

**Transcript**  
**Webcast: The New International Disability Rights Treaty and**  
**Why the Disability Community Should Care**

**September 17, 2008**

Thank you for joining us today for the Consortium for Citizens with Disabilities Webcast on the new International Disability Rights treaty and why the disability community should care. My name is David Morrissey with AUCD and I'm going to pass the mic now to our Chair, David Hutt, with MDRM, who will introduce our panel.

Thank you, David. Good morning, everyone, actually good afternoon, everyone and good morning to the folks that are joining us on the west coast. I would like to welcome you to today's Webcast on the new International Disability Rights Treaty and why the disability community could share- should care. Just to reiterate, as David Morrissey just mentioned, we are having some audio difficulties because we're having some technical Internet problems in the Washington area, so we apologize for that problem. This Webcast will be recorded and we will be placing this on the CCD Web site for availability later in the week.

Again, my name is David Hutt, I'm a staff attorney with the National Disability Rights Network, as well as co-chair of the Consortium of Citizens with Disabilities International Task Force. I will be moderating today's Webcast. This Webcast is presented by the Consortium of Citizens with Disabilities International Task Force, with sponsorship from the Association of University Centers on Disability, AUCD, Easter Seals and the Multiple Sclerosis Society.

The Consortium of Citizens with Disabilities is a coalition over 100 national consumer advocacy provider and professional organizations, headquartered in the Washington, D.C. area. Since 1973, CCD has advocated on behalf of people of all ages with physical and mental disabilities, as well as their families. In early 2007 after the Convention of the Rights of Persons with Disabilities, which is the formal title for the International Disability Rights Treaty, was finalized for countries to sign and ratify, CCD created the International Task Force to raise awareness in the United States disability community about international disability issues. This Webcast is a part of that mission, to provide CCD member organizations and their affiliates across the country with information about this new treaty and ways to encourage the United States to become more actively involved in international disability issues.

Now before I introduce the topics and our speakers, I'd first like to thank several individuals for their input and involvement in organizing today's' events. First of all, Marcie Roth, who is currently the Executive Director of the National Spinal Cord Injury Association and was also co-chair of the CCD International Task Force; Jennifer Dexter at Easter Seals for organizing the live location for today's event; David Chattel at the

National Multiple Sclerosis Society for making the captioning and transcription available; and a special thanks to David Morrissey at AUCD who has worked very hard, including today, to deal with many of the technical aspects to make this Webcast a success.

Now the three speakers today will be providing an overview of this new treaty, often referred to as the CRPD, for the initials of the Convention on the Rights of Persons with Disabilities. The speakers will discuss the impact on U.S. law and policy if the treaty was ratified by the United States and the impact that the CRPD will have in other areas of the globe. We will also discuss ways to advocate for U.S. signature and ratification of the treaty. Our first speaker will be Katherine Guernsey, who is an international attorney whose practice focuses on international law, human rights, disability and the development, and who is an adjunct professor at the American University School of International Service. Kathy was extensively involved in the negotiations at the United Nations in drafting the CRPD, providing counsel to both governments and non-governmental delegations, and providing human rights education materials and workshops to both governmental and non-governmental participants. She has worked as Advocacy Program Officer and legal counsel for Land Mine Survivors Network, has co-authored numerous publications associated with the treaty negotiation process, and is co-author of the World Bank publications making inclusion operational, legal and institutional resources for World Bank staff on the inclusion of disability issues in investment products, projects and Convention on the Rights of Persons with Disabilities, its implementation and relevance for the World Bank. She is also co-author of "Human Rights Yes," a human rights educational manual for people with disabilities and their allies.

Our second speaker will be Elisabeth Doyle, who is an attorney with the law firm of Power, Pyles, Sutter and Verville in Washington, D.C., where she focuses on disability, working with principal John Kemp and advising global business clients on national, international trends in disability law, policy and marketplace drivers. She is co-creator and co-author of "Digital Accessibility Trends Analysis Data," a quarterly publication geared toward international development and disability law and policy. She is also a member of a research committee, which is a flagship advocacy initiative of the United Nations Global Alliance for Information and Communications Technology and Development, known as G3ICT, and has co-authored articles regarding the ADA and presented in Vietnam at the country's conference on new international law and disability. Previously, Elizabeth was the Deputy Attorney General of New Jersey, representing the New Jersey Departments of Education, Health and Human Services.

And finally, our third speaker, who is just off the plane just a few hours ago, will be Allison Hillman De Velásquez, who is Director of the Americas Programs at Mental Disability Rights International, MDRI, where she designs and implements MDRI's advocacy support programs, human rights monitoring, and litigation on the Americas. In collaboration with attorneys from the Center for Justice in International Law, she presented the first petition to the Interoperability-American Commission on Human Rights, challenging ongoing abuses in psychiatric institutions and has investigated abuses against people with mental illness in institutions in Argentina, Paraguay, Peru

and Uruguay. She is a primary author of “Ruined Lives - Segregation in Argentina’s Psychiatric Asylums” and “Human Rights in Mental Health in Peru.”

Before I turn the presentation over to Kathy, we do hope to provide an opportunity for questions following the presentation and, as David Morrissey indicated, you’ll be able to type your questions into the GoTo webinar. Kathy?

Thank you, David, and thanks for providing us the opportunity to have this dialog today. I may be a little bit biased here, but I’m a big fan of the new treaty. And I’m really excited that your organizations have come together to help the American disability community learn more about this important document. We’re just getting the PowerPoint on the contents page slide. There we go, excellent, thanks David.

