

BACKGROUND

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Ratifying the Disabilities Convention Will Not Help Americans with Disabilities at Home or Abroad

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The United States should ratify a treaty only if it advances its interests. In the context of the Convention on the Rights of Persons with Disabilities (CRPD),¹ U.S. interests may be characterized in both domestic and international terms: Would ratifying the CRPD benefit the lives of Americans with disabilities living in the United States? Would ratifying the CRPD advance disability rights and accessibility in foreign countries that ratify the treaty, thereby benefiting Americans with disabilities who live, work, travel, serve, or study abroad in those countries?

The answer to both of these questions is “no.”

Ratification of the CRPD is unnecessary to benefit persons with disabilities living in the United States. As conceded by the treaty’s proponents, the United States already has a wide range of federal laws that protect and advance the cause of Americans with disabilities. Major pieces of legislation include the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Individuals with Disabilities Education Act, and the Fair Housing Act. U.S. law and the executive and judicial mechanisms available to enforce it meet or exceed the provisions of the CRPD.

U.S. ratification of the CRPD is likewise unnecessary to advance disability rights in foreign countries, including those countries that ratify the treaty. Contrary to the arguments of CRPD proponents, no correlation exists between U.S. ratification of human rights treaties and greater respect for human rights in countries that have ratified the same treaties.

Proponents of CRPD ratification have specifically promised Americans with disabilities—including Americans who have served

KEY POINTS

- The Obama Administration and other proponents of U.S. ratification of the CRPD should not make promises they cannot keep to Americans with disabilities—especially disabled veterans.
- U.S. ratification of the CRPD will not improve accessibility in foreign countries or benefit Americans with disabilities that live, work, serve, or study abroad.
- There is no causal relationship between U.S. ratification of human rights treaties and the advancement of human rights in foreign countries.
- U.S. membership in the CRPD is not necessary to foster collaboration between the United States and foreign countries to improve disability rights and accessibility in those countries.
- USAID funds and administers programs around the globe that deliver aid, technical support, and equipment to advance disability rights in scores of foreign countries, and it will continue to do so whether or not the United States ratifies the CRPD.

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their country and sacrificed their senses and limbs in combat—that U.S. ratification of the CRPD will directly benefit them by improving accessibility in foreign countries. That is an empty promise that cannot be kept and should not be extended by treaty proponents because not a shred of evidence supports it.

No Benefit to Americans with Disabilities at Home

The proponents of U.S. ratification agree that the CRPD is not necessary to protect the rights of Americans with disabilities living in the United States because ratification would not change any U.S. law or alter enforcement of the law.

From the outset the Obama Administration has made clear that U.S. ratification of the CRPD is not necessary to protect and advance the rights of Americans with disabilities that live in the United States. President Barack Obama’s letter of May 17, 2012, transmitting the CRPD to the Senate stated that “Americans with disabilities already enjoy” the rights enumerated in the CRPD “at home” and that “the strong guarantees of nondiscrimination in existing U.S. law are consistent with and sufficient to implement the requirements of the Convention.”²

Countries that ratify the CRPD are required to “adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention.”³ Yet all proponents of ratification—some of whom have dedicated their lives to the advancement of disability rights—uniformly agree that existing U.S. laws are sufficient to protect the rights of Americans with disabilities and that U.S. ratification of the CRPD will result in no new legislative, administrative, or enforcement measures. This was made clear

throughout the hearing on July 12, 2012, before the Senate Committee on Foreign Relations:

- Senator Richard Durbin (D-IL), a proponent for CRPD ratification, stated at the hearing, “Our country’s existing legal framework for protecting those with disabilities is the best in the world and it has been very effective.”⁴
- Judith Heumann, Special Adviser for International Disability Rights at the State Department, testified that the CRPD “does not create new rights for disabled people, and no new legislation would be required to implement the Convention.”⁵
- Eve Hill, Senior Counselor to the Assistant Attorney General for Civil Rights at the Justice Department, testified that “ratifying the Convention, as proposed, will not require new legislation or create new rights.”⁶
- Former U.S. Attorney General Richard Thornburgh, a proponent for ratification of the CRPD, testified, “I see nothing in this proposed treaty... that would oblige the Government of the United States at the Federal, State, or local level to undertake any action whatsoever.”⁷
- The U.S. Equal Employment Opportunity Commission (EEOC), in a letter to the committee, stated that “U.S. standards meet or exceed those of the Convention” and “the United States will rely on existing law to comply with the Convention.” If the CRPD is ratified the commission “has no intention to change the way it currently enforces the [Americans with Disabilities Act],

