

Pro-Life Forces Had Significant Impact on Text of the UN Disabilities Treaty

BY Jeanne E. Head, R.N.

After four years of negotiations, a United Nations Ad Hoc Committee gave initial approval to a treaty (Convention) on the Rights of Persons with Disabilities which include the right to life, food, water, and health care without discrimination. The treaty Preamble affirms the inherent right to life and the “dignity and worth” of persons with disabilities, and even though the treaty includes the undefined and controversial term “reproductive health,” its inclusion cannot legitimately be misinterpreted to include abortion or to create any new rights such as a right to abortion.

The treaty, which it is hoped will substantially improve the lives of persons with disabilities throughout the world, includes 50 Articles on a wide variety of subjects relating to disability and establishes a committee to monitor compliance to the treaty.

The United States, the Holy See, other Pro-Life Member States, and National Right to Life (NRLC) along with other pro-life non-governmental organizations (NGOs) had a significant impact on the language of the text adopted by a UN ad hoc committee in the late hours of August 25, 2006, the last scheduled day of the four-year process. There are two more steps before the treaty will be finalized by the UN General Assembly.

The first drafts of the disabilities treaty raised serious concerns that those who support abortion and euthanasia would use the treaty as a vehicle to promote anti-life ideologies. Consequently a treaty meant to protect, promote, and ensure all human rights for persons with disabilities on an equal basis with others could fail to protect the most basic right of all—the right to life.

This concern was reinforced when the influential NGO International Disabilities Caucus (IDC) expelled a disabled pro-life NGO representative from participating in the disabilities caucus. Early in the negotiations Wayne Cockfield, a disabled Vietnam War Veteran and NRLC Board member, became actively involved in the treaty sessions including attending the IDC meetings. During the second caucus meeting that he attended the IDC leader, who ironically is not disabled, barred him from attending further caucus meetings on the grounds that Mr. Cockfield represented National Right to Life rather than an organization whose only issue is disability.

Wounded in combat, Mr. Cockfield lost both legs and the use of his right hand. Describing himself as “conspicuously disabled,” he expressed his concern that the treaty would be used to promote abortion and euthanasia worldwide. “I became alarmed,” he said, “when, shortly after I made strongly pro-life public statements to the full committee on the life issues, and despite the fact that I am a disabled person in a wheelchair and many in the IDC agreed with me, I was expelled from the IDC by its non-disabled leader who was apparently from the European Union (EU) on the grounds that I didn’t represent a disability-only group.”

Food and Water and Medical Care

The concerns were verified when the European Union (a block of twenty-five countries including the UK, the Netherlands, and such pro-life countries as Ireland, Poland, and Malta) subsequently strongly opposed the inclusion of protective language that disabled persons cannot be denied food, fluids, or medical treatment necessary to preserve life based on their disabilities or perceived quality of life, as well as other pro-life initiatives.

Intense lobbying efforts by NRLC and other pro-life NGOs, the U.S. Delegation, the Holy See, and other pro-life Member States convinced many countries to accept such protective language which was also supported by the IDC.

In the end the EU, finding itself isolated, finally accepted compromise language which says that nations "...shall: Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability."

This is the first time in any UN document that this kind of protection has been included. The inclusion of this language in an international law document signals that the international community sees the need for providing this protection for persons with disabilities.

The language, introduced by Qatar on more than one occasion, was blocked for more than a year from even appearing in the proposed text until the final session. The EU spokesman openly said that allowing this language would cause "serious problems," an obvious reference to European laws that already permit euthanasia.

"This was a real fight," Mr. Cockfield said. "Early in the treaty process, there seemed little chance that this kind of protective language could make it into the treaty text. But final success was made possible by the inexhaustible lobbying and pressure put forth by NRLC and the pro-life coalition of NGOs, the United States, the Holy See, and other pro-life Member States."