So I’m going to be discussing three things here. Broadly, I would like to provide some background on the process that was used to draft the treaty. It was a rather lengthy process, over five years, and I think it would be helpful for people to hear a little bit about how this document came to be. It didn’t just spring out of the U.N. completely formed. I’ll also give some guidance on the structure and content of the treaty, and then lastly, its ratification status.

So first of all, the convention negotiation process - the process was begun by Mexico in December of 2001. Mexico was a chief sponsor of General Assembly Resolution 56-168. This resolution established an ad hoc committee of the General Assembly. Now I should say here it’s unusual for the General Assembly to be involved in drafting human rights treaties. Normally, such things would happen in Geneva, however when Mexico tried to start the treaty process in Geneva, they met some resistance primarily from European countries who were experiencing human rights treaty fatigue. They felt we had enough treaties already, we didn’t need another treaty. People with disabilities have the same human rights as everybody else, and they didn’t feel there was a need for an additional treaty. They felt the disability community would be better served by making better use of the existing treaties.

However, when Mexico experienced this pushback, they decided that the process was so important they would try another venue for it. And so they went to the General Assembly. Again the General Assembly does not usually draft such treaties, but there’s nothing prohibiting it from engaging in treaty negotiations. So, a resolution was passed establishing an ad hoc committee, a temporary body of the General Assembly. This body was mandated to consider proposals for a treaty and it met for a total of eight sessions from 2002 to 2006. And there was extensive participation in this process. The official members of the ad hoc committee were U.N. member states, including the United States. In addition, the ad hoc committee ensured that civil society could participate fully, particularly people with disabilities. There was a recognition on the part of governments that they did not have the expertise necessary to draft this treaty. If they had enough disability expertise, we probably wouldn’t need the treaty in the first place. And to their credit, Mexico and many other primarily developing countries sought to have full participation of people with disabilities in this process.

The ad hoc committee created another temporary body, called the working group. The working group was mandated to put together the first draft to be considered by the ad hoc committee. This working group met for one session only in January of 2003, and the working group had very unique membership. Usually such drafting bodies are made up either of only government representatives or academics, but Mexico, New Zealand and a number of other leaders in the ad hoc committee felt that this group should include people with disabilities. So for the first time ever, a human rights treaty was drafted with both governments and civil society having equal rights of participation. In the working group, if you wanted to speak you put up your flag and requested the opportunity to speak. They didn't force civil society to wait until the government discussion had completed, as would normally happen in the ad hoc committee. This created a very unique dialog and many of the government participants in the working group will tell you how valuable the input of people with disabilities was.

The final draft of the treaty was adopted on December of 2006, and it was opened for signature on the 30th of March in 2007. Over 80 countries and the European Union signed the treaty on that day, and actually Jamaica also ratified on that day. This is unprecedented in the human rights field. This is the highest number of countries to sign such a treaty on its opening day. And I think that's really reflective of the international community's recognition that this is an important treaty for human rights in general and people with disabilities in particular. The treaty entered into force on the 3rd of May of this year. Entry into force in international law is the point at which a treaty becomes legally activated, legally operative. And so for any country that becomes a party to the treaty, the treaty becomes legally binding for them from that point onwards.

The next slide will be a picture of one of the side meeting rooms at the United Nations. This was a small room that the NGOs used in order to meet and hold their discussions away from governments. The picture shows the room packed with people but this is really one of the smaller groups. By the end of the process, there were over 600 members of civil society registered to participate. And I think that's really reflective of the broadness of the participation in these negotiations.

I think we're having a little bit of issue with the PowerPoint but we can go back - and one more. There's a little bit of a delay on the PowerPoint so it's easy to get the slides going the other way. Thanks, David.

So the convention structure and content - what is this treaty - this treaty is one of nine what are called core international human rights treaties. A core human rights treaty is one that includes a monitoring mechanism, typically a body of independent experts who monitor the treaty at the international level. They receive reports from parties to the treaty and the reports indicate what governments are doing to implement the treaty, and they're submitted by the governments themselves. Treaties like the Genocide Convention, for example, are important human rights treaties but they're not core treaties because they don't include this monitoring mechanism. The CRPD is a core treaty. It establishes an international level monitoring mechanism. And so it is, if you

will, a higher category of human rights treaty. Because of the current treaty monitoring reform process that is happening at the United Nations, there were some suggestion that the treaty should not include any monitoring body. However, the disability community argued successfully that not having such a monitoring mechanism would make this a second-class treaty, and governments recognize that that was the case. So we do have an international level monitoring mechanism for this treaty.

The treaty is legally binding. As an international convention - convention and treaty mean the same thing - it is legally binding upon countries who consent to be bound by it. A country consents to be bound by becoming a party, or state party, to the treaty. Most countries achieve this by signing, making them a signatory, and then later ratifying the treaty. It's not until a country ratifies that it is legally bound to the treaty. Being a signatory carries a very low level of legal obligation. Countries that are signatories only need to comply with the objects and purpose of the treaty, the main idea of the treaty. It's not until a country becomes a full party that it's legally bound to all of the provisions in the treaty, subject to any legally valid reservations that it may submit.

I think it's worth noting that the treaty elaborates existing human rights in the context of disability. This treaty does not create new or special or different rights for people with disabilities. Just as we have treaties on women and children and migrant workers, this treaty is not creating new rights for a separate group of people. It's ensuring that governments understand how to implement the existing human rights for a group of people who have been historically ignored in the human rights field.

