

BIRTH OF A “BIG LIE”

HOW MISINFORMATION FUELS TREATY OPPOSITION:
A DISABILITY TREATY CASE STUDY

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INTRODUCTION

On December 4, 2012, as the Senate prepared to vote on the ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), former Senator and Majority Leader Bob Dole (R-KS) sat in his wheelchair on the Senate floor, imploring his former colleagues with his presence to ratify the treaty.¹ Dole, a disabled veteran himself and the major force behind the Americans with Disabilities Act of 1990, was unable to dissuade enough of his fellow Republicans from falling prey to anti-ratification fear-mongering and unrepentant lying. In a 2012 article on The Hill, Dole made the case for ratification, saying that the United States “must reaffirm common goals of equality, access, and inclusion for all individuals with disabilities.”² But the opposition got the better of him and the pro-ratification contingent.

Battles in Congress are often won or lost by the rhetoric that defines them, and how the American public responds to it. It’s easy to try to classify some political messaging as good or bad, helpful or detrimental, but what about when it’s caustic, condemnatory, blatantly untrue, yet also appealing and convincing? This is the paradox of the “Big Lie.”

A “Big Lie” is a “deliberate gross distortion of the truth used especially as a propaganda tactic.”³ A “Big Lie” is often used to enflame and confuse an audience who is unlikely to pursue the issue independently beyond what the “Big Lie” has told them. In the context of treaty ratification, a “Big Lie” often misrepresents a treaty’s impact on U.S. law, U.S. sovereignty, or our political and economic place in the international community.

A “Big Lie” is nothing, though, without the mechanism that gives it life. No matter how big or brawny a “Big Lie” is, it requires an established communication mechanism to put it into play and wreak havoc. In enabling the proliferation of “Big Lies,” the opposition has created a vertically-integrated echo chamber of otherwise disparate advocacy groups, media outlets and think tanks, as well as allies on the Hill and in the media. This mechanism allows “Big Lies” conceived by interest groups and think tanks to be publicized loudly and uniformly by media outlets and politicians, and used as a tabard by grassroots and advocacy organizations.

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1 Miller, Sunlen. “Bob Dole Can’t Sway Republicans to Back U.N. Disabilities Treaty.” ABC News. 4 Dec 2012.

2 Dole, Bob and Tony Coehlo. “Ratifying the Convention on the Rights of Persons with Disabilities.” The Hill’s Congress Blog. 18 July 2012.

3 “Big Lie.” Merriam-Webster Dictionary.

This paper will lay out the course of events that led to the failed ratification of the CRPD, and use this example as a case study to explain how the opposition's vertically-integrated echo chamber was utilized. The rapid mobilization of the anti-ratification bloc took many proponents by surprise, and our inability to combat the efficiency of the echo chamber led to the lost vote. The "Big Lie" tactic is one that permeates the entirety of the ratification conversation, and as such this case study is applicable to the issue as a whole. Whether it's the Arms Trade Treaty, the U.N. Convention on the Law of the Sea, the Convention on the Elimination of all forms of Discrimination Against Women, or another future agreement, these lessons will help ratification proponents push for American reengagement with the international community. To prepare for the future of multilateral treaty ratification, we must learn from our past failures.

When the United Nations Convention on the Rights of Persons with Disabilities (CRPD) failed to get ratified by the Senate on December 4, 2012, many were vexed as to why a treaty that the United States helped craft could be rejected. The key to understanding this failure is recognizing the role the Right's "Big Lies" played in the ratification process. Proponents of the CRPD sought to use facts to combat the opposition's "Big Lies," but facts don't carry the same visceral gravitas that "Big Lies" do. Advocates against ratification were able to crush the factual arguments of their opponents with an arsenal of destructive "Big Lies" designed to play into the fears of an existent and organized political constituency.

To prepare for the future of multilateral treaty ratification, we must learn from our past failures.

U.N. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

The United Nations was founded to accomplish several broad and far-reaching goals, not least of which was to reaffirm faith in fundamental human rights. The birth of the United Nations' CRPD was a realization of this long-held aspiration, codifying the rights held and deserved by over one billion individuals with disabilities around the world (80% of which are in developing nations).

