**Historic Hearing in US Senate on UN Disability Treaty**

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A historic hearing took place yesterday (Thursday, July 11th) in the US Senate Committee on Foreign Relations. The issue before the Committee was US ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). In the US system the Senate must gives its ‘advice and consent’ before the Federal Government can ratify a treaty. A two thirds majority vote is needed from the full Senate before the Administration can proceed to ratification. This is an exceedingly high bar but, especially after yesterday, it looks likely to be met. It is now almost a foregone conclusion that the Committee – chaired by Senator John Kerry (D-Mass) - will commend a positive vote to the full Senate.

This really matters not just for the US but also for the rest of the world. And it would certainly up the *ante* for Irish ratification. The traditional bi-partisan approach of the US Congress was splendidly exemplified in opening remarks made to the Committee by Senators John McCain (R-Ariz) and Tom Harkin (D-Iowa). The symbolism of their joint appearance spoke volumes about the natural reflex of both parties in favour of the civil rights of persons with disabilities. Indeed, both of them relayed the support of former President H W Bush as well as former Senator Bob Dole. This immediately took the issue out of the cauldron of partisan politics and placed it where it should be – as matter of high principle.

There were two panels of experts giving testimony to aid the deliberations of the Committee. The first panel consisted of representatives of the Administration. The first was Honorable Judith Heuman who is a veteran for previous civil rights campaigns on disability and who currently serves as the first ever special adviser in the US State Department on foreign relations on disability. She was joined by Ms Eve Hill who serves as senior counselor on civil rights to the Assistant Attorney General. Both put forward and amplified the view of the Obama Administration in its proposal for ratification. The Administration signed the CRPD in 2009 and conducted an exhaustive cross-Administration process of review in order to prepare a concrete proposal for the Senate for ratification. This took 18 months to complete and culminated in a formal proposal from the Administration ratification two months ago.

The proposal for ratification from the Executive Branch contained several suggested Reservations as well as Declarations and Understandings (inelegantly styled RUDs) to ease the path of ratification. The most important reservations suggested by the Administration have to do with Federalism and with the question whether the convention can create new rights that be litigated in State Courts. Essentially the Federalism reservation is to the effect that nothing in the convention is to have any direct reach into State law. This is a boilerplate reservation entered by the US into nearly every international human rights treaty. It is intended to preserve State sovereignty. The second important reservation is to the effect that no new cause of action is created by ratification. That is to say, the convention is not to be considered self-executing.

Both Ms Hueman and Ms Hill were at pains to point out that the convention rests essentially on basic American values such as dignity, autonomy and equality of opportunities. They portrayed the convention as an international projection of American civil rights law – the crowning achievement of which is the Americans with Disabilities Act (ADA) which was signed into law by President Bush in 1990. They asserted that the convention is essentially a non-discrimination instrument and therefore perfectly compatible with US law. They also asserted that US law is substantially in compliance and probably more in compliance than the laws of any other country. And they asserted that US national interests – including commercial interests - were best served by ratification. Although US disabled citizens enjoy high levels of rights protection at home they have a right to expect similar standards abroad as travellers, workers and businessmen. The US, it was said, could more credibly criticize others once it ratified. And ratification would entitle the US to share in an international dialogue about how to advance the rights of persons with disabilities based on its own very substantial track record.

The questioning from most of the Senators was sympathetic. The lead witnesses were asked to clarify and expand on their core asserts that US law is in compliance and that the convention represents no intrusion on sovereignty. One suspects this was done to solidify the record. While sympathetic to the goals one the convention, one Senator questioned whether ratification was necessary given that US law already complied and given that the US could already assume leadership without belonging to the UN treaty process. These were fair questions to which the main answer was that membership of the treaty system would enable the US to magnify its influence and soft power over an issue that affects nearly 1 billion people worldwide.

Another panel of experts from outside the Administration was also given an opportunity to make their views on ratification known. Former Attorney General Dick Thornburg – one of the architects of the ADA – voiced strong support. John Wodach – former Head of Disability Unit in the Civil Rights Division at the Justice Department and one of the drafters of the UN convention – lend his considerable experience and wisdom in support. John Lancaster – a former US marine who served with great distinction and was disabled in Vietnam – gave powerful testimony about the unanimous support for ratification from many veterans groups.

The testimony wasn’t all one way. Mr Stephen Groves (Heritage Foundations) voiced strong skepticism about the value of treaty ratification in general and particularly concerning the quality of advice that would come from the UN treaty monitoring body. Dr Michael Ferris (Patrick Henry College) echoed these views but also added the argument that the convention would erode the rights of families to decide on the education of their won children contrary to US law. The Senators appear to have accepted the counter-arguments that while the UN Committee can persuade it cannot command and that the rights of families remain intact. There was some skirmishing over the issue of whether mention of reproductive health encompassed and expanded abortion rights. But the preponderant view was that the convention in no way has this effect.

The hearings ended with a powerful plea from the heart of John Lancaster who, speaking as a veteran, lauded the convention as something based on American values and observing that if the US failed to ratify’ then he couldn’t see ‘what America is about.’ In a sense he held up the convention as a mirror and saw America and invited the Senate to draw the obvious conclusion and recommend ratification.

The stage is now set for the issue to be reported back to the full Senate for a vote on ratification. If the tenor of the questioning in the Committee on Foreign Relations is anything to go by then ratification should be assured. Nonetheless, ensuring a two thirds majority is a daunting task. There is no doubt at all that US ratification would enable the US to substantially step up its global dialogue on how to advance the rights of persons with disabilities. It would enable the US to shape the dialogue at the annual Conference of States Parties and maybe transform it into a genuine platform for the exchange of policy perspectives. And it would give the US a voice in the election of the UN Committee on the Convention on the Rights of Persons with Disabilities. Equally significantly if the process of reform can be embedded around the world then that would give US companies to the fore of accessible technology a chance to transform lives.

If, as hoped, the US ratifies soon, then US/EU high level dialogue on disability policy will doubtless be stepped up. Irish ratification would likewise enable us to actively join the global conversation which, during times of economic austerity everywhere, is more important than ever.

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The video of the hearing is available at: <http://www.foreign.senate.gov/hearings/hearing_convention-on-the-rights-of-persons-with-disabilities-treaty-doc-112-7>