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Respecting the Convention on
the Rights of Persons with Disabilities

Before the Foreign Relations Committee of
the United States Senate

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It is a distinct pleasure for to me to testify in favor of the ratification of the Convention on the Rights of Persons with Disabilities (the Convention or CRPD) as an important component of the worldwide effort to advance disability rights. Ratification by this body would mark a major step forward in the effort to end discrimination and to promote the rights of as many as one billion men, women and children with disabilities around the world who seek vindication of their pre-eminent human rights in an ever-challenging world.

To date, as I last looked, a total of 153 countries (including the United States) have signed the Convention and 116 have ratified its terms. We literally stand today at the very cusp of a new era of worldwide recognition of disability rights. A major leap forward in this effort would be accomplished by timely U.S. Senate ratification of the Convention.

I.

The road to this point has been a lengthy one and I think it may be useful to review how we have gotten to where we are as a means of aiding the process of further progress. In another context, a great American jurist, Supreme Court Justice Oliver Wendell Holmes, Jr. once observed, “A page of history is worth a volume of logic,” and in this movement as well I suggest that some history is an appropriate starting point.

As many of you may know, I have been involved in the disability movement for many years. I was a founding director of the National Organization on Disability back in 1982 and later served as Vice Chairman of its international arm, the World Committee on Disability. I am also the father of a man with intellectual and physical disability – my son, Peter who was seriously brain-injured at the age of four months in a 1960 automobile accident which tragically took the life of his mother, my first wife.

As Governor of Pennsylvania and Attorney General of the United States, I have had the privilege to work in official capacities for the inclusion of people with disabilities in all aspects of life. Indeed, it was my special privilege to serve as the point person for the administration of President George H. W. Bush in the bi-partisan effort to secure the passage of the Americans with Disabilities Act (ADA) in 1990. This work has become a bit of a family affair, as my present wife, Ginny, whom I married in 1963, founded the Religion and Disability Program of the National Organization on Disability, designed to insure spiritual and religious access to persons with physical, mental and intellectual disability. She is now the Director of the Interfaith Initiative at the American Association of People with Disabilities coordinating efforts by leaders of all faiths to advance the cause of disability rights. In her responsibility as Convener of the Interfaith Disability Advocacy Coalition (IDAC), she enlisted 26 religious or religiously-affiliated organizations to send a letter of support for the Convention to members of this Committee. We have thus had the great privilege of merging our personal and career objectives in this worthy cause.

It is obvious that the world community has taken an important – and long overdue –step toward bringing people with disabilities all over the world into the mainstream of the human rights movement by adopting this Convention. I must applaud the disability community for its tireless efforts in what must have seemed at times to be an uphill battle for international recognition of this important principle.

I know first hand from my service as an Under-Secretary General at the United Nations in the immediate post-Cold War era of the long struggle to obtain passage of this Convention. The effort had its genesis in the 1981 Year of Disabled Persons, followed by the Decade of Disabled Persons and the promulgation of the World Programme of Action Concerning Disabled

Persons, all providing focal points for efforts to internationalize concerns about disability rights. I particularly recall attending the historic gathering in Montreal in October of 1992 of the very first International Conference of Ministers Responsible for the Status of Persons With Disabilities where 73 leaders of governments throughout the world met for the first time to exchange ideas and fashion strategies which ultimately led to the adoption of the Convention.

The Convention represents important principles that as Americans we hold dear – basic recognition and equal protection of every person under the law, non-discrimination, the fundamental importance of independent living, and the right to make basic choices about our lives. We pioneered these basic principles under American law through passage of the ADA. We in the United States are demonstrating that people with disabilities can participate fully in our democracy. We are demonstrating that society, as a whole, is richer and better off when people with disabilities are included fully in every aspect of life. It is my hope and expectation that the United States will assume an equally important leadership role in helping to promote these basic principles worldwide by the ratification of this Convention.

Over 20 years ago, while serving as U.S. Attorney General, I testified before House and Senate Committees of the U.S. Congress in support of the ADA. During those hearings I acknowledged that no piece of legislation could alone change the long-standing misperceptions that many people have about disability – misperceptions based largely on stereotype, ignorance and fear of what is different. Any reshaping of attitudes would have to be the gradual result not of the words or ideas in the laws, but of bringing people with disabilities from the margins of society into the mainstream of American life – in our schools and workplaces, on busses and trains, and in our courthouses, restaurants, theaters and congregations – where they not only have

an absolute right to be but where we have an obligation as fellow human beings to welcome them as equals.