The drafting of the CRPD began in 2001 with full involvement of the global disability community. The treaty was inspired in large part by the United States' Americans with Disabilities Act (ADA), and sought to encourage the same level of equality and societal acceptance by exporting U.S. leadership with regard to this issue on a global scale. In order to ensure that the treaty fully represented disabled individuals and embodied the popularized slogan "Nothing about us without us," the agreement was written in conjunction with a number of disability rights organizations, including disabled peoples, their parents, and

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professional human rights organizations. Whereas previous legislation in other countries has focused on either medical models, which view disabilities as a medical problem requiring medical intervention, or charitable models, which portray disabled persons as helpless, the ADA and the CRPD focus on promoting equal rights and non-discrimination policies. The CRPD, as an international agreement, provides greater opportunities for disabled Americans abroad, encourages humane and moral treatment, and expands inter-state opportunities by bringing other states up to American standards in disability rights. However, until we ratify the CRPD, the United States is but a bystander in this burgeoning movement, unable to fully engage in the treaty's implementation mechanisms and perceived abroad as out of compliance with the CRPD.

The treaty itself is a cross-disability treaty, meaning that it is not disability-specific and applies to all disabilities as a collective group. The CRPD's 50 Articles touch on a number of topics, including two implementation mechanisms: a CRPD committee and a CRPD Conference of State Parties. The committee is entirely advisory in nature, made up of eighteen representatives from states that have ratified the treaty. The conference meets annually at the U.N. "to consider any matter with regard to the implementation of the present Convention" (Art. 40 UNCRPD). Neither of these bodies serves as a binding implementation apparatus.

Under President Bush, the United States government participated throughout the drafting process between 2002 and 2006, and in 2007 voted "yes" in the General Assembly to adopt the treaty. It was under President Obama's orders that Ambassador Susan Rice signed the treaty in July 2009; a subsequent transmittal package for ratification was sent to the Senate in May 2012. The transmittal package includes an exhaustive review of U.S. law, applies standard treaty practices employed in past successful ratifications, and proposes that ratification requires no change to U.S. law when accompanied by the nine reservations, understandings, and declarations (RUDs) contained in the package. The treaty received bipartisan support from such political stalwarts as former Senator John Kerry (D-MA), Senator Dick Durbin (D-IL), Senator Tom Harkin (D-IA), former Senator Bob Dole (R-KS), Senator John McCain (R-AZ), and Senator John Barrasso (R-WY). These politicians' support for ratification was bolstered by an American contingency of CRPD proponents, including hundreds of disability organizations, as well as many faith groups and veterans services organizations.

Despite this sizable and venerable group of CRPD supporters, the opposition launched a vitriolic, untruth-filled campaign that smeared, mischaracterized, and blatantly lied about the treaty and its effects on the United States. After the completion of July's hearing in the Senate Foreign Relations Committee, the CRPD was brought to a vote on December 4, 2012. Due to the quick and vocal mobilization of opponents to the treaty, the vote failed to reach the requisite supermajority, coming in at 61 to 38, five votes short of the minimum 66 required that day.

Supporters of the CRPD in the Senate have pledged to bring the treaty back for reconsideration in this year or the next. Their success in this second attempt will rely upon supporters' reengagement with the issue, media interest and attention, and a perception among Senators that there are new characteristics to the resolution for ratification that warrant a second consideration.

WHAT THE CRPD ACTUALLY DOES (AND DOESN'T)

Former Foreign Relations Committee chairman and current Secretary of State John Kerry succinctly stated the purpose of the CRPD on the Senate floor: “It just says that you can’t discriminate against the disabled. It says that other countries have to do what we did 22 years ago when we set the example for the world and passed the Americans with Disabilities Act.”⁴

The CRPD, as a model of American disability values and laws, exports our landmark policies and allows us to “play an important and expansive role in the development of disability rights around the world without having to change any U.S. laws.”⁵ Modeled after the Americans with Disabilities Act, the gold standard for disability rights legislation around the world, the CRPD extends American standards of care and equality abroad. U.S. ratification will ensure that disabled Americans and veterans will have the ability to work and travel abroad in countries compliant with the U.S.’s standards. Further, ratification will hold other countries to our level of accessibility, greatly expanding the availability of foreign workers and widening potential foreign markets. The CRPD also guarantees humane and moral treatment for disabled individuals around the world, and American ratification would legitimize this guarantee. Perhaps most importantly though, the CRPD promotes American values and American laws as an example for the world, solidifying our global leadership on the issue of disability rights.

