the Committee lacks the authority to enforce its recommendations, it would be up to our own domestic legal and political mechanisms to determine which, if any, measures are appropriate at any given time.<sup>16</sup> Moreover, as many have observed, the U.S., with its strong Constitutional protections and anti-discrimination statutes, is already in substantial compliance with CEDAW's terms.

But we must not forget that women in the U.S. also face challenges, despite the great advancement that has been made towards full equality. For example, intimate partner violence, sexual assault, and harassment are continuing problems, and maternal mortality in the U.S. remains high in comparison to countries we consider our peers. In the workplace, women continue to experience violence and harassment, and a wage gap persists between men and women workers. The many challenges faced by women are even more pronounced for women of color and immigrant women. CEDAW offers a way of looking anew at these challenges.

Additionally, ratification of CEDAW is in America's own best interests. Participation in CEDAW by the United States would contribute to the amelioration of some of the most urgent violations of women's human rights around the world. Empowerment of women, in turn, leads to more prosperous, stable, and peaceful societies. Within the U.S., active and expressed support for international human rights by the United States government further legitimizes and otherwise strengthens the values of civil liberties, and human and civil rights here at home. As Secretary of State Hillary Clinton noted, "Going forward, capitalizing on America's unique strengths, we must advance [these] interests through partnership, and promote universal values through the power of our example and the empowerment of people. In this way, we can forge the global consensus required to defeat the threats, manage the dangers, and seize the opportunities of the 21<sup>st</sup> century."<sup>17</sup>

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<sup>16</sup> This format is the same as that governing the treaty monitoring bodies of the International Convention on Civil and Political Rights, the Convention Against Torture, and the Convention on the Elimination of All Forms of Racial Discrimination, all of which the U.S. has ratified.

<sup>17</sup> Secretary of State Hillary Rodham Clinton, Foreign Policy Address at the Council on Foreign Relations (Jul. 15, 2009), *available at* <http://www.state.gov/secretary/rm/2009a/july/126071.htm>.

### **III. Continuing Our Heritage Of International Engagement**

CEDAW ratification would open yet another chapter of our nation's long-standing history of international engagement and leadership. Over sixty years ago, the United States led the movement that gave rise to the Universal Declaration of Human Rights (UDHR). Former first lady Eleanor Roosevelt, who headed the U.S. delegation to the United Nations Commission on Human Rights in the 1940s, called the UDHR "the Magna Carta for humanity." This landmark document was modeled after the U.S. Bill of Rights. The UDHR's passage brought about worldwide awareness of the basic rights and protections to which all human beings, everywhere, are entitled.

Our domestic civil rights movement also inspired other nations and new democracies to work for greater human rights protections for all. At the same time, the fundamental importance of promoting human rights was endorsed by civil rights leaders such as W.E.B. Du Bois and Dr. Martin Luther King Jr. ACLU founder Roger Baldwin eloquently explained the convergence between American democracy and the international human rights movement in his testimony to Congress three decades ago:

You may ask...why a national organization, such as the American Civil Liberties Union, undertakes to support these international efforts. We do it because we think our own rights and liberties will be more secure if they are part of a legal system which binds other nations as well as ours; also because we think we can contribute to the operation of these instruments the long and successful experience of the United States....

The United States has been a leader in this movement in the United Nations and in the world. We are morally, if not legally, committed to this movement. Today our leadership should lead us to take the next step.

Law will give us the opportunity to influence other nations. It will give us fora...in which we can confront our opponents and hopefully prevail with the intentions that have made the United States a leader in the world in the field of human rights.

Since that time, the U.S. has continued to play a leadership role in promoting human rights abroad. Human rights are – rightly – a thoroughly bipartisan concern. Presidents Carter, Reagan, Bush, Clinton, and congressional leaders from both sides of the aisle championed the ratification of important international agreements seeking to end torture, genocide, and racial discrimination. The United States is currently a party to a wide range of human rights treaties and protocols, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Genocide Convention, the Protocol Relating to the Status of Refugees, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

Most recently, President Obama has led us through the important steps of joining the U.N. Human Rights Council and signing the Convention on the Rights of Persons with Disabilities (CRPD). President Obama's administration has also committed to ratifying CEDAW, a commitment reiterated just this month in the U.S. presentation on its Universal Periodic Report to the Human Rights Council in Geneva. At that convening, twenty-seven nations called on the United States to ratify CEDAW, including close allies and democratic nations such as Canada, Japan, India, Spain, France, Indonesia, Turkey, Costa Rica, Australia, Ghana and New Zealand.<sup>18</sup>

Human rights treaties are by no means the only international instruments adopted by the United States. The U.S. is currently party to over 10,000 treaties of all kinds which facilitate our nation's full participation in the international community while leaving intact our sovereignty. Indeed, the Supreme Court has recognized the supremacy of our Constitution over any and all treaties, and it is U.S. courts, not any international body, that have exclusive authority and jurisdiction to interpret U.S. treaty obligations.

In short, ratifying the most comprehensive women's rights treaty in existence will only strengthen our democracy, and should be viewed within the framework of our proud history of participation in international life, and in particular our leadership through the power of example in the area of international human rights. Ratifying CEDAW would continue this longstanding American tradition.

#### **IV. Conclusion**

The women's human rights treaty is a reflection of the history and values of the United States. There is much to gain, and nothing to lose, by ratifying a document embodying the equality principles enthroned in the Bill of Rights as well as federal and state civil rights laws. Ratification of CEDAW would, moreover, enhance our standing in the world as a protector of women's human rights. With millions of women throughout the world enduring daily exploitation and discrimination, we cannot afford *not* to be a part of CEDAW. The ACLU therefore urges the ratification of CEDAW as soon as practicable. Ratification would represent an important reaffirmation of our nation's commitment to the human rights of women, and a momentous step forward for women around the world.

We would be pleased to answer any questions the Subcommittee may have about the ACLU's position on CEDAW. Please do not hesitate to contact Vania Leveille, legislative counsel in the Washington Legislative Office, at 202 715-0806 or [vleveille@dcaclu.org](mailto:vleveille@dcaclu.org).

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<sup>18</sup> Human Rights Council, U.N. General Assembly, Draft Report of the Working Group on the Universal Periodic Review: United States of America (2010) *available at* [http://lib.ohchr.org/HRBodies/UPR/Documents/session9/US/A\\_HRC\\_WG.6\\_9\\_L.9\\_USA.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/session9/US/A_HRC_WG.6_9_L.9_USA.pdf).