1. Convention on the Rights of Persons with Disabilities, December 13, 2006, <http://www.un.org/disabilities/convention/conventionfull.shtml> (accessed June 17, 2013).

2. Barack Obama, message transmitting the Convention on the Rights of Persons with Disabilities, in Treaty Doc. 112-7, 112th Cong., 2nd Sess., May 17, 2012, p. iii, <http://www.gpo.gov/fdsys/pkg/CDOC-112tdoc7/pdf/CDOC-112tdoc7.pdf> (accessed June 17, 2013).

3. Convention on the Rights of Persons with Disabilities, Art. 4(1)(a).

4. Richard J. Durbin, statement in *Convention on the Rights of Persons with Disabilities (Treaty Doc. 112-7)*, Exec. Rept. 112-6, 112th Cong., 2nd Sess., July 31, 2012, p. 42, <http://www.foreign.senate.gov/treaties/112-7> (accessed June 17, 2013).

5. Judith Heumann, testimony in *ibid.*, p. 32.

6. Eve Hill, testimony in *ibid.*, p. 37.

7. Richard Thornburgh, testimony in *ibid.*, p. 112.

[the Genetic Information Nondiscrimination Act], and the Rehabilitation Act.”⁸

For its part, the committee’s report, while recommending ratification of the CRPD, stated, “No additional implementing legislation is necessary with respect to the Convention.”⁹ In addition, the committee included a declaration in its resolution of advice and consent to ratification making clear that existing U.S. law meets the CRPD’s obligations: “The Senate declares that, in view of the reservations to be included in the instrument of ratification, current United States law fulfills or exceeds the obligations of the Convention for the United States of America.”¹⁰ The committee also included a declaration that the provisions of the CRPD are “not self-executing” meaning that “they cannot be directly enforced by U.S. courts or give rise to individually enforceable rights in the United States.”¹¹

In light of the statements by the proponents and by the Committee on Foreign Relations, one may fairly ask why the United States is considering ratification of the CRPD. If U.S. law meets or exceeds the convention’s standards and obligations; if the CRPD does not create any new rights for Americans with disabilities; if the United States does not intend to change any aspect of the current statutory, regulatory, and enforcement framework; if the provisions of the CRPD are not enforceable in U.S. courts; and if the EEOC will not change the way it enforces U.S. employment laws regarding disability rights, how does U.S. ratification of the CRPD advance the rights of Americans with disabilities or any U.S. national interest?

Apparently having reached unsatisfactory answers to that question, the Obama Administration devised a novel justification for the United States to join the CRPD: U.S. ratification will benefit Americans with disabilities that travel to other countries.

No Benefit to Americans with Disabilities Abroad

The Obama Administration concedes that

U.S. ratification of the CRPD will not benefit any American with a disability living in the United States. This is because existing U.S. laws, regulations, and enforcement practices already protect the rights of persons with disabilities living here. The Administration further concedes that U.S. ratification of the CRPD will not change those laws, regulations, or practices in any way, shape, or form.

Having conceded this, the Administration and other proponents of ratification have concocted an argument that U.S. ratification of the CRPD is essential to protect the rights of Americans with disabilities who are not in the United States—i.e., those who travel, work, serve, or study abroad. The Committee on Foreign Relations, in its report recommending ratification of the CRPD, summarizes the proponents’ argument:

The United States provides greater legal protections against discrimination for individuals with disabilities than most of the rest of the world. Therefore, Americans with disabilities often face significant and, at times, prohibitive, barriers when they travel, work, serve, study and reside in other countries....