The effort to secure passage of the ADA was difficult. Those of us who wanted to see it happen were given countless reasons why it couldn't be done. We were told that the climate in Congress wasn't right, it would be too expensive, too complicated, ineffective, impossible to enforce – even that the country in general just wasn't ready for it. So we discussed, debated, argued, researched, analyzed, negotiated, pleaded, convinced and, ultimately, drafted and passed the most progressive disability rights legislation the world had ever seen. This legislation, with its innovative concepts such as the need for “reasonable accommodation,” is changing America. It has truly made us more representative, more democratic and more empowering by ending the unchecked exclusion of 54 million Americans from our daily lives.

Of course we still have a long way to go in our own country. The ADA isn't perfect and people with disabilities in America continue to face serious challenges. Court decisions have sometimes hindered the full implementation of the ADA and required legislative responses such as the 2008 ADA Amendments Act. Still, in the years following 1990, we've made remarkable progress that is not only celebrated here at home but also recognized abroad. Because of our adoption of the ADA and other disability rights legislation, the United States is viewed internationally as a pioneering role model for disability rights. Disability activists from other countries have taken the ADA to their governments and said, “This is how it should be done. We need to do this here in our country.” And governments around the world have responded. As one who worked hard to gain protection of these rights in the United States, I am very proud to see how these basic principles are now on the way to being established as a part of international law through the adoption of the CRPD. As we overcame so many barriers to the

enactment and implementation of the ADA, I am confident that we can be part of an even greater coalition to bring about worldwide support for this Convention as well.

Despite progress already made, disability as a global issue remains near the bottom of the list of priorities in many governments and societies. People with disabilities remain among the poorest, least educated and most abused and excluded people on earth. We must recognize that the challenges we face are intimately linked with the very circumstances of economic, social, and political marginalization that affect people with disabilities around the world.

While the adoption of the CPRD represents a truly significant accomplishment for the international community and a great source of hope for people with disabilities everywhere, it will obviously not be enough. Between the adoption of the convention and the actual securing of the important rights it seeks to guarantee will no doubt lie a long and tortuous path which will test the commitment, tenacity and political will of the international community – from national leaders to grass roots advocacy organizations to individual citizens bent upon justice for all.

However, we must also keep in mind that the Convention can be a strong tool – as well as an inspiration – for civil society around the world. NGOs and advocates will have a new legal framework within which to push for reforms based on legal obligations.

II.

Let me address for a moment the painful and, I must admit, somewhat puzzling question of the seeming reluctance of some in our own nation to continue our lead role in this international effort. Let's look at some of the questions and concerns that have been raised about this convention as it has reached this body for ratification.

To begin with, it has been argued that disability rights are more appropriately addressed a solely a domestic concern, given the complexity of the issues involved. In other words, this

really isn't an appropriate subject for international protection. Certainly, good domestic legislation in every country would be the ideal solution. But since many countries don't have such protections, it does not seem reasonable to expect that this will change dramatically without international pressure. The fact is, for many countries, international conventions have already served as a catalyst for the development of important domestic protections in many other areas.

As a practical matter, the United States will have much more authority to speak out about these and other forms of discrimination against people with disabilities worldwide if we agree to abide by the same international scrutiny at home. We already have laws in place that are consistent with the CRPD. But, it is correctly noted that by ratifying the Convention, the United States agrees to report regularly to an international advisory body. We have nothing to hide. We can only gain from participating in the process of international review. Moreover, we should not be so proud as to think that we cannot learn from other countries about how to meet the challenge of providing even better opportunities for people with disabilities.

Some have looked at the final text of the convention and found it lacking in strict, enforceable protections. Some say that it lacks the kind of detail that we fought so hard to include in the ADA and that we have found so essential for the enforcement of basic rights in the United States. We must keep in mind that a human rights convention is a legal instrument that must apply consistently around the world – in countries rich and poor, in countries with widely varying legal systems, in many countries where the idea of full participation for people with disabilities may be radically new and untested. The flexibility of this convention is its strength – not its weakness. It lays down the core values and principles that are essential to ending discrimination against people with disabilities in any society. It provides governments with guidance and direction now lacking under the general provisions of international law. Article 9,

for example, requires governments to “take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications ... and to other facilities and services open or provided to the public, both in urban and in rural areas.” Article 24 recognizes the rights of persons with disabilities to education and requires governments to provide “an inclusive education system at all levels ... [e]nabling persons with disabilities to participate effectively in a free society.”

