

<b>To: Interested Parties</b>
<b>From: Senate Foreign Relations Committee, Office of Chairman Robert Menendez (D-NJ)</b>
<b>Subject: 11/5 Hearing on the Convention on the Rights of Persons with Disabilities</b>
<p><a href="#"><u>Today the Senate Foreign Relations Committee will hold the first of two hearings on the Convention of the Rights of Persons with Disabilities.</u></a> The treaty promotes fairness and equality that people with disabilities deserve to countries around the world. It is a treaty the Senate should ratify.</p> <p>The treaty is rooted in fundamental American values, traditions, and history. From the U.S. Constitution, the treaty borrows principles of equality and the protection of minorities. From the Declaration of Independence, it emphasizes the belief that the right to pursue happiness is inherent in personhood and therefore "unalienable." And from the Americans with Disabilities Act and other landmark accessibility laws, the treaty promotes the concept of reasonable accommodation, so those with disabilities are not barred from opportunities others take for granted.</p> <p>When it comes to disability rights, the U.S. has set the gold standard when we passed the Americans with Disabilities Act in 1990, a source of national pride and international admiration, especially for the fifty-eight million Americans living with a disability, including 5.5 million veterans. Treaty ratification is supported by the Veterans of Foreign Wars, the American Legion, and the Wounded Warrior Project. The U.S. originated the idea of disability rights more than two decades ago, and we must promote this concept worldwide. One hundred and thirty eight nations have ratified this treaty, and if we do not, we will be barred from playing any significant role in discussions on disabled access policy internationally. The leadership vacuum will be filled by other countries that do not have our accessibility standards. If we don't ratify, our voice will remain silent.</p> <p>Nearly one year ago, when the U.S. Senate voted to ratify the treaty, attacks were manufactured by naysayers against the treaty lacking basis in facts. A vocal minority sounded like a large impassioned movement offering up red herrings in attacking the treaty. Opponents will try to re-litigate Roe v. Wade, even though the treaty does not affect reproductive rights in anyway. They will say the treaty will infringe upon U.S. sovereignty, even though the treaty has no enforcement mechanism and actually exports American Constitutional values abroad. Chairman Menendez will be doing everything he can to refocus everyone on the actual treaty, and on the need to remove barriers for people with disabilities. Our objective is to concentrate on facts, not fear mongering.</p> <p>We begin that process today with the first of two hearings on the treaty, the second hearing scheduled for next week. With the exception of U.S. Rep. Tammy Duckworth (D-IL), a wounded combat veteran, the witnesses Democrats have called to testify are all Republicans. They include treaty supporters Sen. Kelly Ayotte (R-NH), Sen. Mark Kirk (R-IL), as well as Tom Ridge, former Secretary of Homeland Security and current Chairman of The National Organization on Disability, and former Attorney General Richard Thornburgh. Additional witnesses include Dr. Susan Yoshihara from the Catholic Family &amp; Human Rights Institute, Mr. Timothy L. Meyer, Assistant Professor of Law at the University of Georgia School of Law, and Dr. Michael Farris, Chairman of the Home School Legal Defense Association.</p> <p>Disability rights is a discussion for America to lead, to demonstrate to the world that values of inclusion, sensitivity, and justice for all people radiate outward from our shores to every corner of the world. At the head of the international table for disability rights is the U.S. seat. For too long, that chair has remained vacant, and we must fill that U.S. position of leadership on international disability and accessibility rights.</p>

## **What People are Saying about the Treaty**

**Secretary of State John Kerry:** “The Disabilities Treaty is the single most important step we can take to ensure that millions of disabled Americans enjoy the same protections abroad as they do here. This treaty offers hope where there is none. It’s about who we are and what we stand for in the world. In four simple words, the treaty says to other countries that don’t respect the rights of disabled people: Be more like us. To countries that warehouse children with disabilities — be more like us. To countries that leave children to die because they have a disability — be more like us. To countries that force children with disabilities to abandon education — be more like us...This treaty doesn’t change America. It’s about America changing the world.”

**New York Times Editorial Board:** “With the social-issue pandering of the 2012 campaign behind us, the treaty can be seen for what it is: a singular opportunity to apply the principles of the highly effective Americans With Disabilities Act to the world at large... It would be ludicrous if the nation that has been in the forefront of upholding the rights of the disabled rejected a global treaty affirming those rights.”

**Angela Webster, Tennessee homeschooling parent and disability rights advocate:** “As a passionate supporter of homeschooling and disability rights, I was shocked that it was the homeschool community that led the charge against the Disability Treaty last year. While there are clearly some misconceptions about the treaty, not all homeschool families stand in opposition. Supporting the rights of homeschooling families and supporting the disability treaty are not mutually exclusive. After all, both groups benefit from the expansion of human and civil rights. It is my heartfelt desire that these remarkable communities can come together as they have in the past to help each other. In doing so, the rights of all can be assured.”