As a State Party to the Convention, the United States will be in a position to better promote the fundamental freedoms and individual autonomy of individuals with disabilities. It will allow us to more effectively support, assist, and encourage other countries to bring their domestic laws into compliance with the Convention and up to and in line with U.S. standards. Such action will benefit Americans with disabilities, including our disabled servicemen and servicewomen and disabled veterans, enabling them to travel, work, serve, study and reside in other countries without prohibitive barriers.¹²

In sum, the proponents of ratification contend that U.S. ratification will lead to increased accessibility and respect for disability rights in those foreign

8. U.S. Equal Employment Opportunity Commission, letter to Committee on Foreign Relations, in *ibid.*, pp. 40–41.

9. *Ibid.*, p. 7.

10. *Ibid.*, p. 17.

11. *Ibid.*, pp. 6 and 17.

12. *Ibid.*, p. 2.

countries, and therefore the resulting improvement in accessibility in foreign countries will benefit Americans with disabilities that travel, work, or study in those countries.

The proponents' position radically shifts the traditional purpose for ratifying a human rights treaty. When a government ratifies a human rights treaty, it makes an international political commitment regarding the treatment of people within its own territory—e.g., that it will enact and enforce laws to end discrimination based on race (the International Convention on the Elimination of All Forms of Racial Discrimination) or gender (the Convention on the Elimination of All Forms of Discrimination against Women). The proponents of U.S. ratification of the CRPD stand this purpose on its head by asserting that the U.S. must ratify the CRPD as part of an effort to improve the rights of persons with disabilities *outside* U.S. territory.

Regardless, the proponents' argument in favor of ratification of the CRPD is deeply flawed for two major reasons.

The Obama Administration's advocacy for the CRPD on the basis that U.S. ratification will directly benefit Americans when they travel to foreign countries risks debasing the work of USAID in the eyes of its foreign partners.

First, U.S. membership in the CRPD is not necessary, much less essential, to foster collaboration between the United States and foreign countries to improve disability rights and accessibility in those countries. The United States, acting primarily through the U.S. Agency for International Development (USAID), funds and administers programs around the globe that deliver aid, technical support, equipment, and other services to advance disability rights in scores of foreign countries. USAID has managed to successfully perform its mission despite the fact that the United States has not ratified the CRPD.

Second, no evidence supports the proponents' claim that U.S. ratification of the CRPD will beneficially reform the laws or policies of foreign

governments or otherwise improve the conditions of persons with disabilities living in foreign countries. Foreign countries choose to ratify human rights treaties and comply with their provisions for any number of reasons, but whether or not the United States is a party to the treaty is not one of them.

Moreover, the Obama Administration's advocacy for the CRPD on the basis that U.S. ratification will directly benefit Americans when they travel to foreign countries risks debasing the work of USAID in the eyes of its foreign partners. After all, USAID is supposedly operating in those countries for the benefit of persons with disabilities that are citizens of those countries, not for the benefit of American citizens. Foreign governments may treat with a degree of cynicism U.S. efforts to assist their citizens with disabilities if the Administration continues to assert that ratifying the CRPD is intended to help American citizens traveling or studying in their countries.

Ratification Unnecessary for International Cooperation on Disability Rights

U.S. membership in the CRPD is unnecessary to foster collaboration between the United States and foreign countries to improve the rights of persons with disabilities living in those countries. USAID successfully funds and administers programs that deliver aid, technical support, equipment, and other services to advance disability rights around the world without U.S. membership in the CRPD.

