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# **CHALLENGING DIVINE PATRIARCHY: IMPACT OF RELIGIOUS FUNDAMENTALISM ON CEDAW IMPLEMENTATION AND THE FEMINIST RESPONSE TO GENDER INEQUALITY**

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The argument for U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) appears to rest on several flawed premises. First, the claim that CEDAW is an "important priority" for promoting and defending women's rights globally ignores the fact that many of its signatories have appalling records on gender equality. It is difficult to see how the U.S. adding its name to this list of signatories, which includes countries like Iran, Sudan, and Somalia, could significantly advance the cause of women's rights or enhance the legitimacy of an already compromised treaty. Moreover, supporters of ratification, such as Ambassador Melanne Verveer, argue that U.S. ratification would empower women globally and give CEDAW added legitimacy. This perspective appears overly optimistic and naive. CEDAW's effectiveness as a mechanism for combating discrimination against women is questionable, given that it has been ratified by countries with some of the worst records on women's rights. If the Convention has failed to make meaningful changes in these countries, there is little reason to believe that U.S. ratification would magically transform its impact. The argument that U.S. ratification of CEDAW would serve as a strong statement of American commitment to human rights and gender equality is also problematic. The United States has a long and well-established history of promoting women's rights and gender equality, both domestically and internationally. This is not dependent on whether it ratifies an international treaty that, so far, has proven ineffective in many of the countries that have ratified it. The suggestion that U.S. credibility on women's rights hinges on ratifying CEDAW diminishes the significance of the nation's existing legal framework and policies that already promote gender equality and protect women's rights. Additionally, there are legitimate concerns regarding CEDAW's potential impact on U.S. sovereignty and domestic laws. The vagueness of the treaty's language, particularly in areas related to education, healthcare, and family structure, opens the door to interpretations that could conflict with U.S. laws and cultural

norms. The potential for international oversight of U.S. policies, as implied by the CEDAW Committee's monitoring role, raises serious questions about the extent to which U.S. sovereignty could be compromised. Finally, the emotional appeal made by former Assistant Secretary of State for Human Rights, who questions why his daughter is not protected by CEDAW in the U.S., is misleading. The United States has robust protections for women's rights that far exceed those in many countries that have ratified CEDAW. Suggesting that U.S. ratification is necessary for his daughter's protection disregards the comprehensive legal and social frameworks already in place that ensure gender equality and protect women's rights in the United States. In conclusion, the push for U.S. ratification of CEDAW seems more symbolic than substantive, overshadowed by concerns about effectiveness, sovereignty, and the existing U.S. commitment to gender equality. Rather than aligning with countries with questionable human rights records, the U.S. would be better served by continuing to lead by example, without compromising its legal autonomy and existing standards for women's rights. The debate over U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) revolves around its potential impact on the country's global standing and influence on women's rights. Proponents argue that ratifying CEDAW would bolster the U.S.'s credibility in advocating for women's rights internationally, as non-ratification is seen as a lack of commitment, undermining its moral authority and ability to lead on this issue. They suggest that U.S. participation in the CEDAW Committee could provide a platform to share its expertise in combating gender discrimination and enhance its influence in international forums. Critics, however, assert that the U.S. is already a global leader in promoting women's rights and that ratifying CEDAW is unnecessary. They argue that U.S. laws and policies already exemplify a strong commitment to gender equality, and that international treaties like CEDAW are more relevant for countries with weaker human rights records. Furthermore, critics fear that U.S. ratification could expose the country to unfounded political criticism and that the treaty's impact on other countries would be limited without genuine commitment from their governments. The critique highlights a fundamental difference in perspectives: whether U.S. ratification would significantly enhance its international influence on women's rights or if it would merely serve as a symbolic gesture without practical benefits. Proponents see ratification as a strategic move to strengthen global advocacy, while critics view it as redundant and potentially counterproductive. The U.S. has debated ratifying the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) since President Jimmy Carter signed it in 1980. Despite multiple hearings by the Senate Committee on Foreign Relations and favorable reports in 1994 and 2002, the full Senate has

never voted on the treaty. The Obama Administration, like the Clinton Administration before it, supported ratification but faced opposition in the Senate. Critics argue that ratification could undermine U.S. sovereignty and question the treaty's effectiveness, pointing out that countries with poor women's rights records, like China and Saudi Arabia, have ratified it. Supporters believe U.S. ratification would bolster CEDAW's legitimacy and empower global efforts to combat discrimination against women. Other non-parties to the treaty include Iran, Nauru, Palau, Somalia, Sudan, and Tonga. The argument for U.S. ratification of CEDAW emphasizes that the U.S. should not align itself with countries like Afghanistan, Iran, Sudan, and Syria, where human rights and women's rights are severely restricted. Ratification would affirm the U.S.'s commitment to equality and human rights, a principle the nation has long championed. In advocating for CEDAW ratification, it is highlighted that promoting human rights should transcend partisan politics, especially in a global context that requires international cooperation. Several fallacies against CEDAW ratification are addressed:

