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The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the UN General Assembly in 1979, articulates what has now become a global norm. CEDAW establishes the moral, civic, and political equality of women; women’s right to be free from discrimination and violence; and the responsibility of governments to take positive action to achieve these goals. The treaty reflects consensus among scores of countries and cultures on a comprehensive framework for the advancement and protection of women’s rights. As of 2012, 187 countries have ratified the treaty (United Nations 2013c). Of all the United Nations (UN) treaties, only the Convention on the Rights of the Child (CRC) boasts more signatories (United Nations 2013c). Seven member-states of the UN have yet to ratify CEDAW: Iran, Palau, Somalia, Sudan, South Sudan, Tonga – and the United States. Why hasn’t the United States ratified CEDAW? How can we account for opposition from the most powerful actor in the international system given the almost universal global endorsement of this treaty and the crucial role the United States played in drafting it?

On one hand, the reason the United States has not ratified CEDAW is simple: CEDAW has been unable to garner votes from the sixty-seven senators necessary to ratify it. According to the U.S. Constitution, ratification of CEDAW, like all treaties, requires support from the president and the vote of two-thirds of the Senate. This is a high threshold for approval. It is more difficult to ratify treaties in the United States than in almost any other country in the world.
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On the other hand, the failure of the United States to ratify CEDAW is not for lack of effort. Few Americans have heard of CEDAW, but advocates of women’s rights have worked assiduously to get the Senate to ratify it for the past twenty-five years. The Senate has held hearings on CEDAW ratification five times since 1988. Moreover, the high threshold for treaty ratification in the United States is not an impossible bar to clear. The ratification of four other human rights treaties at the end of the Cold War – the Convention on the Prevention and Punishment of the Crime of Genocide in 1988, the International Covenant on Civil and Political Rights (ICCPR) in 1992, and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), both in 1994 – has kept the CEDAW ratification debate alive.

To illustrate the complex reasons the United States has not ratified CEDAW, consider the debate that emerged in the context of a Senate hearing on ratification in 2010. The mobilization of women’s organizations prior to the hearing and the testimony offered for and against CEDAW during the hearing reveal a couple of arguments:

- CEDAW is a deeply partisan issue: Democrats support ratification and Republicans oppose it. Women’s organizations in the United States also disagree about CEDAW.
- Geopolitical factors shape the prospects for U.S. support for ratification.
- The pro and con sides do not agree about how international human rights treaties work or what effect they will have.

As this book will show, these themes complicate the issue of CEDAW ratification and have characterized debates about global women’s rights in the United States since the founding of the UN in 1945.

The election of Barack Obama to the presidency in 2008 raised people’s expectations about the ratification of CEDAW. President Obama supported CEDAW ratification and explicitly affirmed his support in an interview in the White House on June 1, 2010. Many of

1 Racheal Nakitare, senior producer at Kenya Broadcasting Corporation (KBC-TV), conducted the interview and asked President Obama why the United States has not ratified CEDAW. Obama responded: “Well, keep in mind that if it were simply up to me, it would already have been ratified. I’m a strong supporter of it. It is currently
the people in Obama’s first administration were longtime advocates of CEDAW, including Vice President Joseph Biden, Secretary of State Hillary Clinton, and State Department Legal Advisor Harold Koh. On November 10, 2010, Clinton affirmed that “this treaty is a priority of the Obama Administration … we want to move this treaty forward. We cannot wait any longer to try to put it to a vote” (You Tube 2010). With a Democratic president in office and a Democratic majority in the Senate, ratification seemed guaranteed.

CEDAW advocates leaped into action to mobilize support for ratification. The Leadership Conference on Civil and Human Rights created a CEDAW Task Force that brings together 186 organizations, including most of the leading progressive organizations in the United States – the American Bar Association, the American Civil Liberties Union, Amnesty International, the American Association of University Women, Feminist Majority, Hadassah, the League of Women Voters, the National Organization for Women, the National Association for the Advancement of Colored People (NAACP), the YWCA, and Zonta International, to name just a few. The coalition created a website that prominently features a video clip of President Obama asserting his support for CEDAW (You Tube 2010). The words “equality,” “empowerment,” “economic development,” “ending violence,” “education,” and “employment” float across the banner of the website. The headline of the website reads, “Support CEDAW. Because Women’s Rights are Human Rights,” and is accompanied by the following text:

CEDAW … is a landmark international agreement that affirms principles of fundamental human rights and equality for women around the world. CEDAW strengthens the United States as a global leader in standing up for the rights of women and girls in countries around the world. This international treaty offers countries a practical blueprint to achieve progress for women and girls by calling on each ratifying country to overcome barriers of discrimination. Ratifying the CEDAW treaty would continue America’s proud bipartisan tradition of promoting and protecting human rights. (www.cedaw2010.org)