Proponents of ratification contend that the United States cannot successfully promote the rights of persons with disabilities in foreign countries unless and until it ratifies the CRPD. The U.S. decision, thus far, not to ratify the CRPD has allegedly become a "black mark" against the United States in the international community, hindering America's ability to champion the rights of persons with disabilities. For example, in her written testimony treaty proponent Judith Heumann claimed, "Our failure to ratify has... undermined our advocacy for persons with disabilities in multilateral and regional fora, where ratification of the Convention has become a de-facto prerequisite for meaningful engagement in discussions on promotion of disability rights." Heumann also testified, "Our ability to share our technical knowledge [with foreign countries] is critically important and cannot be done in as meaningful a way when we are not ratified." Responding to a written question

from CRPD proponent Senator Robert Casey (D-PA) on the necessity of U.S. ratification, Heumann stated that “the fact that we have yet to ratify the Disabilities Convention is frequently raised by foreign officials in bilateral discussions as a reason to question the legitimacy of our guidance.”¹³

In other words, treaty proponents such as Heumann claim that the U.S. failure to ratify the CRPD has resulted and will continue to result in an insuperable loss of reputation to such an extent that foreign governments will not respect the advice of U.S. diplomats and disability experts on disability rights. Presumably, those same governments will also reject the millions of dollars in U.S. funding for disability projects absent U.S. ratification. In the view of proponents, U.S. ratification of the CRPD is the indispensable prerequisite—the *sine qua non*—to U.S. advancement of disability rights in foreign countries.

All available evidence indicates that the United States advances international disability rights through its ongoing, robust bilateral relationships with scores of foreign countries.

This argument is baseless, irresponsible, and without a scintilla of supporting evidence. To the contrary, all available evidence indicates that the United States advances international disability rights through its ongoing, robust bilateral relationships with scores of foreign countries.

U.S. Global Efforts to Advance Disability Rights

The United States, acting primarily through

USAID, leads the world in championing the rights of persons with disabilities as part of its international development programs. As conceded by Senator Casey, “The United States has been a global leader in promoting disability rights, and in sharing our expertise gained over decades of pioneering work in improving the lives of disabled persons.”¹⁴

In its offices and missions throughout the world, USAID has personnel and programs dedicated to advancing the rights of persons with disabilities. USAID works hand in hand with foreign governments and foreign and international nongovernmental organizations (NGOs) to advance the rights of persons with disabilities and has done so systematically for more than 15 years since instituting a groundbreaking policy in September 1997 to mainstream the advancement of disability rights in its international programs.¹⁵

USAID disability programs cover a wide range of activities at the macro and micro levels. For example, at the macro level USAID has formulated five-year, country-specific “disability inclusion strategies” to implement the agency’s goals for the inclusion of persons with disabilities in its development programs.¹⁶ At the micro level, USAID funds and provides technical expertise on small, but significant projects, such as facilitating the construction of a wheelchair ramp at the main government building in Karagandy, Kazakhstan.¹⁷

More than 75 percent of USAID missions undertake “activities and programs that specifically include people with disabilities. Some missions have appointed disability advisors and formed task teams to develop mission strategies for making programs more inclusive.” USAID “supported 38 disability inclusive programs and activities in 52 countries” in fiscal year 2012 alone and has provided 100 grants to 79 disability organizations in 54 countries since 2005, half of which went to local disabled

13. Judith Heumann, testimony in *ibid.*, pp. 35, 66, and 142-143.

14. Robert P. Casey, question submitted in *ibid.*, p. 142.

15. U.S. Agency for International Development, Bureau for Policy and Program Coordination, “USAID Disability Policy Paper,” September 12, 1997, http://pdf.usaid.gov/pdf_docs/Pdabq631.pdf (accessed June 17, 2013).

16. For example, see U.S. Agency for International Development/Ethiopia, “Disability Inclusion Strategy 2011-2015,” http://ethiopia.usaid.gov/sites/default/files/images/USAID_Disability_Strategy.pdf (accessed June 17, 2013).

17. U.S. Agency for International Development/Kazakhstan, “Disabled Receive Better Access,” <http://centralasia.usaid.gov/kazakhstan/our-story/218> (accessed June 17, 2013).

people's organizations.¹⁸ In 2008, USAID collaborated with the World Health Organization and the International Society for Prosthetics and Orthotics to establish guidelines on the provision of manual wheelchairs in less-resourced settings.¹⁹

USAID concentrates a significant percentage of its activities related to disability rights in providing properly designed, well-fitting wheelchairs to persons with disabilities as well as training in their proper use. For example,

In Georgia, [USAID] provides wheelchair users and others with mobility impairments...with opportunities to participate in roundtable support groups as well as mobility and self-help camps. The project also conducts disability awareness activities and training on how to remove barriers to accessibility within the community.

