



APRIL 2008

# The Disability Rights Treaty: The advocacy opportunity of a lifetime

## *The United States must sign the U.N. Treaty on Rights of Persons with Disabilities*



Magar

### MICHELE MAGAR

A few short years ago, I had the opportunity to travel to the United Nations to help advocate for a strong and effective treaty to protect and advance the rights of people with disabilities. The experience changed my life.

Adopted by the United Nations on December 13, 2006, the treaty guarantees people with disability the rights to self-determination and equality. It covers every aspect of life, and gives people with disabilities the rights many of us take for granted, including the rights to vote, sign contracts, own property, work, marry, procreate, and retain custody of children. In May 2008, the treaty will become legally binding.

I learned about the United States disability rights movement 26 years ago when I became the first national news reporter to develop "disability rights" as a beat. In those days, the Americans with Disabilities Act of 1990 did not exist, and few reporters showed up at press events organized by disability rights advocates in our nation's capitol.

Back then, the disability rights movement in our nation was still new. It had its first coming-out party when people with disabilities grew tired of waiting for the federal government to issue implementing regulations to Section 504 of the Rehabilitation Act of 1973. That simple but revolutionary law barred recipients of federal funds from discriminating on the basis of disability.

But the law meant nothing without implementing regulations, and after four years spent asking the federal government to issue regulations, people with disabilities in the Bay area decided that a more forceful strategy was needed. They gathered in San Francisco, entered the federal building, and refused to leave until the federal government issued regulations.

Twenty-six days later, they won. Health, Education, and Welfare Secretary Joseph Califano signed the Section 504 regulations on April 28, 1977. It was the first

time U.S. residents with disabilities had staged such a powerful demonstration of their determination to eradicate discrimination based on disability. It won national news coverage, and marked the official birth of the U.S. disability rights movement.

### Watching the movement grow

My work as a journalist gave me a front row seat to watch the movement grow. I saw advocates build a national grassroots campaign that persuaded Congress to enact a series of laws that advanced the rights of people with disabilities and that set the stage for passage of the ADA in 1990.

Inspired by the advocates I was covering, I went to law school in 1992 to become a disability rights lawyer. One magical day several years later, I received an e-mail and learned that the United Nations was busy drafting a disability rights treaty. Soon afterwards, I boarded a flight to New York, filled with anticipation.

When I landed, I found a group of people like myself, who had traveled from all over the world to do exactly what I was there to do: work with official delegates to ensure our treaty would become a global mandate to end discrimination based on disability.

My new friends had organized themselves into a global coalition called the International Disability Caucus. They mounted the most effective advocacy campaign I had ever witnessed. In fact, it proved to be the most powerful treaty advocacy campaign the United Nations had ever seen.

The key to the IDC's success was its ability to organize across disability and transcend geographic, linguistic, cultural, class, and religious differences. We held daily meetings to hash out our differences behind closed doors. When we exited, we spoke with one strong and authoritative voice.

Each day, we developed summaries of each statement made on the floor of the plenary, and we posted each day's work on websites accessible to thousands of



APRIL 2008

people with disabilities around the world, who relied on us to keep up with the proceedings.

As the four-year treaty writing process evolved, we developed our own daily newsletter for the delegates. We used it to describe our goals for each treaty article and suggest ways to strengthen the ones scheduled for discussion that day. We stood at the entrance of the plenary room every morning to hand each arriving delegate a copy of our newsletter, still warm from the copy machine.

And the delegates listened. Adopted by the United Nations on December 13, 2006, the Convention on the Rights of Persons with Disabilities reflects a revolution in the way most nations think about disability. It marks a paradigm shift from welfare to rights: a change from the old-fashioned framework of disability as something best addressed via charity and doctors to recognition that people with disabilities have the right to equality and self-determination.

The United Nations expects that if broadly implemented, the Convention will improve the lives of one-quarter of the world's population, including the poorest of the poor, because in most nations disability disadvantages entire families, not just individuals.

On March 30, 2007, the U.N. opened the treaty for signatures. The first human rights treaty of the twenty-first century was quickly signed by a record-breaking number of nations.

When a nation signs a treaty, it means two things: that it intends to ratify the document at a future date, and that in the meantime it will not act in a manner that contradicts the object and purpose of the treaty. Once a nation formally ratifies a treaty, it agrees to be bound by it, and to bring its national laws into harmony with the treaty.

Because nations must take the time to carefully compare their national statutes with the treaty before deciding whether to make the commitment to

conform their laws to it, ratification occurs at a much slower pace.

Some nations prefer to harmonize their laws before they ratify, others opt to ratify first and change their laws accordingly.

Because the great majority of nations have no disability rights laws, the ADA and Section 504 of the Rehabilitation Act were studied by U.N. delegates. Americans who read the treaty will recognize many familiar concepts, such as the right to reasonable accommodation, one of the central protections afforded under U.S. laws, beginning with Section 504 of the Rehabilitation Act of 1973.