The focus is on how CEDAW has improved women’s rights in other countries. Clicking on the sidebar “CEDAW Works” takes you to a
series of video clips of feminist activists from Brazil, Fiji, Gambia, Nigeria, and Senegal speaking about the impact of CEDAW in their countries. A section titled “What’s In It for the US” describes issues that American women face:

American women enjoy opportunities and status not available to most of the world’s women. But few would dispute that more progress is needed in certain areas, such as ending domestic violence and closing the pay gap. Ratifying CEDAW would not result in any automatic changes to U.S. law. Instead, CEDAW provides a practical blueprint to achieve progress for women and girls and an opportunity for policymakers and advocates to work together on how best to end discrimination and ensure women’s full equality. (www.cedaw2010.org)

This broad coalition of organizations that support ratification of CEDAW thus makes two main points. First, CEDAW is not an urgent need for American women. Existing laws and policies in the United States already offer women adequate protection against discrimination and guarantee basic legal equality. Nevertheless, things could be better – and ratification of CEDAW would provide the necessary next step to achieving more progress. Second, ratification of CEDAW would enhance the American position as a global leader on the issue of women’s rights by sending a signal of stronger U.S. commitment to women’s rights to the international community. CEDAW would further enhance American efforts to strengthen the rights of women in other countries, which is already a central component of U.S. foreign policy.

Obama’s election and the increased probability of passing CEDAW also rallied CEDAW opponents. Concerned Women for America, an evangelical Christian women’s organization that seeks “to bring Biblical principles into all levels of public policy,” revitalized its long-standing campaign against CEDAW (Concerned Women for America 2013). It created an anti-CEDAW website, “Save Mother’s Day: A Campaign to Educate America about the Dangers of CEDAW” (www.savemothersday.com), to warn about the dramatic impact that CEDAW would have on daily life: “This treaty would detrimentally intrude on Americans’ personal decisions, invite frivolous lawsuits and violate national sovereignty. It could impact every aspect of life and place Americans under the supervision of a U.N. committee of ‘gender experts’” (Concerned Women for America 2010). The text on the front page of the site asks “Who Hates Mother’s Day?” The answer
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is CEDAW: “The U.N.’s CEDAW Committee has already told other countries to stop the celebration [of Mother’s Day]. Why? Because, in their twisted opinion, Mother’s Day fosters violence against women” (Concerned Women for America 2010). CWA’s focus on Mother’s Day derives from a statement that the committee overseeing implementation of CEDAW made to the delegation from Belarus on January 31, 2000. According to the CWA, “The CEDAW Committee criticized Belarus for ‘the continuing prevalence of sex-role stereotypes, as also exemplified by the reintroduction of such symbols as a Mother’s Day and a Mothers’ Award, which [the Committee] sees as encouraging women’s traditional roles’” (Wright 2002). CEDAW opponents cite this point about Mother’s Day frequently.2

The Save Mother’s Day website warns that CEDAW is a “hidden weapon” wielded by “radical feminists” who have failed to achieve their goals through the domestic political process. CEDAW would give “radical feminists” free reign to impose their agenda on an unsuspecting American public. From the perspective of opponents, ratification of CEDAW would have a clear and direct effect on domestic public policy. As the website declares, “CEDAW will pressure us to decriminalize prostitution, put infants in government day care, revise our textbooks to reflect non-stereotypical gender roles, criticize the influence of religion on our society, and – unbelievably – to stop celebrating Mother’s Day” (Concerned Women for America 2010).

The U.S. Senate did move on the issue of CEDAW ratification, but not as quickly or as decisively as supporters had hoped. On November 18, 2010, the Senate Judiciary Subcommittee on Human Rights and International Affairs held a hearing on CEDAW ratification. The fact that this committee held the hearing, and not the Committee on Foreign Relations, signified that the Senate was unlikely to take action on CEDAW; only the Committee on Foreign Relations has jurisdiction over treaties. Nonetheless, Senator Richard Durbin, a Democrat from Illinois and chair of the Human Rights Subcommittee, used the hearing to make a strong case for CEDAW ratification. The audience for the hearing was so large that its start had to be delayed until a larger

2 What CWA does not mention is that the committee made this statement in the context of concerns about the degree to which government policy “creates further obstacles to women’s participation in the labour market” (Committee on the Elimination of Discrimination against Women 2000).
committee room could be procured. It included five witnesses who spoke in favor of U.S. ratification and only one who spoke against. On the “pro” side were Melanne Verveer, ambassador-at-large for the Office of Global Women’s Issues in the Department of State; Marcia D. Greenberger, copresident of the National Women’s Law Center; Samuel R. Bagenstos, deputy assistant attorney general for the Civil Rights Division of the Department of Justice; Wazma Frogh, leader of an Afghan women’s group; and Geena Davis, actress and founder of the Geena Davis Institute on Gender in Media. Steven Groves, a research fellow from the Heritage Foundation, a conservative think tank, was the only witness to speak against CEDAW.