A word then on the structure of the treaty. Like many human rights conventions, the Disability Treaty starts with a preamble. The preamble provides some of the rationale for having the treaty. The preamble, in and of itself, is not a legally binding segment of the treaty but it's important in indicating the drafters' intent. We then have two articles, articles one and two, that can be considered introductory articles. They outline the purpose of the treaty and define some of the terms that are used in it. Articles 3 through 9 could be called articles of general application. They include general principles, general obligations, equality and non-discrimination, women with disabilities, children with disabilities, awareness raising and accessibility. These articles include provisions that should be kept in mind when interpreting or implementing any other aspect of the treaty. So, for example, they remind governments that when implementing the article on employment, that they should keep in mind, for example, a gender component and address the specific needs of women with disabilities. They should, for example when interpreting or implementing the article on education, keep in mind article nine on accessibility. So articles three through nine are very important articles that apply all of the time.

Articles 10 through 30 are the specific articles. They address the core human rights, the fundamental human rights. And they are very broad, they include both civil and political rights, as well as economic, social and cultural. So we capture all of the areas of life that are relevant for people with disabilities and that are relevant for anybody, frankly. Articles 31 through 40 are the implementation and monitoring measures. They include

articles on international cooperation, encouraging information exchange between countries, not just developed countries to developing countries, but vice-versa. There are articles on data and statistics, and the need to gather more data because we have very little really good data in the international disability field. They include articles on monitoring at the international level, which I referenced earlier, and also uniquely articles on monitoring at the national level. This is the first human rights treaty to require each state party to have a national level monitoring mechanism using an independent monitoring body. It's very unique in this regard, and it really makes this treaty at the forefront of the human rights field. The final articles, articles 41 through 50, really address how to become a party to the treaty and these sorts of details.

You may also have heard of the optional protocol to the convention. An optional protocol is, itself, a treaty that is added onto an existing treaty. It does not change the underlying treaty but it adds on further issues that governments can choose whether or not they legally bind themselves to. The optional protocol to the Disability Convention addresses two additional procedures to strengthen monitoring and implementation of the convention - an individual communications or complains procedure and an inquiry procedure. For governments that become party to the optional protocol, this ensures that people who feel their rights have been violated can submit a complaint to the international monitoring body. It also ensures that the body can investigate complaints of human rights abuses by that state party.

Some notable elements of the content of the convention - I think it's really important to stress that it is cross-disability in its approach. Yes, while different impairment-specific groups of people may have very specific challenges and needs, the overarching issues apply to all people with disabilities, regardless of impairment type. And the treaty, therefore, is cross-disability in approach.

Also, there is no definition of disability. This was hotly contested but, because there is no internationally agreed upon concept of disability, it was felt that it would be inappropriate to include a definition here that could in time become quickly outdated. Instead, we have an elaboration of the concept of disability, which is included in the preamble. It recognizes that disability is an evolving concept and that disability results from the interaction between persons with impairments, and attitudinal and environment barriers that hinders their full and effective participation in society on an equal basis with others. This is really reflexive of the social model of disability. And again, it makes this document- it puts this document at the forefront of human rights by moving away from the more traditional medical or welfare models of disability.

Also in article one in the Purpose section, it includes a non-exclusive list of the types of people who would be covered by this treaty, including those with long-term physical, mental, intellectual or sensory impairments. This is a floor, not a ceiling. This is a non-exclusive list that governments can expand, but at a minimum, people referenced here do need to be covered.

As I mentioned earlier, the treaty is comprehensive in its content, including economic, social and cultural rights, and civil and political rights. There is a strong thread of non-discrimination and equality running throughout the treaty. There is also a focus on monitoring at all levels, both nationally and internationally. There is a strong connection in the treaty between disability, human rights and development, which I think is also reflexive of the leadership of developing countries in this process. Gender equality, again, is a very prominent concern in the treaty. And lastly, I would say that the treaty is very consistent with the spirit of the Americans with Disabilities Act, which was recognized in the process as being one of the historic documents that should form a reference point for the drafters.

Lastly, a word on ratification. As I mentioned earlier, 20 countries were needed to- the convention requires that 20 countries ratify, or become state parties, to the treaty in order for it to enter into force, to become legally operative. As of September the 15th, there were 130 signatures to the Convention, 71 signatures to the optional protocol, 37 ratifications of the Convention - so 37 countries have become party to it - and there are 22 ratifications of the optional protocol. So both the treaty and its optional protocol have become legally binding in international law for those countries who choose to be parties to it.

Lastly, the countries who have ratified as of September 15th, include Argentina, Australia, Bangladesh, Brazil, Chili, China, Croatia, Cuba, Ecuador, Egypt, El Salvador, Gabon, Guinea, Honduras, Hungary, India, Jamaica, Jordan, Kenya, Mali, Mexico, Namibia, Nicaragua, Niger, Panama, Paraguay, Peru, the Philippines, Qatar, San Marino, Saudi Arabia, Slovenia, South Africa, Spain, Thailand, Tunisia and Turkmenistan. I believe that list is representative of the breadth of the embrace of the international community for this treaty. You have both developed and developing countries in there. You have countries from every region, so really this is a treaty that has been recognized as being fundamentally important by the international community as a whole.

Thank you very much for your time, and I'm going to pass the microphone now to Elisabeth Doyle.

Good afternoon, everyone. I'm going to be talking a little bit this afternoon about some of the differences between the principles of the Convention and U.S. disability law with an eye, of course, toward identifying areas that might need attention if, indeed, the U.S. does ratify the Convention. And I'll start by saying that this is a subject on which we could spend hours talking. And I have about 20 minutes, so I am just going to do my best to give you an overview. I will not cover every single difference, however I will note that if you are interested in delving very deeply into each and every difference and comparing different articles of the Convention with different provisions in U.S. disability law, there's a wonderful document floating around out there, it was certainly one of the resources that was helpful to me in preparing for today's presentation, and that is a report entitled, "Finding the Gaps." It was put forth by, I believe the FCD back in May of 2008, and it can certainly be found online.