1. **Abortion Rights:** The claim that CEDAW supports abortion rights is incorrect; the treaty promotes access to "family planning" but does not advocate for abortion.
2. **Redefinition of Gender Roles:** The assertion that CEDAW would undermine the American family by altering traditional gender roles is unfounded; the treaty does not enforce such changes.
3. **Decriminalization of Prostitution:** The suggestion that CEDAW would require decriminalization of prostitution is false; the treaty does not mandate this.
4. **Single-Sex Education:** The belief that CEDAW would outlaw single-sex education and mandate censorship of school textbooks is incorrect; there is no requirement in the treaty for abolishing single-sex education.
5. **Same-Sex Marriage:** The concern that CEDAW would require the legalization of same-sex marriage is unsubstantiated; the treaty contains no such mandate.
6. **National Sovereignty:** The fear that CEDAW would undermine U.S. sovereignty and state rights is overstated, as the treaty largely aligns with existing U.S. laws, making conflicts unlikely.

The summary refutes these misconceptions and argues that CEDAW ratification would enhance the U.S.'s role as a leader in human rights.

Opponents of CEDAW are concerned that U.S. ratification might undermine U.S. privacy laws and family structures, particularly by imposing predefined values on family roles and responsibilities. Critics argue that provisions like Article 5(a), which calls for modifying social

and cultural patterns to eliminate gender stereotypes, could interfere with traditional family roles and cultural or religious beliefs. They worry that such language might compel families to adhere to external standards that conflict with national laws and personal convictions.

CEDAW proponents counter that the treaty does not mandate specific actions or redefinitions of gender roles; instead, it asks States Parties to take "appropriate measures," allowing governments flexibility based on their laws and policies. They argue that Article 5 focuses on addressing stereotypes that contribute to violence against women and does not impose rigid gender roles. Proponents also clarify that concerns about CEDAW redefining women's roles, such as the Committee's recommendation to Belarus regarding Mother's Day, are based on misunderstandings. The Committee's comment was context-specific, addressing the limited scope of recognizing women's roles only in traditional contexts without addressing broader issues.

Additionally, some opponents fear that CEDAW could undermine parental rights by interpreting Article 16(d) as giving the CEDAW Committee authority over decisions about children's best interests. Proponents argue that CEDAW supports parental roles and responsibilities, emphasizing shared parenting. They further note that the U.S. Constitution already limits government interference in private matters, including parenting, and thus CEDAW would not affect parental rights.

To address concerns about CEDAW's potential impact on private conduct, the Clinton Administration proposed a reservation in 1994, stating that the U.S. would not accept any obligation under CEDAW to regulate private conduct beyond what is required by the Constitution and U.S. law. While some CEDAW supporters objected to this reservation, viewing it as a lack of commitment, others see it as a necessary clarification to protect U.S. sovereignty and domestic practices.

A key issue in the debate over the U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is whether the Convention takes a stance on abortion or remains "abortion neutral." Proponents argue that CEDAW is neutral because the word "abortion" is not mentioned in its text. They also highlight that many countries with strict abortion laws have ratified CEDAW without reservations. However, opponents fear that certain articles, like Article 12(1) on health care access and Article 16(1)(e) on family planning,

could be interpreted to challenge U.S. abortion laws or mandate changes, such as abolishing parental notification laws or requiring federal funding for abortions.

The CEDAW Committee's recommendations on abortion have also been controversial. Critics argue that the Committee has implicitly supported abortion by recommending that countries amend laws criminalizing it or ensure access to it. Proponents counter that the Committee's recommendations are context-specific and aimed at reducing unsafe abortions, rather than promoting abortion as a method of family planning.

To address these concerns, the U.S. Senate Foreign Relations Committee (SFRC) included the "Helms Understanding" when it reported CEDAW favorably in 2002. This understanding clarifies that nothing in CEDAW should be construed as creating a right to abortion. While some pro-choice advocates were concerned about this inclusion, they acknowledged it could help facilitate U.S. ratification. However, some pro-life opponents felt that the understanding did not go far enough to protect U.S. abortion laws.

There are also concerns about CEDAW's references to family planning and potential implications for U.S. policies, such as mandatory sex education or the distribution of contraceptives. Supporters argue that CEDAW allows states to determine what constitutes "appropriate measures," emphasizing the Convention's flexibility. To alleviate concerns, the Clinton Administration proposed an understanding in 1994 stating that CEDAW permits countries to decide which family planning services are appropriate, further emphasizing this flexibility.

The debate over CEDAW has similarities to discussions on other international treaties, like the U.N. Convention on the Rights of the Child (CRC), which also raises concerns about sovereignty and potential impacts on U.S. laws and policies. However, unlike CEDAW, the CRC has not yet been transmitted to the Senate for consideration.