USAID also supports efforts in Albania, Indonesia, Iraq, Kenya, Kyrgyzstan, Liberia, Morocco, Nepal, Pakistan, Peru, Romania, Sierra Leone, Sri Lanka, Sudan, and Togo "to ensure that people with disabilities receive proper wheelchairs that suit their needs and their environment." The projects "aim to produce and distribute appropriate wheelchairs and to provide services for their users that include proper fitting and basic training on the chair's use."²⁰

One particular USAID effort—called "Maximus"—is a "cross-cultural program that utilizes the wheelchair sport of Quadrugby to

promote peace, empowerment, and social inclusion for persons with disabilities in Latin America." Maximus is implemented by a Colombian NGO in partnership with USAID for the purpose of launching sports programs for people with disabilities and establishing national Quadrugby teams in six South American countries. Through the program hundreds of persons with disabilities "will be trained as competitive athletes on nine country teams. In addition, nine recreational sports clubs for persons with disabilities will be established in the six countries."²¹

In addition to programs providing wheelchairs, USAID works with foreign governments and NGOs around the world to raise public awareness of disability rights, to ensure access to education for persons with disabilities, to better integrate persons with disabilities into the labor force, and to provide access to health care.

Representative examples of recent USAID activities across all geographic regions include:

- **Albania**, where USAID is conducting a nationwide campaign to raise public awareness about the lack of wheelchair access to city sidewalks, public buildings, and markets.²²
- **Armenia**, where USAID is launching an employment access program and conducting a three-year project to promote inclusive education for and reducing stigmas against children with disabilities.²³

18. U.S. Agency for International Development, "Protecting Human Rights," May 13, 2013, <http://www.usaid.gov/what-we-do/democracy-human-rights-and-governance/protecting-human-rights> (accessed June 17, 2013), and "Advancing Disability-Inclusive Development," May 13, 2013, <http://www.usaid.gov/what-we-do/democracy-human-rights-and-governance/protecting-human-rights/disability> (accessed June 17, 2013).

19. World Health Organization, "Guidelines on the Provision of Manual Wheelchairs in Less-Resourced Settings," <http://www.who.int/disabilities/publications/technology/wheelchairguidelines/en/index.html> (accessed June 17, 2013).

20. U.S. Agency for International Development, "It's Not About the Chair," *Frontlines*, January/February 2012, http://transition.usaid.gov/press/frontlines/fl_jan12/FL_jan12_DRG_DISABILITIES.html (accessed June 17, 2013), and news release, "Partnering with Russia and Kyrgyzstan to Help Disabled Children," U.S. Agency for International Development/Kyrgyz Republic, December 28, 2011, <http://centralasia.usaid.gov/blog/kyrgyzstan/855> (accessed June 17, 2013).

21. U.S. Agency for International Development, "It's Not About the Chair."

22. News release, "Removing the Barriers to Inclusion," U.S. Agency for International Development/Albania, November 21, 2007, <http://albania.usaid.gov/?fq=brenda&m=shfaqart&aid=202&artkat=49> (accessed June 17, 2013).

23. News release, "USAID Launched Employment Access Program for People with Disabilities in Armenia," U.S. Agency for International Development/Armenia, March 21, 2012, <http://armenia.usaid.gov/en/news-events/372> (accessed June 17, 2013), and news release, "USAID and World Vision Complete Three-Year Project Promoting Inclusive Education for Armenia's Disabled," U.S. Agency for International Development/Armenia, July 25, 2011, <http://armenia.usaid.gov/en/news-events/336> (accessed June 17, 2013).