However, the opposition’s “Big Lie” machine did not fail to peddle mistruths about the CRPD, mischaracterizing its purpose and what it would do. The CRPD does NOT impinge on American sovereignty, affect homeschooling rights, promote a radical pro-abortion agenda, or empower the U.N. to interfere with American governance and parental rights. These “Big Lies” about the CRPD are untrue, yet they are successful because they create a visceral, emotional reaction that scares and rallies the opposition’s base.

THE “BIG LIES”

The degree and speed with which the opposition fiercely disassembled and quashed support for ratifying the CRPD largely shocked the proponent community. The facts and figures offered by supporters were nothing in the face of fear-mongering and panic-inducing “Big Lies” that were regularly publicized by the opposition’s vertically-integrated echo chamber. To understand how these lies were created and in what way they traveled out through the echo chamber and out into the public sphere, the actual “Big Lies” the opposition trafficked in must first be set out.

The plethora of “Big Lies” created and publicized by the opposition can be roughly divided into three overarching categories: efficacy and efficiency of the treaty itself, sovereignty-related issues, and qualms of the homeschoolers and parental rights organizations. While these categories are relatively distinct, many of the “Big Lies” are interrelated and bleed into each

⁴ “US Senate rejects U.N. treaty on disability rights amid GOP opposition.” The Guardian. 4 Dec 2012.

⁵ “What is the Convention on the Rights of Persons with Disabilities?” USICD. 19 July 2013.

other; especially effective “Big Lies” often push the boundaries and fail to be constrained by just one category of mistruth.

The “Big Lies” below in no way represent a complete list of the mistruths. Rather, they should be viewed as a cross-section of the length and breadth of “Big Lies” proffered by the opposition.

SOVEREIGNTY

The most pervasive and abundant fears of the opposition are those referencing the United States’ sovereignty and its perceived potential loss due to treaty ratification.

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BIG LIE:

Phyllis Schlafly, of the Eagle Forum, asserted “[t]he United Nations in collusion with Obama's globalists have cooked up another scheme to slice off a piece of U.S. sovereignty and put us under global government.”⁶ Walter Olson, Senior Fellow at the Cato Institute: “[T]he treaty would if taken seriously bid to wrest from the control of elected U.S. lawmakers the future course of many important domestic policy issues, from the structuring of Social Security disability benefits to the question of whether prospective law and medical students should have a right to extra time in taking exams to accommodate their learning disabilities.”⁷ A Washington Times editorial unabashedly declared that “[t]he CRPD is an invitation to join U.N. internationalists on the slippery slope away from sovereignty.”⁸

REALITY:

Article 4(4) of the CRPD explicitly says that “[n]othing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State.”⁹ In short, the CRPD will NOT affect U.S. sovereignty and will NOT change U.S. laws. Furthermore, the treaty package of RUDs that accompanies the CRPD ensures that ratification will require no changes in U.S. law.

6 Schlafly, Phyllis. “UN Treaty Mischief on Disabilities.” Eagle Forum. 25 July 2012.

7 Olson, Walter. “A bad disabled-rights treaty.” The Daily Caller. 4 Dec 2012.

8 “Editorial: Dangers of U.N. disabilities treaty.” The Washington Times. 11 Sept 2012.

9 U.N. Convention on the Rights of Persons with Disabilities, Art. 4(4).

The United Nations has represented an omnipresent danger to the anti-internationalist cadre of Americans, and as such U.N. fear-mongering is an oft-used tool.

BIG LIE:

John McManus of the John Birch Society claimed “the world body [the U.N.] is constantly accumulating power. It has already gained much and CRPD is another step toward total power.”¹⁰ Breitbart.com agreed, saying that the CRPD “would forfeit American sovereignty to the United Nations on critical aspects of how this nation cares for people with disabilities and, for that matter, who gets to decide what conditions qualify as disabilities...the United States would be bound under international law to abide by the U.N.’s decisions, trumping both federal and state laws to the contrary.”¹¹ Senator Jeff Sessions (R-AL) elected to not mince words, saying “[t]he entire focus has been to empower an international agency - here the United Nations, an organization that truly is proving to be dysfunctional and often hostile to the most legitimate interests of the United States to monitor the internal policies of the United States and tell us how we ought to operate.”¹²

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REALITY:

Some in the opposition have long held an overwhelming fear of the United Nations that is not limited to its involvement with international agreements. Katrina vanden Heuvel hit the nail on the head in The Washington Post, saying that this “unreconstructed paranoia” about the U.N. isn’t new, and its current prevalence is just “another example of... [an] increasingly delusional, and ossified, worldview.”¹³ To combat this anti-U.N. hype, it should be repeatedly stated that the only obligation created by ratification is a periodic report

Some in the opposition have long held an overwhelming fear of the United Nations that is not limited to its involvement with international agreements.