The Right to Life and Dignity and Worth

Article 10, the Right to Life article, which provides special protection for the right to life of persons with disability, was retained intact. It not only reaffirms the inherent right-to-life of every human being consistent with previous human rights treaties, but also adds that nations signing and ratifying the treaty (States Parties) "shall take all necessary measures to ensure that right for persons with disability on an equal basis with others."

In addition, the term "dignity and worth" was retained as it appears in previous human rights treaties, such as the UN Charter and the Universal Declaration on Human Rights when referring to people in general. In the first drafts of the Disabilities Treaty only the word "dignity" was used in reference to persons with disabilities. Inexplicably the word "worth" was omitted. After pro-lifers pointed out this omission, it was restored and then later deleted. Delegates reported that the European Union called for the deletion of "worth" and opposed its reinsertion until the last week. Pro-life NGOs argued for its retention because the term "death with dignity" is used to justify euthanasia.

Mr. Cockfield said, "If other human rights treaties use the term 'dignity and worth' when referring to non-disabled people, then leaving 'worth' out when referring to persons with disabilities is clearly reducing the value of the disabled from the population at large. This violates the principle of the treaty that the rights of persons with disabilities must be on an equal basis with the rights of people without disabilities."

"Reproductive Health"

The legally undefined and controversial term "reproductive health" remains in the document despite the fact that the term has never appeared in any other UN treaty. However, all parties maintained that the term does not include abortion and that its inclusion in this treaty cannot be interpreted to create any new rights such as a right to abortion.

The final version of Article 25 (a) on health states that nations signing and ratifying the treaty shall: "Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided other persons, including in the area of sexual and reproductive health. . . ."

Delegates from pro-life nations ultimately accepted this language because they were assured and became confident that it does not include abortion or create any new human rights such as a right to abortion.

For example, during the debate the Treaty Chairman, Ambassador McKay of New Zealand, stated repeatedly that the use of the term "reproductive health" in this treaty does not create any new human rights such as abortion. He even added a non-binding footnote to the record of negotiations, not the treaty itself, which he claimed would preclude any such misinterpretation of the term.

Numerous delegates from nations throughout the world including the European Union agreed with Chairman McKay that the term "reproductive health" does not include abortion. No delegate from any nation stated that it does.

In light of all these statements and the language of the treaty, the committee responsible for enforcing compliance to this treaty would be going way beyond their mandate if they were to interpret the term "reproductive health" to include abortion. It is crucial that they do not because nations that sign and ratify a treaty are required to change their laws in order to comply with the treaty.

The pro-life coalition asked why is "reproductive health" the only category of health care not specific to disability singled out in this treaty when the expressed purpose is intended to ensure disabled persons rights on an equal basis with others, not to create any new rights?

The reason pro-life national delegations and NGOs were concerned with this special inclusion of the term "reproductive health" in a binding treaty was because, in the past, the committees charged with enforcing compliance to other UN Treaties which do not contain the term "reproductive health" have frequently gone beyond their mandate and pressured States Parties to legalize abortion. And other UN bodies and powerful NGOs have falsely misinterpreted this term (which already appears in non-binding UN documents) as including a right to abortion to justify, sometimes successfully, promoting legalization of abortion in countries throughout the world.

In order to help prevent any such misinterpretation, the United States made the following clarifying statement when the Ad Hoc Committee adopted the treaty: "The United States understands that the phrase reproductive health does not include abortion, and its use in paragraph 25 (a) does not create any abortion rights, and cannot be interpreted to constitute support, endorsement, or promotion of abortion."

The Holy See also expressed concern with the inclusion of the term "reproductive health" saying it will make a more complete statement at the time of the final adoption of the Convention by the General Assembly.

Once the General Assembly adopts the Convention, it must be signed and ratified by each country separately. It will go into effect thirty days after twenty countries have ratified it.

The National Right to Life Committee has been involved in UN Treaties, Conferences, and meetings and has lobbied extensively on the life issues since 1994 and plays a leading role in the pro-life and pro-family coalition of non-governmental organizations (NGOs) at the UN.