

# Reaction to: “Striving for the Mountaintop – The Elimination of Health Disparities in a Time of Retrenchment (1968–2018)”

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In this article, Majette identifies the problem of widening health disparities between people of color and white Americans, and explains the recent actions taken by the Trump administration to counteract the positive effects of the Patient Protection and Affordable Care Act (ACA). In her article, Majette proposes a “Mountaintop Solution” to address the health disparities between people of color and non-minority groups in the United States. Specifically, Majette argues that (1) the United States must adhere to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the first United States National Action Plan for Responsible Business Conduct, and (2) businesses in the United States should utilize the United Nations Framework and Guiding Principles for Businesses and Human Rights in response to legislation that undermines the ACA. However, Majette fails to articulate a clear path to implement her recommendations. Specifically, she does not address the lack of political will to adhere to international treaties nor does she address the lack of enforcement mechanisms for the treaties.

Majette’s solution focuses on the United States’ participation in international treaties and organizations, like the ICERD. Although Majette discusses the Trump administration’s attack on the ACA and hostility towards people of color, she does not address the President’s unwillingness to cooperate with the international community. Time and time again, President Trump has demonstrated a disregard for the norms and standards created through international law.<sup>1</sup> It is unlikely that the Trump administration will deviate from this position when considering the health impact for people of color. One of Donald Trump’s most essential campaign platforms was attacking the Affordable Care Act. As the country heads into an election year, the President will most likely choose to double down on his campaign promises, instead of working to implement norms from an international treaty. Furthermore, companies are less likely to change their policies to conform with rules that will not be enforced. While Majette argues that companies should adhere to the United Nations Framework and Guiding Principles for Businesses and Human Rights, the

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1. See, e.g., David Brennan, *Trump’s ‘Ignorance’ About International Law is ‘Extreme Even by U.S. Standards’: Expert*, *Newsweek* (Jan. 15, 2020, 11:19 AM), <https://www.newsweek.com/donald-trump-ignorance-international-law-extreme-us-standards-expert-1482319>; Maya Finoh, *Five Ways the Trump Administration has Attacked the U.N. and International Human Rights Bodies*, *American Civil Liberties Union* (Sept. 24, 2018, 12:00 PM), <https://www.aclu.org/blog/human-rights/five-ways-trump-administration-has-attacked-un-and-international-human-rights>.

lack of political will to ensure that companies are conforming with the framework undermines her argument.

Majette further fails to address the fundamental issue concerning reliance on international law: the lack of enforcement mechanisms. Majette argues that the United States failed to comply with its obligations under ICERD, but does not discuss what measures, if any, can be taken to enforce U.S. compliance. International bodies lack enforcement measures to ensure that countries are complying with their standards. This problem is exacerbated when a superpower is the country that is not in compliance. International law is only powerful due to its normative function. Therefore, when a leader does not care about norms, the power of international law is greatly diminished. Donald Trump has shown repeatedly that he does not care for any norms- international or domestic, and therefore undermines the treaties that our country has signed. Without an explanation of the potential for enforcement, Majette's solution is unrealistic given the current political climate.