¹⁰ McManus, John F. “Oppose Ratification of the U.N. Treaty on Disability Rights.” John Birch Society. 28 Nov 2012.

¹¹ Klukowski, Ken. “Senate Rejects U.N. Children’s Disability Treaty Submitted by Obama.” Breitbart.com. 4 Dec 2012.

¹² “Coons, Harkin, Sessions: Executive Session (Disability Treaty).” Republican.Senate.gov. 4 Dec 2012.

¹³ Vanden Heuvel, Katrina. “What’s with the GOP’s absurd fear of all things UN?” The Washington Post. 11 Dec 2012.

submitted every four years detailing the United States' compliance with the CRPD (this report would highlight our already-stellar disability record). In addition, the Committee receiving the report is an entirely advisory body, and so has no binding authority over the United States. If U.N.-related fears persist, they can be addressed through additional RUDs.

The opposition successfully spurred the fears of international or foreign oversight of U.S. policy-making by the CRPD committee.

BIG LIE:

Senator Mike Lee (R-UT) displayed such unfounded paranoia: "I and many of my constituents who home-school or send their children to religious schools have justifiable doubt that a foreign body based in Geneva, Switzerland, should be deciding what is best for a child at home in Utah."¹⁴

REALITY:

Article 36(1) clearly says that the CRPD committee will issue "suggestions and general recommendations" to state parties, which are in no way binding.¹⁵ The committee makes no decisions or decrees – it just gives advice. The role of the Committee was clarified in the RUDs adopted by the Senate Foreign Relations Committee last year. A similar RUD could be recommended again in order to clarify this understanding.

Many critics of the CRPD are unwilling to ratify for fear of being associated with those states that have already ratified the treaty.

BIG LIE:

The Heritage Foundation's Steven Groves: "The U.S. Congress, American civil society and special interest groups are far better positioned to conduct such reviews than a committee of disability experts from Bangladesh, China, Qatar and Tunisia, which are current members of the committee."¹⁶ Former Senator John Kyl (R-AZ) claimed "the CRPD would offer cover to regimes that have no intention of actually helping their

¹⁴ Cox, Ramsey, and Julian Pecquet. "Senate Rejects United Nations Treaty for Disabled Rights in a 61-38 Vote." Weblog post. The Hill. 4 Dec 2012.

¹⁵ U.N. Convention on the Rights of Persons with Disabilities, Art. 36(1).

¹⁶ Hearing before the United States Senate Committee on Foreign Relations on Convention on the Rights of Persons with Disabilities (Treaty Doc. 112-7), 112th Cong. (12 July 2012) (testimony of Steven Groves).

citizens while needlessly tying the hands of countries like the United States that have actually made great strides in this area."¹⁷

REALITY:

As previously stated, the CRPD changes no U.S. law and does not interfere with our implementation of the ADA, so there will be no hand-tying. Regarding other state parties, the CRPD will require (where they are not present already) “the introduction of non-discrimination legislation like the Americans with Disabilities Act” and ensuring “the enjoyment of human rights by persons with disabilities on an equal basis with others.”¹⁸ U.S. ratification of the treaty will not only give credence to it, but will also increase international pressure to bring non-complying states up to our standards and those of the CRPD.

Some believe that because the treaty will not do anything new for Americans, there’s no reason for us to ratify it.

BIG LIE:

Senator Orrin Hatch (R-UT) said that “[r]atifying the CRPD will not establish a single right for a single American, it will not provide for Americans with disabilities anything that American law has not or could not provide. It would not even help Americans with disabilities who travel overseas because their treatment depends on the laws and policies of other countries, not ours.”¹⁹

REALITY:

As previously stated several times, the CRPD exports U.S. leadership on disability rights, non-discrimination, and equality. Becoming a state party to the agreement will not only show our faith in it and the virtues it espouses, but also will convince the other state parties that we are as committed to international disability rights as they are, if not more so. Countless Americans have shared why the treaty’s passage is important to them from veterans’ groups (i.e.: the American Legion just passed a resolution to support the CRPD²⁰) to over 650 American disability and allied

17 “McCain, Kyl, Kerry: Executive Session (Disability Treaty).” Republican.Senate.gov. 4 Dec 2012.

