



November 27, 2012

United States Senate
Washington, DC 20510

Re: Vote YES on Ratification of the Convention on the Rights of Persons with Disabilities

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Dear Senator:

On behalf of the American Civil Liberties Union (ACLU), its over half a million members, countless additional supporters and activists, and fifty-three affiliates nationwide, we urge you to vote in favor of any possible motion to proceed and for ratification of the Convention on the Rights of Persons with Disabilities (CRPD), without additional amendments.¹ We understand that consideration of the treaty may be as early as tonight.

The CRPD, which the U.S. signed and agreed to in principle on July 30, 2009, reaffirms that all persons with disabilities are entitled to all human rights, by clarifying the obligations of ratifying countries to promote, protect, and ensure those rights. It articulates principles and goals of inclusion, recognition and respect for human dignity and individual autonomy, accessibility, and the equal enjoyment of rights and fundamental freedoms. The United States joined 141 other nations when it signed the treaty in 2009; three years later, the list of signatories has grown to 154.²

Since signing the treaty in 2009, the U.S. has conducted a thorough inter-agency review, resulting in the submission of a treaty package to the Senate for its advice and consent for ratification. It is time for the U.S. to demonstrate its full commitment to disability rights by taking the next step and ratifying the treaty.

¹ As set forth in the ACLU's prior testimony before the Senate regarding U.S. treaty ratification practices, the adoption of extensive reservations, understandings, and declarations (RUDs) concurrent with ratification may undermine treaty objectives; ratification absent such qualifications is therefore preferred. *See The Law of the Land, U.S. Implementation of Human Rights Issues Before the Subcomm. on Human Rights and the Law of the S. Comm. on the Judiciary*, 111th Cong. (2009) (Statement of the American Civil Liberties Union). In addition, the RUD meant to clarify that the treaty is not legally binding and does not issue authority to compel actions by states parties, added to the CRPD treaty package during the Senate Foreign Relations Committee mark-up, is unprecedented and unwarranted. The text of the treaty itself makes clear that recommendations by the Committee are not compulsory, but are merely advisory opinions that are only as effective as the states parties' good faith and political will to implement them.

²U.N., *Multilateral Treaties Deposited with the Secretary General: Status as of 27-11-2012 05:04:12 EDT*, <http://treaties.un.org/doc/Publication/MTDGS/Volume%20I/Chapter%20IV/IV-15.en.pdf> (last visited Nov. 27, 2012).

To date, 126 countries³ are parties to the treaty, showing their substantive support and intent to comply with its obligations.

The United States has a long history of comprehensively protecting and promoting the rights of persons with disabilities in our own country, with the passage of such laws as the Architectural Barriers Act of 1968, implementing design standards that ensure access to Federal buildings; the Individuals with Disabilities Education Act, safeguarding free, appropriate education for students with disabilities; the Fair Housing Act, guaranteeing accessible housing; the Air Carrier Access Act, ensuring accessible air travel; the Voting Accessibility for Elderly and Handicapped Act of 1984 and the Help America Vote Act, protecting persons with disabilities' right to vote by ensuring accessible voting procedures and polling places—and of course, the comprehensive and landmark Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA).

The ADA provides a wide-ranging legislative framework that promotes access and accommodation for people with disabilities, encompassing employment, transportation, public accommodations, telephone service, and government activities. The ADA, which inspired the CRPD in part, was drafted under President George H.W. Bush and passed in 1990 with a wide bipartisan majority. At the time it was signed into law, then-President Bush noted: “This historic act is the world’s first comprehensive declaration of equality for people with disabilities—the first. Its passage has made the United States the international leader on this human rights issue.”⁴ Since that time, the ADA has served as model legislation for other nations around the world seeking to empower persons with disabilities to achieve independence, inclusion, and full integration into their communities.

Since the ADA’s passage, the United States has maintained and strengthened its bipartisan commitment to progress and leadership in the area of disability rights. In 2008, Congress passed, and President George W. Bush, signed the ADA Amendments Act, clarifying the meaning of disability eroded by court decisions and incorporating new understandings of disability that have arisen since the ADA’s original passage.

The CRPD is modeled on the extensive disability rights laws that exist in the United States today, and embodies the underlying rationales incorporated in those laws. Since their passage, U.S. disability rights laws have succeeded in opening doors and eliminating barriers for people with disabilities in the United States in all aspects of life. Ratifying the CRPD would allow the U.S. to continue this proud tradition of leadership and progress around the world.