**Michelle Kwan, Olympic figure skater, Special Olympics Board Member and Senior Advisor for the State Department:** “Overseas travel can be any essential part of training and competition for any serious athlete. But I’ve learned that U.S. athletes with disabilities often face barriers when they go abroad, including inaccessible transportation, training facilities and living quarters. If the United States ratifies the Disabilities Treaty, we can help change that. Doing so will help us persuade other nations to raise their standards in the area of accessibility to the same high levels we have here in the United States. It will help pave the way for the U.S. athletes with disabilities to make their way to the top of the podiums around the world. It’s that simple. I can’t think of anything that makes more sense than providing my fellow athletes with disabilities the same opportunities that I’ve had in my career to reach higher, dream bigger, and live without limits.”

**Dan Berschinski, Retired U.S. Army captain:** “By encouraging other nations to strengthen their own accessibility laws, we can improve the lives of our 56.7 million disabled U.S. citizens, including 5.5 million disabled veterans like me, when we travel and work abroad. Many of those opposing this treaty claim to support military veterans, but a vote against ratifying this treaty undercuts that support. I am honored to join fellow veterans, Republicans and Democrats, including Sens. John Kerry and John McCain and former Sen. Robert J. Dole, to say that the case is clear-cut: Only by voting in favor of the Convention on the Rights of Persons with Disabilities can the Senate truly honor the sacrifice of those disabled while answering this nation’s call. I am proud to have served my country; I am proud of how my country has taken care of me. And I will be proud when we extend our leadership on disability issues beyond our borders.”

**Bill Frist, physician, former Republican senator & Senate majority leader:** “In an HIV clinic in Africa, a man born deaf holds a single sheet of paper with a plus sign. He looks for help, but no one at the clinic

speaks sign language. In fact, the staff doesn't seem interested in helping him at all. He returns to his plus sign. These are his test results. They dictate he should start antiretroviral drugs immediately and should also make changes in his sexual habits. But he doesn't know this. He leaves the clinic concluding that the plus sign must mean he's okay, that everything is just fine. This scenario seems shocking. Yet it continues to play out around the world. The Senate will tackle this issue at the November 5th hearings on the Convention on the Rights of Persons with Disabilities (CRPD) — the Disabilities Treaty."

**Rev. Mark Stephenson, director of Disability Concerns, Christian Reformed Church:** "As a Christian, I believe firmly that the United States needs to ratify this important international treaty... Justice for people with disabilities is personal for me, not only as a Christian but also as the parent of a child who lives with severe disabilities and as the son of a woman who recently died after a 12-year journey with dementia."

**Patrick Murphy, retired Army captain, Iraq War veteran & former U.S. Congressman:** "I served in Baghdad from June 2003 to January 2004. I led convoys and saw firsthand the courage and sacrifice made by my fellow soldiers. When I returned home, I saw the same from our vets. Many of them left arms and legs on the battlefield in service to this country, and they deserve our continued support. The Disabilities Treaty is a commonsense step that we can take to keep faith with our disabled veterans. It will put the United States in the driver's seat as we promote our standards for accessibility and equality of opportunity in other countries, making it easier for our wounded warriors and their families to take advantage of opportunities abroad."



#### **Op-Ed: Why the U.S. must lead on Disabilities Treaty**

**By Bill Frist, NOVEMBER 5, 2013**

In an HIV clinic in Africa, a man born deaf holds a single sheet of paper with a plus sign. He looks for help, but no one at the clinic speaks sign language. In fact, the staff doesn't seem interested in helping him at all.

He returns to his plus sign. These are his test results. They dictate he should start antiretroviral drugs immediately and should also make changes in his sexual habits. But he doesn't know this. He leaves the clinic concluding that the plus sign must mean he's okay, that everything is just fine.

This scenario seems shocking. Yet it continues to play out around the world. The Senate will tackle this issue at the November 5 in hearings on the Convention on the Rights of Persons with Disabilities (CRPD) — the Disabilities Treaty.

There are nearly 1 billion people worldwide living with a disability. For the sake of those individuals, the United States joined 158 other countries in signing the Convention on the Rights of Persons with Disabilities in 2009. The Disabilities Treaty was drafted to promote and protect the human rights and fundamental freedoms of persons with disabilities — modeled on our own Americans with Disabilities Act, but on a global scale.

Yet the Senate failed to ratify the U.N. treaty last December. As is often the case, a bit of politics and a bit of misinformation ruled the day.