18 U.S. International Council on Disabilities. “Frequently Asked Questions About the CRPD.” 23 July 2009.

19 Hatch, Orrin. Hatch: U.N. Disabilities Treaty a Threat to American Sovereignty and Self-Government. Press Release. Hatch.senate.gov. 10 July 2013.

20 American Legion. Ninety-Fifth National Convention of the American Legion. Resolution No. 80: Ratify Disabilities Treaty. 27-29 Aug. 2013.

organizations who express the desire to see legislation like the Americans with Disabilities Act extended abroad.

EFFICACY OF THE TREATY

One of the main treaty efficacy “Big Lies” that is brought up most often is that there is no clear-cut definition of what a “disability” is.

BIG LIE:

Michael Farris, chairman and cofounder of the Home School Legal Defense Association (HSLDA), alleged that the CRPD “provides no specific definition of ‘disability’” and that without this definition “it cannot be said with certainty exactly how broadly the treaty will apply.”²¹ Former Senator Rick Santorum, another prominent champion of the opposition, claimed that the lack of a clear definition meant “some committee at the U.N. will decide after ratification who is covered.”²²

REALITY:

According to the U.S. International Council on Disabilities’ CRPD FAQs,²³ “the CRPD approaches ‘disability’ as an evolving concept,” similar to how the Americans with Disabilities Act does (which actually evolved its own definition of disability in 2008). Under the treaty, “persons with disabilities include but are not limited to those who have long-term physical, mental, intellectual, or sensory impairments such as blindness, deafness, impaired mobility, and developmental impairments.” Further, each state party to the treaty is able to draft its own domestic legislation within the parameters set by the agreement. The U.S. has various definitions of disability depending on the legislation. For that reason, the Senate Foreign Relations Committee added an understanding to the proposed RUDs that “disability” would be defined by the treaty as it is under current U.S. law. A similar understanding can be proposed this year to clarify this issue.

The inclusion of Articles 23, which addresses family and parental rights, and 25, which addresses health care and sexual health, spurred many anti-abortion groups to action at the simple mention of “reproductive rights.”

²¹ Farris, Michael. Letter. 16 Aug 2012. Home School Legal Defense Association.

²² Santorum, Rick. “U.N. Disabilities Treaty Would’ve Had Bureaucrats Unseat Parents.” The Daily Beast. 5 Dec 2012.

²³ U.S. International Council on Disabilities. “Frequently Asked Questions About the CRPD.” 23 July 2009.

BIG LIE:

Bradley Mattes, of the International Right to Life Federation, said that "[m]any don't realize that this international treaty could potentially supersede future attempts to overturn Roe v. Wade" because "it intentionally sacrifices the most vulnerable - the disabled and the unborn - all in the name of population control."²⁴ Congressman Jeff Duncan (R-SC) asserted that "[t]his treaty...would allow unelected bureaucrats in Switzerland to determine the meaning of the words 'disability' and 'sexual reproductive health.' Such ambiguity could lead to frivolous litigation and advancing abortion as a 'human right.'"²⁵

REALITY:

The CRPD "does not address abortion," but instead "addresses the right of people with disabilities to have the same rights as others. Nations that both permit and outlaw abortion are party to the CRPD." Further, "[t]he CRPD simply provides that health procedures provided under domestic law be provided to individuals with disabilities on a nondiscriminatory basis."²⁶ If one looks at the drafting history of the CRPD, a clear issue that did arise was the issue of forced abortions and forced sterilization of adults and children with disabilities. This non-discriminatory language for people with disabilities as it relates to all health services is meant to protect them from such practices.

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Many members of the opposition have also tried to downplay the significance of the CRPD by making baseless claims about the treaty's length or when it was brought to the Senate for ratification.

24 Ertelt, Steven. "Senate Expected to Vote on Pro-Abortion CRPD Treaty Tuesday." LifeNews.com. 30 Nov 2012.

25 Correnti, Lisa. "Experts Warn Lawmakers: Disability Rights Treaty Promotes Abortion." LifeNews.com. 13 Sept 2012.

26 U.S. International Council on Disabilities. "The Truth about the Convention on the Rights of Persons with Disabilities." 2013.