Before I start talking about some of the differences, I thought we'd start by just touching quickly on some of the similarities. I agree very much with Kathy that the overall principles of the - I'm sorry, I'm being told to put the mic closer - that the overall principles of the Convention are very much consistent with American disability law, so that's the first thing that I would note. And this is certainly not a surprise because U.S. disability law, in particular the ADA, was one of the sources of inspiration for the U.N. convention. The ADA really can't be underestimated in terms of its ground-breaking impact, its pioneering force, and it certainly has had global effect in terms of catalyzing thought by other countries in terms of developing comprehensive disability rights legislation.

One quick similarity, both contain- you'll hear the phrase "reasonable accommodation" when you read the U.N. convention, borrowed from the ADA. Both also certainly recognize, although in different language, the historic marginalization of people with disabilities, and both documents have at their heart, although again it might be expressed in slightly different language, goals of equal opportunity, participation, independence and inclusion of people with disabilities.

In terms of differences between the U.N. convention and disability law, one of the phrases - I'm not being reset, someone has put the microphone closer to me so I believe that will work better - but in any event, it's often said that U.S. disability law, particular the ADA, has what's called an anti-discrimination sort of an approach, and this is true. We know that Title I of the ADA prohibits discrimination against people with disabilities in the area of employees, Title II prohibits discrimination in programs and services of state and local government, Title III prohibits discrimination in terms of places of public accommodation, and Section 504, which applies to the federal government, prohibits discrimination by organizations that receive federal funds.

But with that said, and again this is echoing a bit of what Kathy had mentioned, the Convention also takes a very strong anti-discrimination approach in terms of general principles. One of the general principles of the Convention, of course, is non-discrimination amongst the general obligations of the parties, is to take all appropriate measures to abolish discrimination. Article 5 addresses equality and non-discrimination and so on. So anti-discrimination is certainly very much part of this document. But the Convention also takes another approach and its own sort of unique approach, and that is we're approaching disability issues from a very affirmative standpoint.

The Convention takes an affirmative approach to inclusion and integration and access in all spheres of life. It imposes affirmative obligations on state parties to, as I indicated on my slide, create conditions of dignity, inclusion, respect and equality across the spectrum of human experience. The Convention also has an emphasis on maximizing human potential. A couple of articles that reflect this well is the article pertaining to women with disabilities and the article pertaining to education. The Convention deals with uprooting negative attitudes and stereotypes toward people with disabilities, again



another very important component and one article which demonstrates this well is the awareness-raising article.

The Convention, again Kathy noted this as well, doesn't have a precise definition of disability as you would find in the ADA, but rather identifies barriers as what define disability as opposed to some sort of intrinsic difference or deficiency. And as I wrote on my slide, just a quote, this is a quote from the Convention - disability "results from the interaction between persons with impairments and attitudinal and environment barriers that hinder their full and effective participation in society.

So when we take all of these things together and we take this anti-discrimination approach, together with an affirmative approach to inclusion and integration, an emphasis on maximizing human potential, on uprooting negative attitudes and combine that with a whole different sort of a take on disability which removes the stigma from the individual, what you have is a very unique, comprehensive document, one which I find very impressive and promising.

And I'm going to discuss, and I'm sure that I will be cut short at a certain point, but some of the areas of difference, the specific areas of difference, between the Convention and U.S. disability law. And I'm going to start by talking just a little bit about Article 5, which deals with equality and non-discrimination. And as I had mentioned earlier, both pieces of legislation reflect this reasonable accommodation standard. But the Convention goes further. It requires that state parties - again reading from the slide - take all appropriate steps to ensure that reasonable accommodation is provided or take specific measures that accelerate or achieve de facto equality. And here is the really marked difference between the Convention and U.S. law. Under the Convention, these measures are not to be considered discrimination or what otherwise might be termed reverse discrimination here in the U.S. So these would include measures such as incentive programs, quotas, affirmative action, these sorts of very aggressive approaches towards creating balance. And clearly this is beyond what U.S. law requires, so this is obviously one of the key areas that we would need to revisit and reevaluate if indeed the U.S. chooses to ratify the Convention.

Let's move on, next Article 6, another example of a provision that contains some differences, reflects some differences with U.S. law, women with disabilities. State parties - this is a very sort of comprehensive mandate - that state parties recognize that women and girls with disabilities are subject to multiple discrimination, shall take all measures to ensure the full and equal enjoyment by them of all their human rights and fundamental freedoms. And you'll forgive me if I read sometimes. These are just excerpts from the Convention itself, just brief excerpts. The language is important. The language is very, very powerful and comprehensive. The next bullet down, state parties must take all appropriate measures to ensure the full development, advancement and empowerment of women for the purpose of guaranteeing them the exercise and enjoyment of the rights, of the human rights and fundamental freedoms in the Convention. So this is an area of difference. In U.S. law we have discrete areas where gender discrimination is addressed. Discrimination in the employment sphere is

prohibited, sexual harassment is actionable if it is “sufficiently severe,” and of course under Title IX discrimination in educational programs or activities receiving federal financial assistance is also prohibited. There are no federal laws aimed at the dual discrimination against women with disabilities. So here again, we have a very sort of a fundamental difference and approach. We have the approach of U.S. law which, again, sort of sets out discrete areas - albeit very important areas - employment, education. These are very important and this is very important legislation that exists here in the U.S. and in many ways is very effective. But we contrast that with another tier, which is again, this notion of ensuring the full enjoyment of human rights, full development, advancement and empowerment of women and really the full realization of human potentials. These are, again, interesting differences.