First, the timing was bad. The vote was called in a lame duck session and many senators said this was an

inappropriate time to ratify a U.N. treaty, signing a letter to that effect. But this was not the entire story.

Two larger political issues emerged. Republicans exhibited some squeamishness around the term “sexual and reproductive health” in the treaty. While the term is undefined, there were rumblings that it could create a global right to abortion.

The second issue was an impressive fear campaign launched by Michael Farris of the Home School Legal Defense Association to convince parents that the U.N. treaty would limit their ability to educate their disabled children at home.

The relevant provisions in the treaty regarding sexual and reproductive health demand non-discrimination for persons with disabilities.

In many parts of the world, people with disabilities, regardless of age, are believed to be sexually immature or inactive. The assumption can make them targets for rape and other sexual crimes while, at the same time, gynecologic and obstetrical care are withheld and considered inappropriate and unnecessary. In other cases, they are forcibly sterilized or forced to have abortions, simply because they have a disability.

The treaty’s “sexual and reproductive health” language is a necessary provision to protect these people. It does not define services — a ratifying country’s existing law provides the definition. The agreement simply demands that those with disabilities not be denied any treatments based on their disability.

It does not create any new services not previously available or legally sanctioned in an adopting country.

For the home schooling debate, the story is more complicated. The Americans with Disabilities Act — on which the international agreement is modeled — has a strong history of Republican support.

Consider, the disabilities act was signed into law by President George H.W. Bush — passed with a 76 to 8 vote in the Senate. President George W. Bush negotiated the CRPD treaty in 2006. Senator John McCain (R-Ariz.) and former Senate Majority Leader Robert Dole, who had each suffered serious war injuries, were significant supporters. Senator Jerry Moran, a Republican from Dole’s home state of Kansas, also initially supported it.

The tide turned, however, at a Senate Foreign Relations Committee hearing on July 12, 2012. Farris, president of the home-schooling organization, claimed in testimony that the U.N. treaty was “dangerous” for parents who teach disabled children at home. He asserted that it will create a legal basis for the United Nations to infringe on the fundamental parental rights of parents of disabled children.

In a radio interview after the hearing, Farris stated “[t]he definition of disability is not defined in the treaty and so, my kid wears glasses, now they’re disabled; now the U.N. gets control over them.”

It sounded terrifying.

Then-Foreign Relations Committee Chairman John Kerry dismissed Farris’s argument out of hand. But the home-schooling organization has an impressive grass-roots machinery.

Within a few weeks, Farris's argument spread. Senator James Inhofe (R- Okla.) and then Senator Jim DeMint (R-S.C.) wrote an op-ed article for The Washington Times stating the treaty would infringe on U.S. sovereignty. Farris's group began a phone campaign to all senators who might be a potential nay votes — specifically targeting the Kansas senators. Senator Rick Santorum, a parent of a disabled child, adopted Farris's argument as well.

The probable nail in the coffin was when Moran changed his position to align with HSLDA.

But despite the successful political maneuvering of Farris's home-schooling organization and its capture of many Tea Party senators, careful reading of the law reveals their arguments were a misinterpretation.

U.S. ratification of the treaty does make the agreement a U.S. law, along with the Senate's reservations, understandings and declarations (RUDs). However, these RUDs make it clear that current U.S. law — the Americans with Disabilities Act — meets any U.S. obligation under the treaty. In fact, the ADA and related disability laws far exceed the standards set out in the U.N. treaty. Ratifying the agreement will not affect current enforcement of the ADA or create additional causes of action under the treaty. The Americans with Disabilities Act would remain the controlling U.S. law.

The U.N. experts committee cannot make international law and therefore cannot create new international obligations. The committee can make suggestions for improvement during a review process. But these recommendations are just that — recommendations. The United Nations will have no ability to swoop in and poach parental control over the education of children with disabilities in the United States.

Some still argue that the United States has no need to ratify the U.N. treaty. The Americans with Disabilities Act, they insist, already protects the rights of those with disabilities at home. But as a global leader, we must stand with those struggling for the rights that we hold dear.

These are complicated issues revolving around potentially esoteric points of international law. Given this complexity, many senators felt the previous hearings were rushed and that they did not have enough detail to make an informed decision. The set of hearings scheduled for November 5 and 12 will be different. Both witness lists have a deep bench of experts — legal, administrative and activist alike. Now is the time to really unpack what this U.N. treaty would mean for Americans and the world.

Voting no to this treaty without a specific and compelling reason is saying that we do not think the global community deserves an ADA of their own.

U.S. leadership matters. We should be at the table. It is not just Americans who deserve healthcare and protection from discrimination. It is everyone.

<http://blogs.reuters.com/great-debate/2013/11/05/why-the-u-s-must-lead-on-disabilities-treaty/>