BIG LIE:

Tony Perkins, of the Family Research Council (FRC), alleged²⁷ that the length of the CRPD and the number of articles it contained meant that U.S. law would have to change to comply: “This is a treaty with 50 Articles, and anyone who suggests...that it doesn't require 'one change to U.S. law' must be waiting to pass it to find out what's in it.”²⁸

REALITY:

The length of a treaty has no bearing on its quality. The Senate has ratified a large number of treaties that are longer than the CRPD: the International Covenant on Civil and Political Rights (ICCPR) has 53 Articles²⁹ while the Convention on Cybercrime has 48.³⁰ The 50 articles of the CRPD are reflective of the Americans with Disabilities Act. If one reviews the treaty package submitted to the Senate, they will see a full analysis of how all 50 articles are complied with based on the ADA and a number of other U.S. disability laws. The length of the treaty, however, does not impact U.S. compliance. It is current law in addition to the RUDs that ensure that no change to U.S. law will be required. Attorney Generals of both parties, as well as numerous legal experts, have confirmed this.

BIG LIE:

36 Republican Senators signed a letter³¹ in September 2012, alleging that the “lame-duck session of the 112th Congress” was not “an appropriate time for considering” the CRPD.

REALITY:

Since the 1970s, the Senate has voted to approve treaties 19 times during lame-duck sessions.³²

27 Perkins, Tony. "Conceal and Kerry." Tony Perkins' Washington Update. Family Research Council, 4 Dec 2012.

28 Tony Perkins also made the claim, reported in a LifeNews.com article, that “the global community could force America to sanction sterilization or abortion for the disabled - at taxpayer expense.”

29 International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

30 Convention on Cybercrime, entered into force July 1, 2004.

31 http://www.lee.senate.gov/public/index.cfm/files/serve?File_id=ab674060-5817-4c26-b85f-fe2d6ef0f5b3

32 Abrams, Jim. “Republicans block U.N. disability treaty.” The Boston Globe. 4 Dec 2012.

BIG LIE:

Senator Ron Johnson (R-WI) stated simply that the CRPD "is another example of legislation that sounds good but accomplishes little, if anything."³³

REALITY:

Ratifying the CRPD "would strengthen [the United States'] approach to ensuring the full equality of persons with disabilities, and would send a message to the world that our commitment to the human rights of persons with disabilities is as strong as ever."³⁴ In addition, ratification of the CRPD would protect disabled Americans' and veterans' rights while traveling and working abroad. All state parties to the treaty would have to have the same high standards for disability rights that the U.S. already has, ensuring disabled Americans' ability to travel internationally without issue.

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HOMESCHOOLING AND PARENTAL RIGHTS

Rick Santorum's grassroots organization, Patriot Voices, leads the charge with the Home School Legal Defense Association on the homeschooling and parental rights front.

BIG LIE:

Patriot Voices' website claims that "[t]his treaty, if ratified, would effectively put us under international law when it comes to parenting our special needs children. While CRPD may, on the surface, appear to protect those with disabilities, it actually gives the government the power, with direction from the U.N., to decide what is best for our children."³⁵

³³ Cunningham, Rusty. "Tea party senators have betrayed the disabled." LaCrosse Tribune. 9 Dec 2012.

³⁴ U.S. International Council on Disabilities. "Frequently Asked Questions About the CRPD." 23 July 2009.

³⁵ "Take a Stand Against CRPD." Patriot Voices.

REALITY:

The CRPD actually protects parental rights. Article 23(4) says that “[i]n no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.”³⁶ Further, the United States often adds RUDs to treaties upon signing or ratifying, which can alter our responsibilities under a treaty or change a treaty’s oversight of American policies.

The RUDs attached to the Senate package of the CRPD include explicit protections of the federal system and Americans with Disabilities Act oversight, private conduct not covered by the Constitution or U.S. laws, and First Amendment rights.³⁷ Parental rights in the U.S. simply are not threatened or endangered by ratification of the CRPD.