I’ll go on from there to the next slide, Article 24, which deals with education, this was another example to me of an area in which the Convention again stresses that notion of the development and maximization of human potential, which can be contrasted with the anti-discrimination approach. We’re not just saying, you know you must not discriminate, you also have an affirmative obligation to assist in the development of human ability. One of the stark contrasts between education law in the Convention and under U.S. law, in the U.S. we have the IDEA under which children with disabilities are entitled to free and appropriate education, however not necessarily entitled to achieve their full human potential. S

And I’ll move on from there to Article 8, and this again- I mean all of these differences are important. This one certainly stands out. The Convention, the drafters of the Convention, recognize that you don’t really change behavior effectively or create effective outcomes without also working to change attitudes. And this is something that the Convention does, the drafters did, very well. And just to read from the slide - state parties undertake to adopt immediate, effective and appropriate measures to raise awareness throughout society, including at the family level, regarding persons with disabilities and to foster respect for the rights and dignity of persons with disabilities to combat stereotypes, prejudices and harmful practices, etc., etc., and to promote awareness of the capabilities and contributions of persons with disabilities. And again, at the bottom of the slide, the difference is that there is no affirmative obligation under U.S. law to actively promote positive images of people with disabilities and to counter unrealistic and negative images or myths. So again, this is really trying to create a sea change and in my mind is very important.

I’m not quite sure how much time I have left but I’ll try to move - about five minutes - okay I’ll try to move through these quickly. I might even skip over a slide or two. See, I’ll move quickly through a few of these. Next Article 16, freedom from exploitation, violence and abuse, again state parties shall take all appropriate measures both within and outside the home to contravene all forms of exploitation, violence and abuse against people with disabilities. Big difference, no federal law specifically addresses violence against people with disabilities. IT accessibility, Article 9 is the primary article that addresses this, although there’s also a reference in Article 21 that could pertain to the Internet. But in any event, IT which is now such an important part of our lives and so

integral to the full participation of people with disabilities in all spheres of life, is addressed very well in the Convention. State parties are required to promote research and development of universally designed goods, to take appropriate measures to ensure persons with disabilities equal access to information and communications and the Internet, in contrast with U.S. law which as we know does require that IT used or developed or procured or maintained by the federal government be accessible to people with disabilities. So again, there's a wonderful, there's a lot there in terms of U.S. law in terms of the obligation of the federal government to make IT accessible to people with disabilities.

But where the Convention sort of fills in that gap in my mind, or one of the important areas, is in terms of private Websites. We know that the ADA came into effect in 1990. That was before the Internet really was in the ascendancy the way it is today. As a result, the ADA didn't recognize Websites or the Internet as a place of public accommodation. So the result is that we now have a lot of court battles, the NFB versus Target litigation is the most recent in court battles to address this issue. The case was recently settled, I should add. But in any event, this would be something that would clarify that sort of finally, hopefully in terms of U.S. law, should be ratify and bring our laws into compliance with the Convention.

I want to quickly address employment, as this is an area where there are several significant differences. Under Article 22, state parties recognize the right of persons with disabilities to work on an equal basis with others in an environment that is open, inclusive and accessible. And to that end, state parties have to ensure effective access to technical and vocational training, must promote employment through affirmative action incentives, promote employment opportunities and career advancement, and provide job placement assistance. Well as I noted on the slide, there are some similarities here with U.S. law, we see. This is where we see the reasonable accommodation standard echoed in the Convention. We also see that the Convention prohibits discrimination in hiring, recruitment and retention, just as Title I of the ADA does.

But there are some very significant differences. Obviously, as we addressed before, U.S., there are no requirements to implement any sort of incentive programs or affirmative action plans. The U.S. has historically had an almost visceral reaction to that which I think we may need to really examine, possibly to the great benefit of everyone - just a personal feeling there. So the other thing is that there is no emphasis on vocational training here in the U.S. under the law. And it's very difficult to talk seriously about raising levels of people with disabilities in the workforce when we're not also talking about vocational training and education. These are really parts of a whole. So again, we see this integrated, affirmative approach to the issue of employment the same way we see it throughout the Convention.

And I'm assuming I'm out of time. (inaudible) sure, I will jump to my concluding slide which is really just for me to chitchat about things. You know, I think it's clear, again Kathy mentioned this before, there are many similarities with U.S. law. There are also

very distinct areas of difference, and we see, again what those are. It's a difference in approach, it's a difference in sort of a holistic approach to the issue of disability and inclusion. So my feeling is that, yes, there are differences, they can be rectified. They can be rectified with expanding the legislation that we have, implementing new legislation and I personally feel it would be a great benefit to us, as a nation, and to people with disabilities to ratify and to bring our laws and policies into compliance with the Convention because this really is, you know, as strong as the ADA is, this is taking it to a different level which I believe would reap even greater benefits. And with that, sign off.

Hi, this is David Morrissey here at the CCD broadcast on the International Convention- I'm sorry, the International Disability Rights Treaty. I just wanted to interrupt the presentations for a moment to apologize for the challenges some listeners are experiencing with the audio stream today. We do hope to have an audio archive of today's presentation available on the CCD Web site after today's presentation that should hopefully be a cleaner recording. So if you have experienced dropouts today or missing sound, you'll be able to access the recording in the future. At this point, I will turn over to our final presenter, Allison Hillman De Velásquez. One moment, please.