The Convention provides governments with core, minimum standards needed to make essential reforms without locking different countries into one particular approach or another. As noted, the Convention creates a Committee on the Rights of Persons with Disabilities that will review reports of governments and will issue general recommendations about how to bring about full compliance with the Convention. Through this process of interpretation, governments at every level of economic and social development can receive guidance about steps they can take to bring about enforcement of the Convention.

At the same time, it is important to note that ratification of the Convention will require no new domestic legislation and will impose no new costs upon U.S. taxpayers. As does our own ADA, the Convention simply ensures non-discrimination on the basis of disability, guaranteeing that persons with disabilities enjoy the same rights as other persons.

Finally, some have said that, because of America’s comprehensive domestic protections, a treaty on disability would have no relevance in our own country. But, let’s hold on a minute. We are indeed at this time the most progressive country in the world when it comes to the domestic protection of disability rights. The universality of rights and fundamental freedoms – as expressed in our Declaration of Independence – is the foundation on which our entire society is based. Respect for human rights is also a stated principle of our foreign policy - precisely

because we recognize that stability, security and economic opportunity in any society presuppose a social order based on respect for the rights of its citizens. Given this history and these values, it would seem natural for the United States to assume a *leading* role – not a passive one - in the effort to recognize and enforce an international treaty of this kind.

Misgivings expressed by critics of the Convention have already been addressed in reservations, understandings and declarations (RUDs) contained in the package submitted by the administration. By addressing federalism, providing a zone of private action protected by the Constitution and declaring the Convention to be non-self executing, these RUDs protect U.S. sovereignty and recognize the Convention as a non-discrimination instrument, similar to our own ADA.

Ratification of the Disability Rights Convention is an opportunity to export to the world the very best we have to offer. This is a chance to use our rich national experience in disability rights – which has gained us the respect of the world community - to extend the principles embodied in the ADA to the hundreds of millions of people with disabilities worldwide who today have no domestic protection. This is worthy of our leadership. We have everything to gain and nothing to lose by playing the role the world expects of us. We must ratify the Convention so that we can fulfill that role.

III.

Just as in the case of the ADA, we must recognize that the Convention will not provide instant legal solutions which can effect immediate changes in attitudes and cultural perceptions; nor will it dispel the ignorance that leads to discrimination and human rights abuses of people with disabilities. What it will do is create a permanent place for disability within the human rights framework. It will put disability issues on the radar screen of governments and societies

as a legitimate human rights concern to which they must pay heed. It will provide guidance and standards and create legal obligations for governments to respect the rights of this sizable population. It can serve as a powerful advocacy tool for the global disability movement to promote inclusion and equality of opportunity.

Before closing let me say a word, in particular, about the developing nations of the world wherein, it is estimated, some 80% of the world's disabled population lives. Most of these persons are at the margin of their respective societies. Priority concerns of just surviving – combating hunger, securing shelter and eking out a daily existence – unfortunately take present precedence over concerns for people with disabilities.

It is sometimes said that, in nations struggling with a full agenda of political and economic problems and the effort to achieve basic human rights for all their citizens, the interests of persons with disabilities are likely to be set to one side for “future consideration,” *i.e.*, when these other more important matters have been addressed.

On the contrary, I would suggest that what responsible leaders of developing nations need to realize is the unique opportunity they have to embed disability rights in their emerging institutions as part of their development efforts, to build an infrastructure of government, economy and human rights that includes and respects the interests of persons with disabilities from the very beginning. For it is no exaggeration to say that the way a society treats its citizens with disabilities is a valid measure of the quality of life and respect for human dignity in that society.

Even after ratification and implementation of the Convention, change will be gradual – and perhaps painfully slow, to be sure, but these represent important first steps we can take toward promoting change on a global scale. This Convention can help all of us to focus world

attention on those millions of people worldwide whose rights have been ignored for far too long. Let's be about the business of seeing that those rights are honored, and implemented, now and forever more, by providing timely ratification of this important Convention.

Thank you for your attention.