- **Egypt**, where USAID is providing support services for families with disabled children.²⁴
- **Haiti**, where USAID is partnering with Handicap International and other NGOs to provide services and funds for persons with disabilities affected by the January 2010 earthquake.²⁵
- **Jordan**, where USAID is campaigning for reasonable accommodations, personal assistants, and sign language interpretation to improve conditions for persons with disabilities attempting to vote.²⁶
- **Kazakhstan**, where USAID is financing the Empowerment Now program to conduct regional and national education campaigns to promote economic independence of persons with disabilities and establishing a commission to implement Kazakhstan's disability laws regarding accessibility.²⁷
- **Kenya**, where USAID is educating persons with hearing disabilities about HIV/AIDS and other health issues.²⁸
- **Macedonia**, where USAID is assessing the capacity of all 334 central primary schools in the country "to be inclusive and to provide services to children with disabilities, especially through the use of assistive technology."²⁹
- **Moldova**, where USAID is outfitting polling places with wheelchair ramps, raised voting tables, and additional lighting inside voting booths to accommodate persons with disabilities.³⁰
- **Montenegro**, where USAID is building a lodge in Durmitor National Park specially adapted to the needs of young people with disabilities so that disabled youth can take advantage of outdoor activities.³¹
- **Paraguay**, where USAID is training persons with disabilities to prepare them for inclusion into the public-sector labor force.³²
- **Philippines**, where USAID is improving access for children with disabilities in primary schools "by offering a full battery of assessments, referral support, therapy and help in obtaining appropriate assistive devices."³³

USAID periodically publishes reports on the implementation of its disability policy and efforts to advance international disability rights in its missions on every continent except Australia and Antarctica. For example, in its December 2008

24. News release, "Inspired Through the Magic of a Child," U.S. Agency for International Development/Egypt, September 30, 2010, <http://www.usaid.gov/results-data/success-stories/inspired-through-magic-child> (accessed June 17, 2013).

25. U.S. Agency for International Development/Haiti, "Disabilities," <http://haiti.usaid.gov/issues/disabilities.php> (accessed June 17, 2013).

26. News release, "Voters with Disabilities Claim Their Rights During 2010 Elections," U.S. Agency for International Development/Jordan, November 21, 2011, <http://jordan.usaid.gov/en/newsroom/AiA/pages/CSPPWDvoting-tos1122010.aspx> (accessed June 17, 2013).

27. News release, "Disability Rights Orgs Will Reach 1/4 Million People in KZ," U.S. Agency for International Development/Kazakhstan, November 27, 2012, <http://centralasia.usaid.gov/press-release/kazakhstan/1262> (accessed June 17, 2013), and news release, "Disabled Receive Better Access," U.S. Agency for International Development/Kazakhstan, http://centralasia.usaidallnet.gov/sites/default/files/pdfs/success_story_090602_en_disabled_kaz.pdf (accessed June 17, 2013).

28. News release, "Linking People with Disability to Health Services," U.S. Agency for International Development/Kenya, February 19, 2013, <http://kenya.usaid.gov/success-story/1453> (accessed June 17, 2013).

29. U.S. Agency for International Development, "Europe and Eurasia Celebrates Progress on Disability Rights and Addresses Continuing Challenges," December 6, 2010, <http://blog.usaid.gov/2010/12/europe-and-eurasia-celebrates-progress-on-disability-rights-and-addresses-continuing-challenges/> (accessed June 17, 2013).

30. News release, "Expanding Voting Access for All," U.S. Agency for International Development/Moldova, July 31, 2012, <http://moldova.usaid.gov/programs/governing-justl-en/moldova-civil-s-en/expanding-votin-en> (accessed June 17, 2013).

31. U.S. Agency for International Development, "Europe and Eurasia Celebrates Progress on Disability Rights."

32. News release, "Labor Inclusion for People with Disabilities," U.S. Agency for International Development/Paraguay, August 18, 2010, <http://paraguay.usaid.gov/node/318> (accessed June 17, 2013).