Good afternoon, it's my great pleasure to be here and to be speaking on such a distinguished panel of legal experts. Let's see if we can get the PowerPoint up on the screen. I've been asked to speak today about the international impact of the Convention on the Rights of Persons with Disabilities. I work with Mental Disability Rights international, which works to promote the rights and the full inclusion in society of persons with disabilities. We do this by investigating and documenting abuses typically in locked institutions by bringing attention to these abuses by report writing, working with civil society to strengthen local disabled persons associations and through international policy advocacy.

In terms of the international impacts of the Convention, I'd like to focus on four main impacts and then the role that I see U.S. disability rights advocates being able to play in this field. First, I'll begin to talk about the CRPD, as it's known, as a tool to address egregious human rights abuses. To begin, I'll talk about why do we need a convention in the first place. One important reason, from my role as a human rights advocate, is that - and this is intimately linked to my work with Mental Disability Rights international - is that there are ongoing egregious abuses against people with disabilities going on on a worldwide scale. And the Convention gives us a powerful tool to help address these abuses. Today I will speak briefly about some of MDRI's findings in three different countries where we've worked - Serbia, Paraguay and Argentina. As part of this presentation, I've included some very disturbing images to help illustrate the seriousness of the abuses against people with disabilities that MDRI encounters in different countries around the world.

In Serbia, MDRI has found babies, children and adults with disabilities subject to life-threatening institutionalization. These are conditions that are dangerous and life-threatening and inflict mental and physical suffering, and rise to the level of torture. We

have found restraints being used for staff convenience and in place of caring interventions to address self-abuse. I have an image here on this next slide that, for those of you who aren't able to see it, it's a very disturbing image of a young girl who's emaciated, tied by her wrists to her crib. In the following slide, there is a teenage boy, who is also tied by his wrists to a crib with a t-shirt pulled over his head and his legs curled up underneath him. The final slide that I have that depicts what we've uncovered in Serbian institutions is a small girl, who might be around three years of age, wrapped - her entire upper body - in part of a sheet as someone might use a straightjacket.

In Paraguay, we've found unexplained deaths, years long detention in tiny isolation cells, inhuman and degrading treatment, and lack of alternatives in the community. In this next slide, I have a photo of a young man, who was 18 years old at the time we took this photo, he is detained in a six by six feet isolation cell, naked without access to bathrooms. And he had been there for four years. He ate and slept in the same area where he urinated and defecated. We found this young boy and another boy detained in these cells, and we also found 458 other people detained in the institution in similarly inhuman and degrading treatment and conditions.

I'll give a final example of our work from Argentina. In Argentina, MDRI found that there were 25,000 people segregated in psychiatric institutions in the country. 80 percent of these people are detained for more than a year, and the average length of institutionalization is nine years. Between 60 and 90 percent of these individuals, depending on what government authority you spoke with, are detained for socio-economic reasons. In other words, they are receiving no treatment within the institution that they could not otherwise receive, were community services available. In this next slide, I have a photo of a woman who is lying on the floor outside one very decrepit building. We find thousands and thousands of people abandoned in institutions with no meaningful activity during the day and no hope of ever leaving the institution. In Argentina we have also found widespread physical and sexual abuse. We found three people who incinerated in isolation cells within three years in three separate incidents in a province of Argentina. We found a young woman who had been 23 years old and forcibly sterilized. We arrived the day after she had been given birth and the director of the institution had had her tubes tied. And we find lack of medical care. In this next slide, I have a woman. This photo was taken in a thousand-bed institution in Buenos Aires, Argentina. The woman is lifting up her skirt to reveal a hole in her leg which is severely infected. She also had to have her fingers amputated on her right hand because she did not receive adequate medical attention.

The second major impact of the CRPD on an international level that I'd like to discuss, and now moving away from the really horrendous abuses that MDRI finds in countries across the world, is that this Convention has led to a tremendous growth, expansion, and strengthening of a disability rights movement on a global scale. And I know that Katherine Guernsey, as she was an intimate part of the Convention drafting process, really saw this take shape. Now that the Convention has entered into force and there are countries around the world that have ratified the Convention, this disability rights

movement is continuing cooperation on the implementation of the Convention, which is an essential step at this point.

The third important impact that I'd like to just touch on very briefly is that international cooperation and U.N. bodies are undergoing a fundamental transformation. First of all there is increased funding through international cooperation and even foundations in the United States have set up specific disability rights money so that disabled person organizations can receive funding. The Convention has been a transformative element within U.N. agency structures. All of these structures must now incorporate disability into their work, including UNICEF, UNDP and others. USAID must now fund disabled persons organizations. All actions and documentation must now comply with the CRPD. And, of course, there's an increased visibility of the rights of persons with disabilities on a global scale.

And I'll speak very, very briefly about the impacts on international law and that the entry into force of the Convention has meant. Again, as Elisabeth has said, we could spend hours or days or write an entire treatise on the impacts that the Convention will have on international law, but as the time is limited, I'm touching on just some very brief points. As Katherine mentioned, this specific instrument which sets forth existing rights in the context of disability. This Convention also allows for the reinterpretation of other international human rights norms that have been established but may not be as strong, or weaker, as they apply to persons with disabilities. There are some previous standards that the Convention now supercedes. And there's an express recognition that the rights guaranteed in other core human rights treaties apply to persons with disabilities. Often you will see in disability language that the Convention will apply without discrimination to everyone based on gender, race, etc., but sometimes there's no mention of disability. Now we don't have to fight to say we're included in this treaty. We have a special treaty that outlines our rights in the context of disability, and this is a huge impact that the Convention will have.