During the hearing, the CEDAW proponents consistently emphasized the foreign policy benefits and negligible domestic costs of ratification. They maintained that CEDAW would have little or no impact at home because American women already enjoy all the rights it guarantees; existing law already protects American women from discrimination. In Senator Durbin’s words, “Let’s be clear. The United States does not need to ratify CEDAW to protect the rights of American women and girls” (U.S. Senate 2010). Deputy Assistant Attorney General Bagenstos’s testimony outlined in impressive detail the degree to which “our existing laws and practices are broadly consistent with the requirements of CEDAW” and how women’s rights are protected by the numerous Supreme Court decisions, laws, and programs that enforce those laws (U.S. Senate 2010).

CEDAW proponents maintained that CEDAW would strengthen U.S. foreign policy and bolster U.S. efforts to help women around the world. From this perspective, failure to ratify CEDAW harms our ability to have a positive influence on women’s rights elsewhere in the world. Senator Durbin emphasized this point repeatedly in his opening statement during the 2010 hearing:

Why is CEDAW needed? Because the human rights of women and girls are violated at an alarming rate all over the world. So why should the United States ratify CEDAW? Because CEDAW will enhance our ability to advocate for women and girls around the world. Throughout our history, the United States has done more to advance human rights than any other country in the world. But now some are questioning our commitment to women’s rights because we have failed to ratify CEDAW. Yesterday I received a letter from retired Justice Sandra Day O’Connor [who] supports ratifying CEDAW and here is what
she says: “The Senate’s failure to ratify CEDAW gives other countries a retort when U.S. officials raise issues about the treatment of women, and thus our non-ratification may hamper the effectiveness of the United States in achieving increased protection for women worldwide.” (U.S. Senate 2010)

Marcia Greenberger’s comments echoed Durbin’s:

By ratifying CEDAW, almost every other country in the world has affirmed the importance of progress for women and girls and agreed to work to achieve that end. That the U.S. has not done so is deeply unfortunate. It fails to reflect our country’s proud tradition of leadership on women’s rights. It has denied women and girls around the world U.S. leadership on the implementation of CEDAW, and it has denied women and girls in our own country the benefits of important lessons that could be learned about effective strategies and programs adopted in other countries around the world. Simply put, U.S. ratification of CEDAW will strengthen our longstanding role as a global leader standing up for women’s rights and human rights…. Women and girls are crying out for the United States’ assistance. (U.S. Senate 2010)

Melanne Verveer also emphasized the costs to U.S. foreign policy:

Some governments use the fact that the U.S. has not ratified the treaty as a pretext for not living up to their own obligations under it. Our failure to ratify also deprives us of a powerful tool to combat discrimination against women around the world, because as a non-party, it makes it more difficult for us to press other parties to live up to their commitments under the treaty. (U.S. Senate 2010)

These statements reflect the view that the United States will reap foreign policy benefits from ratifying CEDAW: the United States will further strengthen its already strong record of support for women’s rights in other countries.

In discussing the impact that U.S. ratification would have, CEDAW advocates cited examples of how the treaty has been employed in other countries. Greenberger, for example, reported that “Mexico pointed to CEDAW in creating the Mexican General Law on Women’s Access to a Life Free from Violence in 2007, which today has been adopted by all of Mexico’s 32 states” (U.S. Senate 2010). She also cited examples of how CEDAW shaped policy in Bangladesh, Colombia, Nepal, Hungary, and Sierra Leone. Verveer explained how the Ugandan women’s movement “rel[jed] on both the Women’s Treaty and national legislation to pursue land ownership rights and challenge customary land tenure
practices” (U.S. Senate 2010). The decision to invite Wazma Frogh to testify further underscores supporters’ efforts to highlight the benefits that CEDAW has generated for women in other countries. During her testimony, Frogh reported that Afghan feminists have used CEDAW to promote constitutional reform, draft violence-against-women legislation, and create public education forums during Friday prayers. Frogh took this argument a step further by arguing that U.S. failure to ratify CEDAW harms Afghan women:

> While the U.S. government has many significant domestic measures to address gender inequality, its failure to ratify CEDAW is of huge international significance. Even in Afghanistan, thousands of miles away, conservative elements try to use America’s failure to ratify CEDAW to attack women’s rights defenders. In all of our efforts, they constantly ask us “Why hasn’t the United States ratified CEDAW?” They say that if [the] United States believes in women’s rights as a universal right, why haven’t they signed on to CEDAW? (U.S. Senate 2010)