Participating in the international effort to birth our new treaty inspired me to call another lifelong disability rights advocate in Washington, D.C., who had worked alongside me at the U.N. Together we co-founded RatifyNow, an international nonprofit whose mission is to provide multi-faceted support to grassroots advocates worldwide working to persuade their nation to ratify our treaty.

In the U.S., we are working to make sure that the Democratic political platform includes a demand for treaty ratification. We have already enacted a growing number of local initiatives from Santa Cruz, California to Cambridge, Massachusetts to demand that our nation ratify our treaty. We are confident that the U.S. will soon add its name to the list of nations that agree to be bound by the CRPD, and we are working to persuade our elected officials to support U.S. ratification as quickly as possible.

Why should the U.S. ratify this treaty? Don't we already protect the rights of U.S. residents with disabilities via the Americans with Disabilities Act and other disability rights laws?

There are several reasons the U.S. would benefit from ratifying the treaty. First, the Supreme Court has been chipping away at the Americans with Disabilities Act. The treaty would restore the rights that Congress intended when it enacted the statute in 1990.

In fact, a new study about to be released by the National Council on Disability compares U.S. law to the treaty. It concludes that overall, the treaty's protections U.S. law would provide similar protections as the treaty if U.S. law was enforced in the way that Congress had intended.

Second, the United Nations estimates that some 45 nations have disability rights laws. Surely there is much we could learn from other nations, and the treaty provides ratifying nations opportunities to share best practices and exchange ideas.

Third, U.S. ratification is a prize that could help the U.S. disability rights movement unite across disability and geography—something that would greatly strengthen our movement and build a foundation that would enable us to work together on future efforts.

Fourth, nations that ratify the treaty agree to set up independent monitoring bodies to track treaty compliance and develop periodic compliance reports to submit to U.N. committee that will monitor the treaty's implementation and enforcement. U.S. ratification would institutionalize an independent watchdog function that would help us identify reforms needed to achieve true equality for Americans with disabilities.

And finally, if the U.S. hopes to regain its international stature as a protector of human rights, it must act accordingly by participating in the treaty and sharing its dedication to equality with the rest of the world. Our nation cannot remain on the sidelines while it urges other nations to advance the rights of people with disabilities.

What can you do to help? As a first step, educate yourself about the treaty. You can do that by visiting [www.ratifynow.org](http://www.ratifynow.org).

Next, tell your family and friends about the treaty—the US press has largely ignored it, so very few Americans know the treaty exists. Lawyers are particularly needed to help draft local initia-



APRIL 2008

tives to build a groundswell of support for U.S. ratification.

If legislative advocacy doesn't attract you, there are many other ways you can help. We've listed a range of suggestions on our website to fit whatever time you can devote to support the treaty. To learn about them, visit RatifyNow.org and click on "get involved."

If you'd like to keep up with our progress, consider joining our listserve and participating in our monthly conference calls, or writing a blog or an op-ed about the treaty. You'll find talking points and ideas about press advocacy by clicking on our Web page devoted to that topic.

Visit our Web site and come back often — we update it every week. You'll find a list of events and conferences around the world, and you'll be able to keep up with ratification campaigns all over the globe, in addition to the one in our own nation.

Join us as we work with our counterparts in other nations to spark and nurture indigenous disability rights movements all over the world, and build an international movement to eradicate disability discrimination and build a future based on equality and self-determination.

Ten percent of humanity — 650 million people — lives with a disability. In nations where life expectancy tops 70 years, people spend an average of 8 years — 11.5 percent of their life — living with a disability.

People with disabilities are the world's largest minority, yet only 45 nations have disability rights laws. In many nations, people with disabilities lack the rights to marry, own property, sign contracts, vote, work, and retain custody of their children.

Thirty percent of homeless children have disabilities.

For every child killed in war, three children acquire permanent disabilities.

90 percent of children with disabilities in developing nations receive no education.

Women and girls with disabilities are more likely to experience violence and abuse than females without disabilities.

In every nation, people with disabilities are the poorest of the poor. 80 percent of people with disabilities live in developing nations.

In some nations, 80 percent of working-age people with disabilities are unemployed.

If broadly ratified and implemented, the CRPD will benefit one quarter of the world's population, because it will improve the lives of people with disabilities as well as their families.

In the U.S., nearly two-thirds of people with disabilities are unemployed, despite the fact that the great majority want jobs.

A 2003 survey of U.S. employers found that the cost of accommodations averaged \$500 or less. 73 percent of employers found that their workers with disabilities required either no accommodations or cost-free accommodations.

A 2002 U.S. study found that workers with disabilities had better retention rates than workers without disabilities. Eighty-five percent of U.S. workers with disabilities remain at their job after one year of employment.

Facts from <http://www.un.org/disabilities/documents/toolaction/pwdfs.pdf>

*Michele Magar, a civil rights attorney and journalist based in San Francisco, is the Executive Director of RatifyNow. She*

*welcomes comments and ideas for future columns. Readers may reach her at [mmagar@plaintiffmagazine.com](mailto:mmagar@plaintiffmagazine.com).*