Although ratification of CRPD by so many countries has vastly increased international awareness of the need to implement legislation to protect and promote the rights of people with disabilities, overall international standards (and enforcement of those standards) are currently less than ideal.⁵ Given this country’s domestic success in implementing protections for people with disabilities, the United States is poised to provide much needed technical assistance and

³ *Id.*

⁴ See President George H.W. Bush, Remarks at the Signing of the Americans with Disabilities Act (July 26, 1990), available at http://www.eeoc.gov/eeoc/history/35th/videos/ada_signing_text.html.

⁵ See *Hearing on the Convention of the Rights of Persons with Disabilities (Treaty Doc. 112-7) Before the S. Comm. on Foreign Relations*, 112th CONG. (2012) 3 (statement of Judith Heumann, Special Adviser for International Disability Rights).

expertise to countries that are currently striving to comply with the conditions of the CRPD. Regrettably, the fact that the United States has not yet ratified the treaty undermines our legitimacy as a world leader on the issue and lessens our ability to assist other nations that have already ratified and are now working toward implementation.⁶

Ratification of the CRPD would provide the United States with an international forum to lend expertise and guidance to other nations who are seeking to implement the treaty and develop their own disability rights laws. Specifically, the U.S. would be able to actively participate in the annual Disability Convention's Conference of States Parties and help to mold the international disability rights agenda.⁷ Although the U.S. currently sends delegations of disability rights experts to the Conference, because we have not yet ratified the treaty we have no legitimate seat at the table and must participate in the debate and agenda shaping as observers rather than leaders. Ratification would grant the U.S. the official and meaningful capacity to assist and shape international disability rights policy going forward.

Further, ratification of the CRPD will assist American businesses and workers alike, by equalizing employment standards and protecting and promoting the rights and abilities of workers with disabilities around the world. The treaty embodies the United States' groundbreaking standard of "reasonable accommodation" for people with disabilities in employment and emphasizes individual assessment of workers' qualifications. This important facet of the treaty was praised by the Equal Employment Opportunity Commission, the agency tasked with enforcement of the employment provisions of the ADA.⁸ Such standards allow for harmonization of international workplace policies with U.S. domestic law and provide the U.S. with the opportunity to share the successful American experience of providing equal opportunity to employees with disabilities.

Ratification of the treaty will also allow the U.S. to take a more active role in protecting and improving access for U.S. citizens with disabilities who live, work, and travel abroad. In this increasingly global economy, ratifying the CRPD is an important step toward ensuring that Americans with disabilities have access to education, employment, and other basic rights of equal opportunity and non-discrimination, no matter where they travel and live.

Treaty ratification would be especially impactful for active duty military personnel with disabilities who continue to serve our country abroad, as well as disabled veterans and service members with disabled children who live and work abroad. Testimony from the Senate Foreign Relations Committee hearing on the CRPD reveals that the treaty serves as a tool to expand access to transportation, housing, and more accessible environments generally, for current and former U.S. service members.⁹ For disabled veterans working abroad, "the adoption of disability rights and the implementation of disability laws allows them to do their jobs more effectively and reaffirms what they served for: liberty and the opportunity to participate."¹⁰

⁶ See *id.* (noting that it is "difficult to make best use of the 'bully pulpit' to challenge disability rights violations on behalf of Americans with disabilities and others, when we have not ratified the Convention.").

⁷ *Id.* at 4.

⁸ See letter from EEOC Commissioners to John F. Kerry, Chairman & Richard Lugar, Ranking Member, Senate Foreign Relations Committee (Sept. 19, 2011).

⁹ See *Hearing on the Convention of the Rights of Persons with Disabilities (Treaty Doc. 112-7) Before the S. Comm. on Foreign Relations, 112th CONG. (2012)* (statement of John Lancaster, retired Executive Director of the Nat'l Council on Indep. Living).

¹⁰ *Id.*

With its progressive record of expanding the rights of people with disabilities at home, the United States has important contributions to make on the international stage. Ratification of the CRPD provides a forum to advance the lessons we have learned and the progress we have made. The ACLU is encouraged by the bipartisan support this treaty received in Committee and now urges all Senators to vote in favor of ratification without additional amendments.

If you have any questions please contact Senior Legislative Counsel Deborah Vagins at 202-675-2335 or dvagins@dcaclu.org.

Sincerely,



Laura W. Murphy
Director



Deborah J. Vagins
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