The decision to present CEDAW as a treaty that will enhance U.S. foreign women’s rights policy but have little effect on domestic women’s rights policy reflects a rhetorical strategy that proponents of human rights treaties (not just CEDAW) have deployed since the founding of the UN in 1945. This view portrays the rights guaranteed by UN treaties as redundant to existing domestic policy in the United States. This perspective presents the United States as supporting treaty ratification as a way to consolidate its already dominant position as a global human rights leader. Finally, this view depicts U.S. ratification as a magnanimous gesture of commitment to promoting the rights of people living in other countries. Although the United States has ratified four of the world’s core human rights treaties – the Genocide Convention, International Covenant on Civil and Political Rights, Convention Against Torture, and Convention on the Elimination of All Forms of Racial Discrimination – it has attached reservations to those treaties that limit the degree to which their provisions apply to domestic legislation and policy.

Steven Groves, the Bernard and Barbara Lomas Fellow at the Heritage Foundation, was the lone voice speaking against ratification of CEDAW at the 2010 hearing. Groves’s testimony did not share the feverish tone of the Save Mothers’ Day website; his analysis was more subtle. He began by acknowledging the strong state of women’s
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rights policy in the United States and asserting that the United States has sufficient “avenues of enforcement” to prevent discrimination against women, echoing Bagenstos’s testimony. Groves acknowledged that “some of this federal legislation remains controversial and will continue to be debated in Congress and litigated in U.S. courts,” but argued that the differences should be adjudicated through the American political process “rather than through the judgment of gender experts sitting on the CEDAW Committee who may possess inadequate specific knowledge or understanding of U.S. laws and practices” (U.S. Senate 2010). The CEDAW Committee is the panel of twenty-three experts that oversees implementation of CEDAW. Despite Groves’s sober assessment, his comments nonetheless betrayed the sense that CEDAW would have a dramatic impact on domestic policy and that ratification would entail high costs for the United States: “The CEDAW Committee has for 30 years established a consistent record of promoting gender-related policies that do not comport with existing American legal and cultural norms and has encouraged the national governments of CEDAW members to engage in social engineering on a massive scale” (U.S. Senate 2010).

The 2010 hearing on CEDAW provides a clear overview of some of the most important issues surrounding ratification. The CEDAW question sharply divides women’s organizations, with progressive, feminist groups supporting ratification and conservative and evangelical organizations fiercely opposing it. The two sides disagree about the impact that CEDAW would have in the United States. Women’s rights organizations focus on the foreign policy benefits, whereas opponents highlight effects on women at home. The former describe CEDAW in somewhat neutral terms as a blueprint for change; the latter portray it as a powerful institution capable of imposing policy on ratifying countries. The partisan nature of the ratification question is evident in the absence of Republican politicians at the hearing. The testimony of the hearing offers some clues about the way in which geopolitical factors shape the prospects for U.S. ratification. Democrats have sought to frame the issue in terms of the U.S. war in Afghanistan in the hopes of building a broader coalition of support among Republicans who supported that war as an effort to liberate Afghan women from the fundamentalist rule of the Taliban. Finally, the rhetoric of conservative women’s organizations is silent about the impact of CEDAW on
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women in foreign countries, language that masks their deep involvement in efforts to change policy toward women in international institutions. These themes appear throughout the history of CEDAW and this book.

In the sections that follow, I discuss the theoretical considerations behind the three questions that motivate the three distinct parts of this book: how women’s rights came to constitute a global norm, how that norm is put into practice through CEDAW, and why the United States remains immune to diffusion of that norm.

Establishing a Global Norm: The Feminist Empowerment Thesis

CEDAW defines what has become a global norm on women’s rights. Its power as a norm derives from the large number of countries that have ratified it and participate regularly in the reporting process. How did women’s rights come to be a global norm? Existing accounts of the history of global feminism tend to reflect what I call the “feminist empowerment thesis.” From this perspective, over the twentieth and twenty-first centuries, women progressed from less to more power. As women gained political experience and a clearer understanding of their status, they began to mobilize collectively on the basis of their shared gender identity and to demand equal rights with ever-greater temerity. This apparent evolution from powerlessness to empowerment focuses on women’s agency and reflects feminist ideology. This perspective characterizes many accounts of the status of women’s issues within the UN. According to this line of argument, women’s issues were not a high priority for the UN and programs had little effect on the actual status of women prior to the 1970s. As historian Judith Zinsser states, “From its founding until 1975 and the declaration of the International Women’s Year (IWY), the United Nations did little to advance the cause of women’s rights” (Zinsser 2002, 139). Over time, women moved from the margins to the center. By 1985, women “used the United Nations to speak with new assurance and to assert their rights, opportunities and responsibilities as ‘equal partners with men,’” demanding equality with greater confidence (Zinsser 2002, 144). Scholar Margaret Galey