33. News release, "From Excluded to Enrolled," U.S. Agency for International Development/Philippines, January 27, 2013, <http://philippines.usaid.gov/newsroom/excluded-enrolled> (accessed June 17, 2013).

report, USAID highlighted its disability rights programs in countries throughout Africa (Angola, Benin, Burkina Faso, Burundi, Democratic Republic of the Congo, Djibouti, Ghana, Guinea, Kenya, Liberia, Madagascar, Malawi, Mali, Mozambique, Namibia, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, South Africa, Tanzania, Uganda, Zambia, and Zimbabwe); Asia and the Near East (Afghanistan, Bangladesh, Cambodia, Cyprus, East Timor, Egypt, India, Indonesia, Jordan, Laos, Lebanon, Mongolia, Morocco, Pakistan, the Philippines, Sri Lanka, Vietnam, and Yemen); Europe and Eurasia (Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, Macedonia, Moldova, Montenegro, Romania, Russia, Serbia, Tajikistan, Turkmenistan, and Uzbekistan); and Latin America and the Caribbean (Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, and Peru).³⁴

In sum, U.S. international activities and programs on disability rights around the globe are broad and deep. All of these activities and programs were successfully executed without the United States being a party to the CRPD and will continue as long as USAID and Congress continue to support them.

Yet the proponents of the CRPD contend that U.S. ratification is absolutely essential to build wheelchair ramps, curb cuts, and special parking spaces and to provide access to service animals in foreign countries.³⁵ No evidence supports this contention, as indicated by what USAID and its international partners have accomplished around the world. To accept the CRPD proponents' argument is to believe that foreign governments will condition their acceptance of U.S. funding, research, technical and legal expertise, information sharing, and organizational capacity on U.S. ratification of the convention. This belief is wholly unsupported and finds no precedent in the history and operation of human rights treaties.

U.S. Ratification Irrelevant to International Respect for Disability Rights

Through USAID the United States strives to advance international disability rights, and its actions have benefited persons with disabilities living in foreign countries throughout the world. Those actions—not the act of ratifying a treaty—have improved and will continue to improve the living conditions for persons with disabilities.

Contrary to the arguments of the CRPD proponents, no evidence indicates that U.S. ratification of the CRPD will advance, directly or indirectly, the rights of persons with disabilities in foreign countries. Nor will U.S. ratification improve accessibility in foreign countries such that Americans with disabilities will find it easier to live, work, or study in those countries because there is no correlation between U.S. ratification of human rights treaties and the advancement of human rights in foreign countries. If that were the case, the world would look much different than it does today.

There is no correlation between U.S. ratification of human rights treaties and the advancement of human rights in foreign countries.

After all, the United States has ratified several human rights treaties without causing such beneficial global results. For example, the United States has ratified the International Covenant on Civil and Political Rights (ICCPR), but it has not resulted in greater respect for civil and political rights in other ICCPR member states, such as Ethiopia, Iran, Russia, Uzbekistan, or Vietnam, all of which were given the lowest rating of “Not Free” in Freedom House’s 2013 *Freedom in the World* report.³⁶ The United States is also a party to the International Convention on the

34. U.S. Agency for International Development, “Fifth Report on the Implementation of USAID Disability Policy,” December 2008, http://transition.usaid.gov/about_usaid/disability/modules/disreport08.pdf (accessed June 17, 2013).

35. Eve Hill, testimony in *Convention on the Rights of Persons with Disabilities*, pp. 36–37.

36. Freedom House, *2013 Freedom in the World*, <http://www.freedomhouse.org/report-types/freedom-world> (accessed June 17, 2013).

Elimination of All Forms of Racial Discrimination (ICERD), but a recent study conducted by the World Values Survey identified several ICERD members as the least racially tolerant on the planet, including Egypt, India, Indonesia, Jordan, and Nigeria.³⁷

Moreover, the United States is not a party to several other human rights treaties, but this has not discernibly affected the rest of the world. There is no causal relationship between the U.S. decision not to ratify the U.N. Convention on the Rights of the Child and any advancement of or retreat from the rights of children living in foreign countries that have ratified that treaty. The United States is not a party to the Convention on the Elimination of All Forms of Discrimination against Women, but that has not prevented scores of foreign countries from accepting U.S. funding and assistance to advance women's rights throughout the world.