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BIG LIE:

In a homeschooler anti-CRPD coalition letter (the undersigned of which includes representatives from Heritage Action for America, the Catholic Family and Human Rights Institute, the American Conservative Union, and others), it was claimed that “the best interests of the child’ legal standard would override the traditional fundamental right of parents to direct the education and upbringing of their child with special needs.”³⁸

REALITY:

The “best interests of the child” standard is not foreign to U.S. law. According to the Administration for Children and Families of the U.S. Department of Health and Human Services, “[a]ll states, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands have statutes requiring that the child’s best interests be considered whenever specified types of decisions are made...”³⁹ The Senate Foreign Relations Committee added an

36 U.N. Convention on the Rights of Persons with Disabilities, Art. 23(4).

37 Convention on the Rights of Persons with Disabilities, Treaty Doc. 112-7. Senate Package.

38 Farris, Michael. "CRPD Coalition Letter." Letter. 27 Nov 2012.

39 Determining the Best Interests of the Child. Children’s Bureau, Administration for Children and Families, U.S. Department of Health and Human Services. Nov 2012.

additional understanding on the “best interest of the child” language to confirm that no changes to parental rights would occur and the language would continue to be interpreted as it is under U.S. law. Similar language can be added this year to address any remaining concerns.

BIG LIE:

A Washington Times op-ed by Mario Diaz asserted that the CRPD would take control of special needs children from the parents and give it to the government. For Diaz, this fallacy was a scary prospect because “[c]onsideration of what I think is most important for my child, for example – for him to know, experience and cherish God above all – is of no importance whatsoever to ‘government.’ In fact, these days there is complete hostility toward that type of thinking. Under CRPD, the U.N.’s advisory board would get to “consider” what is in the best interest of my child. God help us all.”⁴⁰

REALITY:

As previously said, the CRPD reinforces and protects parental rights. The CRPD committee makes advisory recommendations that will not have any direct, binding effect on any individual child or family. Further, the “best interest” standard is used to protect children, and is only used to contravene parental decisions when “competent authorities subject to judicial review” determine to do so, or if “the immediate family is unable to care for a child with disabilities.”⁴¹ An RUD on “best interest,” as was in place last year, will ensure that no changes to this definition can occur. What the opposition leaves out is that millions of children with disabilities abroad are housed in institutions due to lack of legal frameworks that protect their rights to live in society and with their families. It is this mistreatment of children that the CRPD aims to address.

TRAFFICKING IN FALSEHOODS: GOING DOWN THE RABBIT HOLE

Keeping track of the “Big Lies” is only half the battle; to truly get a strong grasp of how the opposition’s echo chamber works, and how its “Big Lies” affect change, we must chart their path through the political and social systems.

⁴⁰ Diaz, Mario. “UN Disabilities Treaty Threatens Parents’ Rights.” The Washington Times. 12 Dec 2012.

⁴¹ U.N. Convention on the Rights of Persons with Disabilities, Art. 23(4).

Let's take a fairly general and yet still pervasive "Big Lie" that's largely universal in CRPD opponents' complaints and fears: ratification of the CRPD would destroy American sovereignty and yield governance of our country to a foreign, dangerous body - the United Nations. This "Big Lie" is a relatively ubiquitous mistruth with regard to treaty ratification, also used to combat support for the Arms Trade Treaty (ATT), the Convention to Eliminate all forms of Discrimination Against Women (CEDAW), and the U.N. Convention on the Law of the Sea (UNCLOS).

To truly get a strong grasp of how the opposition's echo chamber works we must chart their path through the political and social systems.

For the CRPD, the sovereignty "Big Lie" goes back to May of 2010, when the Heritage Foundation's Steven Groves wrote a lengthy article in the think tank's report publication, the *Backgrounder*, entitled "Ratification of the Disabilities Convention Would Erode American Sovereignty."⁴² Honestly, we could probably just stop right there; Groves clearly wasn't shooting for subtlety. But we won't. Here are some gems that kick-started the CRPD-sovereignty conversation: Ratification of the CRPD "would not advance U.S. national interests either at home or abroad," it would "obligate the federal government to defer to an unaccountable committee of academics and 'disability experts,'" and the aforementioned committee "would inevitably interfere with U.S. policy-making, thereby infringing on American sovereignty and intruding into matters wholly unrelated to disabilities."

