

**The Ratification Question: Why the United States Should Ratify the Convention of the
Rights for Persons with Disabilities**

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Abstract

The Convention of the Rights for Persons with Disabilities was one of the earliest products of multilateralism within the United Nations in the twenty-first century, led by the United States. However, since its creation in 2006, the United States has avoided ratifying the Convention. Under the Obama Administration, steps were taken to push for ratification by becoming a signatory to the treaty and a U.S. Senate Foreign Relations Committee recommending ratification. This paper will argue for the ratification of the Convention of the Rights for Persons with Disabilities. By ratifying the convention, the United States can garner further legitimacy within international law and multilateral institutions. Furthermore, the signal of ratification can help regain the United States leadership in human rights initiatives. In addition, ratification can help curb structural violence within the United States. Aside from providing assistance for people with disabilities, the convention's other statutes can curb corporal punishment within schools.

*What would I do if I could feel?
What would I do
If I could reach inside of me
And to know how it feels
To say I like what I see?
Then I'd be more than glad to share
All that I have inside of here.
And the songs my heart might bring
You'd be more than glad to sing.
And if tears should fall from my eyes
Just think of all the wounds they could mend.*

- The Tin Man from “The Wiz” (“What Would I Do If I Could Feel?”)

The Tin Man represents himself as a metaphor towards those who are deemed disabled because of their difference within society. He offers an interesting point of view of his inability to be similar to others due to his lack of a brain. The song he sings offers a deeper understanding for those who are unable to understand others because of his inability to comprehend. It further demonstrates the underlying depression caused by a lack of being similar to others. The violence disproportionately targeted towards disabled bodies can be witnessed by corporal punishment discipline policy. These inadequate policies caused the United States to be out of line within international standards and further destroy the United States’ credibility within international law formation. These inadequate policies, internationally and domestically, can be remedied by full ratification of the Convention on the Rights of People with Disabilities.

The Convention on the Rights of Persons with Disabilities (C.R.P.D.) is a key convention that the United States helped create within the United Nations but failed to ratify. Much of the Convention was modeled after the domestic laws in the United States. Specifically, much of its statutes was modeled after the American Disabilities Act which was adopted in 1990 by the United States Congress. However, certain issues arose regarding the C.R.P.D. and national sovereignty. Article 24 of the C.R.P.D. outlines statutes regarding educational initiatives towards disabled students and highlights the immorality of corporal punishment within schools (Suarez). In a more liberal reading, it provides a right to education. This became a key point of contention, since certain nations felt that such legal agreement would infringe upon the authority of the nation. In 2012, the United States Senate attempted to ratify the Convention, but it sparked backlash by Congress over the question of legal sovereignty and therefore failed. Other nations that have ratified the Convention currently include the People’s Republic of China, the Russian Federation, and the Islamic Republic of Iran (U.N.). This goes to show that other, more authoritarian, countries currently respect the C.R.P.D. and that ratification by the United States is not unreasonable.

Ratification would promote the credibility of the United States in international law. The United States has been and still is seen as a beacon for many nations in turmoil, and its position signifies great importance for the treaty overall. During early formation of the Convention, many nations looked towards the United States for guidance and creation of the Convention. The absence of ratification by the United States is the key determiner for the future of the Convention. Many foreign policy analysts point out that “the determination not to sign and ratify

the Convention raises important questions of whether other nations will choose to sign and ratify the treaty” (Melish 41). The absence of a forward leadership presence forces other nations to adopt a “wait-and-see” approach that is net-worse because it prevents immediate compliance measures for disability rights. The non-compliance approach of the status-quo towards the Convention created gaps within American treaty legitimacy. This created the perception of American exceptionalism in the international order. Ratification can provide an effect method to close those gaps and reverse exceptionalist perceptions by signifying full legal compliance in the multilateral order. A full ratification by the Senate would indicate that “the United States would confirm its commitment to international norms” and thereby close current treaty gaps (Farmer and Stinson, 1036). Included within this, compliance measures would promote the United States stance globally. The participation of the Convention has a massive symbolic value to United States human rights promotion. Ratification would signal participation that would “[enable] the United States to take part in a global conversation on important issues” (Lord, 41). The implications of this are significant. First, American leadership in forming norms in international law is critical to solving and mitigating threats in areas that require legal norm development. American leadership in “the international system provides unique specialized and technical expertise” due to its military and technological primacy and its overall legitimacy (Crocker). By promoting a strong presence and expertise in the system, the United States can promote a strong international stance to solve existential threats through effective multilateral forums with American leadership. Furthermore, the symbolism of ratification would be a massive promotion of human rights by the United States. Human rights are in of itself good, but promotion globally can provide hope to millions. An absence of a strong United States approach to human rights would be a “tragedy for the billions of people still living under authoritarian regimes around the world” (Piccone). With human rights declining in the status-quo from deteriorating governments and the COVID pandemic, now is a critical time to promote international rights (Repucci and Slipowitz). A strong United States approach to ratification can promote its legitimacy in multilateral forums and human rights promotion.

Ratification can also produce a massive domestic effect by conforming in international law. Ratification would ensure that the provisions of the C.R.P.D. would be implemented as law of the land due to Article VI of the Constitution. One of the most immediate benefits is preventing corporal punishment against disabled students. The C.R.P.D. combats disproportional corporal punishment among disabled students by preventing the use of seclusions and restraints. Though, disabled students are themselves harmed disproportionately by corporal punishments within schools, the racial and gender differences within the disabled population is further disproportionate (Suarez, 875). Though being “17.1% of the nationwide student population” African Americans have a paddling rate of 35.6% (Farmer and Stinson, 1039). This also disproportionately affects females. Recent research shows that “there is a strong gender dimension to the stigma and discrimination that children with disabilities experience” (Lord, 15). Only a clear and fully supported ratification can prevent localities from circumventing key human rights such as this. The Convention of the Rights of Persons with Disabilities contains effective language and legal defense to promote effective solutions to this problem. Many have noted that the Convention’s progressive nature has been effective to combat domestic problems. The framework offered specifically to “amplify human rights violations that are particular to children with disabilities” (Lord 11). This is done with effective multilateral initiatives through

the Convention itself like international oversight. By ratifying, the United States can effectively bring its domestic policies in line to prevent further disproportionate harm.

The United States should ratify the Convention on the Rights of Persons with Disabilities. Ratification would promote the United States' legal standing in international law. That can allow effective international forums to combat existential threats. Furthermore, ratification would be a massive symbol and critical push of United States human rights promotion. Independently from the international benefits, the domestic benefits are worthwhile as well. Ratification can combat corporal punishment upon disabled students and potentially begin to end it. The rise of disability activism can provide further leverage and support for ratification. This is explicitly evident during the rise of disability activism during the attempt of repealing the Affordable Care Act (Abrams). Reform and activism is a process and it will take time, energy and effort. Though ratification is a long and difficult process, the potential good it can do should encourage its ratification.

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