Finally, I just wanted to touch on the role that I see for U.S. disabled persons organizations. The U.S. is seen as a leader in disability rights. Disability persons, or disabled persons organizations, have experienced achieving disability rights legislation. And, as Elisabeth mentioned earlier, groundbreaking U.S. legislation on disability rights, particularly the ADA, has been a huge driving force behind the Convention and has helped shape many of the Convention articles. The strength of the U.S. cross disability movement is a huge example for the international disability rights community in how U.S. organizations have been able to come together and work toward common goals. Finally, I'd just like to say that I think for the U.S. to maintain leadership in disability rights, that the United States must ratify the Convention and the world is looking to the United States to ratify this Convention. And that's where I'll end. If you want more information about MDRI, you can visit our Web site at [www.mdri.org](http://www.mdri.org). Thank you very much.

Thank you, Allison. I'd like to thank very much the speakers for that and very informative presentations on the various aspects of the Convention. Obviously, we received a lot of

information and the disturbing images that MDRI has presented, which they found in various institutions across the world, I think very much indicates why the U.S. need to be more involved in international disability issues. And as Allison mentioned, the increase in cooperation across countries and across disability organizations across the globe is one of the reasons the Consortium on Citizens with Disabilities is trying to become more involved in international issues. As Allison mentioned, the U.S. has been a leader in this area and we hope to continue to increase the involvement of disability organizations in the U.S. in these broader international issues.

Before we're going to open it up to questions, I'd like to just talk very briefly about some of the efforts that have been occurring in terms of getting the United States to either-well to first sign the Convention as a first step, and then ultimately to ratify the Convention. The CCD International Task Force is involved in trying to persuade most likely the next administration to sign the Convention as a first step toward ratification. Information on the work, of the CCD Task Force - and it will also include this Webcast today archive - is available at [www.c-c-d.org](http://www.c-c-d.org). Once you get to that Web site, again it's [www.c-c-d.org](http://www.c-c-d.org), you can click on the link that indicates Task Force, that will list all of the various number of CCD task forces and then you can look for the International Task Force page and we will have this archive, as well as other information on ratification signature efforts, as well as links to the Connection in general.

Another organization that I need to inform folks about is called Ratify Now. Ratify Now is a grassroots organization that has been very involved in attempting to get the ratification of the Convention. They are working with a lot of organizations across the states. Information- their Website is available at [www.ratifynow.org](http://www.ratifynow.org). Now one of the interesting things that Ratify Now has been working on is getting local jurisdictions to adopt resolutions which are calling for the U.S. government to ratify the Convention. Currently they have 11 local jurisdictions which have enacted these resolutions, asking that the United States ratify this convention.

Another effort, and this comes out of a broader human rights context, is organizations across the country are attempting to get their local jurisdictions to essentially adopt the provisions of the CRPD as part of local law, essentially taking the various provisions, creating a city or municipal ordinance and establishing essentially the essence of the convention into local law. This will actually make it easier if these ordinances are to blossom into larger numbers across the country, for the Senate to hopefully ratify this Convention one day. So those are the efforts that the various organizations are making toward signature and ratification. And I just want to see if there's any other comments that maybe some of the presenters may have in terms of efforts to try to get signature and ratification of the Convention.

Okay I guess in the sense of time, we're going to move on to see if there are any questions. And again, your opportunity will be to type in the questions on the box in Go To Webinar. We will read those questions out for the panelists.

We have one question. This is for Allison. They're asking a little bit more about the patient who was incinerated that they found in their investigations.

Hi there, this is Allison Hillman. I received a question about our findings in an investigation in Argentina and what we meant by the fact that there were the persons who were incinerated in isolation cells. These individuals burned to death when they were detained in isolation. They were burned to death in three separate incidents and it's not clear why there were fires in their isolation cells. We were told at one point that perhaps someone was smoking a cigarette and the - lachon in Spanish - mattress caught fire. But basically this is an inherent danger when you lock someone in a tiny cell, why they couldn't find the keys in time to let someone out before they burned to death, and not just one people but - one person - but three people within three years is astonishing to us.

Hi, this is Jennifer Dexter at Easter Seals. We'd be remiss if we didn't mention today that the ADA Act amendments of this year just passed this morning, which is a big victory for all of us, but was curious how that may or may not impact the intersection between American law and the Convention. Are there any impacts there? Just curious.

Well as far as I know, and I'm going back in my mind to the ADA Restoration Act, which Allison and I were talking about, which - and Allison will correct me if my recollection is wrong - but I believe that this, part of the reason for the ADA Restoration Act was this series of judicial opinions which essentially misinterpreted the intent of Congress in enacting the ADA. These judicial interpretations essentially, one of the primary problems with them was that they disregarded Congress' original intent that included in within the spectrum of protected individuals would be individuals with disabilities who used mitigating measures to deal with their disabilities. So I think a main thrust of the ADA Restoration Act was to make clear what Congress had originally made clear so that it couldn't continue to be misinterpreted. I have to say that I don't really know if that - and I don't want to misstate - but I don't know if that bears too much on this issue. Again, the U.N. Convention doesn't really set forth a firm definition of disability. So I think it's very promising for us here, for a lot of reasons in terms of the interpretation going forward of the ADA, but I'm seeing that Katherine would like to add something.

Thanks, Elisabeth, just to say that I think the reinvent initiatives to pass the ADA Restoration Act are indicative of a desire in the United States to do more. As wonderful as the ADA is, as wonderful as it is now to have the ADA Restoration Act, I think we have gone through a period of reflection and examination. And I'm hopeful that we can maintain some of that interest and momentum to say, "Well wait a minute. What can we do to really effectively ensure substantive equality for people with disabilities in the United States?" And I think the timing of this, with the entry into force of the treaty, it's great timing. And I'm hopeful that there will be an interest in looking to the treaty to see, well maybe this can provide even more gap-filling for us and maybe a slight change in our philosophy to be even more comprehensive in our approach to the issues faced by people with disabilities here in the United States. So maybe it's just serendipity, but I'm very hopeful about these things.