U.S. ratification of human rights treaties simply does not factor into foreign compliance with such treaties. That includes compliance with the CRPD. Indeed, some nations that have signed or ratified the CRPD have already taken great strides to comply with the CRPD even though the United States has not ratified the treaty. Treaty proponents concede this point. For example, John Lancaster, former executive director of the National Council on Independent Living, identified several such nations in his testimony to the Committee on Foreign Relations:

- “Kenya, who ratified the treaty in 2008, worked to specifically include the rights of persons with disabilities in their new 2010 Constitution.”
- “Nigeria, a country that has a history of serious discrimination against children with albinism, has created a ministerial committee on albinism since their ratification of the treaty in 2010.”
- “Moldova, who also ratified in 2010, is currently using the CRPD to develop a roadmap for new methods to approach disability domestically

with a particular focus on de-institutionalization.”

- “The United Arab Emirates, since ratifying the CRPD, has enacted a new law that focuses on promoting positive attitudes toward disability and improving building codes to provide accessibility.”³⁸

Former Justice Department official John Wodatch agreed, testifying:

If you look at the countries that have ratified, they are making changes to their domestic law. Spain has brought about a new comprehensive law. Great Britain has, for the first time, attempted to cover its private sector to make it accessible.³⁹

As such, it appears that U.S. ratification of the CRPD is far from essential to ensure that foreign countries comply with their treaty obligations.

In sum, there is simply no correlation between U.S. ratification of human rights treaties and greater respect for human rights in foreign countries that have ratified the same treaties. Foreign countries ratify and comply with human rights treaties for any number of reasons, none of which depend on U.S. membership in such treaties. Indeed, serious doubts have been raised whether ratification of human rights treaties actually increases protection for human rights in the countries that ratify the treaties.⁴⁰

Leading by Example

The United States represents the international “gold standard” for respect and protection for the rights of persons with disabilities. U.S. ratification of the CRPD and participation in its committee reporting mechanisms will not magically showcase American progress toward the full enjoyment of human rights by Americans with disabilities. Rather, ratification places the United States squarely on the

37. Max Fisher, “A Fascinating Map of the World’s Most and Least Racially Tolerant Countries,” *The Washington Post*, May 15, 2013, <http://www.washingtonpost.com/blogs/worldviews/wp/2013/05/15/a-fascinating-map-of-the-worlds-most-and-least-racially-tolerant-countries/> (accessed June 17, 2013).

38. John Lancaster, prepared testimony in *Convention on the Rights of Persons with Disabilities*, p. 99.

39. John Wodatch, testimony in *ibid.*, p. 108.

40. Oona A. Hathaway, “Do Human Rights Treaties Make a Difference?” *The Yale Law Journal*, Vol. 111, No. 8 (June 2002), p. 1935, <http://yalelawjournal.org/the-yale-law-journal/volume-111,-issue-8,-june-2002/> (accessed June 17, 2013).

same moral level as every other nation that joins the CRPD, regardless of how poor those nations' records are in protecting the rights of persons with disabilities. Ratification does not enhance U.S. leadership on international disability rights—it squanders America's exceptional position as the world's preeminent protector of disability rights.

In future hearings and debates regarding the propriety of U.S. ratification of the CRPD, treaty proponents should eschew making promises to Americans with disabilities that they cannot keep. U.S. ratification of the CRPD will not improve accessibility in foreign countries that have ratified the treaty and therefore will not benefit Americans with disabilities that plan to live, work, or study abroad. CRPD proponents have provided no evidence that shows otherwise, and the history of U.S. ratification of human rights treaties gives no indication of any causal relationship between U.S. ratification and the advancement of human rights in foreign countries.

The proponents' argument that the CRPD will benefit Americans with disabilities is particularly disturbing when it is made in the name of U.S. veterans who have suffered wounds on the battlefield and have been left with disabilities. The U.S. government should not make empty promises to men and women who have lost their limbs, eyesight, or hearing in combat. Instead of expending limited resources reporting to a committee of supposed disability experts in Geneva, the Obama Administration should concentrate its efforts on continuing to advance the rights of Americans with disabilities with the goal of their full inclusion at all levels of American society.

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