I just want to add something to that as well. I think that Kathy really hit it right on the head in terms of the momentum right now lies with the disability community and this is the time, it is the time to be pushing for ratification of the Convention. And the other thing that's hopeful is that this sort of demonstrates receptivity on the part of our lawmakers. So again, that too is a hopeful sign that maybe indeed the stars are aligning.

Okay we're going to have time for two more questions, I believe, from the Internet. I'm going to pass the mic to David Morrissey, who is sitting at the computer right now and will be able to read the questions right off there.

This question comes from Evelyn Shirrow [sp], she asks, "Is there a plan to offer presentations like this at national conferences of U.S. professional organizations or national publications?" Her perspective is that service providers who provide developing countries services are unaware of the Convention. And she has found this herself as she participates in humanitarian professional activities. Do you have any insights on how to educate that sector?

Well that is actually one of the issues why CCD has developed this international task force is to raise awareness of disability issues across the board. So this is a start in the effort, and I appreciate the question because that indicates that we have support to continue these efforts to reach out to various aid and third world relief organizations, as well as development organizations. So this is an ongoing effort. There are several organizations, one, the United States International Council on Disability, that is sort of restructuring around disability issues. And this is one of the things that I certainly will bring up to that group, as well as other groups, about the need for additional training such as this.

And this next question comes from Kristin Fondrias [sp ] and I think this may provide a nice question to be sort of summative about our presentations today and really the theme for our presentation. For disability advocates in the United States, how much of a priority should we place on the attempt to get this treaty passed? In general, does it seem likely that this treaty will be signed by the U.S. soon?

Thanks, I think that is a great question to provide the capstone for our discussions today. And I guess I'd like to preface the answer with a little bit more elaboration why we should care, to build upon what Elisabeth and Allison spoke of earlier, I think one of the reasons why we should care about this treaty - and when I say "we" I mean the United States disability community - we should care because the rights-based approach represented in the treaty really calls for a much more comprehensive examination of the barriers faced by people with disabilities and a much more comprehensive attempt to find solutions. So, for example, when we talk about employment in the United States, we tend to focus on the workplace settings, the hiring of people, reasonable accommodations in those settings. We don't as frequently include in that discussion the transportation to get people to their jobs, the educational opportunities that they may or

may not have had to be qualified for those jobs, the health care that may or may not facilitate their ability to work and the many other issues that the treaty elaborates in some detail. I think that more comprehensive approach could really strengthen our work at this level.

And I should say that, while I think the U.S. ratifying this treaty would be invaluable in institutionalizing that approach in our laws and policies, we can still take onboard what the treaty calls for in our own work, whether the U.S. is a party or not. One of the other things I think we should be attentive to is the fact that the United States is already a party to some important core human rights treaties such as the Covenant on Civil and Political Rights and the Convention Against Racial Discrimination. We are already a party, we are already legally obligated to implement those treaties in this country. The treaty monitoring bodies for those treaties will be now interpreting those treaties in light of this new disability convention. So even if we are not officially a party to the treaty, the concepts and philosophies and ideas represented in the disability treaty will filter into those other treaty processes. I think if we're going to have to be responsive to these issues before those other treaty monitoring bodies, it would behoove us really to become an official part of the disability treaty's own monitoring and implementation system. And I think that I'm very hopeful that the next administration, whoever that will be, we're already heard from the candidates that they are open to discussing ratification of the treaty. And I think that we should build upon the momentum with a new administration to push for ratification so that we can enjoy the benefits of the disability treaty system, the international cooperation that it offers, and also really reassume our place as leaders in the disability field internationally.

I just wanted to add quickly, someone came over and kindly reminded us that the candidates - and I was going to just sort of follow briefly on the heels of Katherine's remarks by saying, you know with the pending change in administration, it may bode well, hopefully, for ratification. We will see but in any event, the recommendation was to actually visit the Websites of the candidates and assess their individual positions on disability generally and on the convention, specifically. And again, it's being brought to my attention that Senator Obama has said on video that he does support ratification of the convention.

This is Kathy again. One final point about signature. I was remiss in my comments earlier. I talked about other countries that had signed and ratified, but I didn't reference us. The United States has neither signed nor ratified. We missed our opportunity to be leaders in being one of the first signatories of this treaty. We have also missed an opportunity to ratify. Those opportunities don't go away though. We can still sign. And signing would be a hugely important symbolic initiative for the United States, I think, and it would not carry with it the same legal obligations as ratification. So signing, alone, I think would be a really important thing to push for. And it would start the process of getting the United States to really consider the value of this treaty, both here in the United States and what we can bring to the international community. So while we have been talking about ratification, signature is important too.

Well, that is going to conclude our Webcast on the international disability treaty and why the disability community should care. I would like to thank our speakers again very much for taking the afternoon off and assisting with this effort. Again, this is a first effort to raise the awareness of the convention and to build this ground root support to first convince the United States to sign and then hopefully ultimately to ratify the convention. Again, the Websites have been given. Given today's technical problems, we hope that you will return if you were unable to hear the complete audio, as this will be made available within the next several weeks on the CCD Web site. So this is David Hutt for the CCD International Task Force. I do want to remind folks that, as you exit, that you please answer the survey about the Webcast that will pop up after you exit. So we thank you for joining us this afternoon.