As is often the case with the Opposition's vertically-integrated echo chamber, the message starts in the nerve center with the think tanks, and then disseminates to media networks and grassroots organizations, repeated by members of the opposition ad nauseum. Heritage's article was only the beginning of a long and damaging journey that ended with the CRPD's failed ratification. After the publication of Groves's article, the sovereignty talking points (and the CRPD in general) largely disappeared until just before President Obama submitted the CRPD to the Senate on May 30, 2012. Michael Farris, founder and chairman of the HSLDA, released "Ten Specific Problems with the Convention on the Rights of Persons with Disabilities"⁴³ on the HSLDA website. The list, while focusing on parental and homeschooling rights and concerns, did include a number of sovereignty references. The document alleges that "[a]ny remaining state

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42 Groves, Steven. "Ratification of the Disabilities Convention Would Erode American Sovereignty." *Backgrounder*, No. 2406. 26 April 2010.

43 Farris, Michael. "Ten Specific Problems with the Convention on the Rights of Persons with Disabilities." Home School Legal Defense Association. 29 May 2012.

sovereignty on the issue of disability law will be entirely eliminated by the ratification of this treaty.” Further, the piece claims “[t]he U.N. believes that it has the power to determine the legitimacy and lawfulness of the budget of the United States to assess compliance with such treaties.” This document encapsulated many of the fears of the anti-CRPD crowd, and acted as a spark for their heavily packed fire. From here, the opposition’s echo chamber really took off and the anti-ratification mobilization began.

Leading up to the Senate Committee on Foreign Relations (SFRC) hearing on the CRPD on July 12, Heritage, ParentalRights.org, and the HSLDA practically worked in conjunction to develop a message. ParentalRights.org preemptively launched an action⁴⁴ to have supporters call Senators to urge them to oppose ratification of the CRPD. While ParentalRights.org, much like the HSLDA, tends to focus on parental and homeschooling arguments against the CRPD, they still had no problem jumping onto the sovereignty bandwagon. The action asked members to call to prevent the CRPD from “obligat[ing] the national government to see that every child with disabilities is raised according to the standards set by the U.N., regardless of parental beliefs or even state law.” The HSLDA, the day before the SFRC hearing, released a document entitled “U.N. Treaty Threatens Families,”⁴⁵ which said that it was “outrageous that U.S. senators would support a treaty that surrenders U.S. sovereignty and family integrity to unelected U.N. bureaucrats.”

On the day of the SFRC CRPD hearing, Heritage’s Groves and HSLDA’s Michael Farris testified before the Committee and peddled the same sovereignty “Big Lies.” In front of the Committee, Groves alleged⁴⁶ that ratification would “obligate the United States to answer to a committee of ‘disability experts’ in violation of principles of U.S. sovereignty.” Further, he claimed that “the experts on the CRPD Committee will give short shrift to U.S. sovereignty, laws, regulations and norms, and embark on similar forays in pursuit of a broader agenda of social engineering unrelated to disability rights.” Farris followed suit, hyperbolically declaring that “ratification of this treaty would constitute the most dangerous departure from the principles of American sovereignty and personal liberty in the history of the United States Senate.”⁴⁷

Following the SFRC hearing, the sovereignty “Big Lie” began to move beyond the think tanks and interest groups, and began to disseminate up the echo chamber. On July 16, the Jefferson County Tea Party of Missouri launched actions for members to call their Senators, citing Farris’s testimony at the SFRC hearing as evidence of the CRPD’s danger. The group directed this action at “all who believe in the Sovereignty of the State not succumbing to the United Nations.”⁴⁸ In the following weeks, two interest groups, Heritage Defense⁴⁹ and the Eagle Forum,⁵⁰ joined the fray,

44 http://www.parentalrights.org/index.asp?Type=B_BASIC&SEC={11B7830E-EDDD-4278-A001-DE448D48FED6}&DE

45 “UN Treaty Threatens Families.” Home School Legal Defense Association. 11 July 2012.

46 Hearing before the United States Senate Committee on Foreign Relations on Convention on the Rights of Persons with Disabilities (Treaty Doc. 112-7), 112th Cong. (12 July 2012) (testimony of Steven Groves).

47 http://www.parentalrights.org/vertical/Sites/%7BC49108C5-0630-467E-9B9B-B1FA31A72320%7D/uploads/Farris_Testimony_re_UNCRPD.pdf

48 <http://www.jeffcoteaparty.com/2012/07/16/senators-ignored-your-plea-un-crpd-marches-on/>

49 <http://www.heritagedefense.org/2012/07/30/call-your-u-s-senators-to-oppose-the-uncrpd/>

largely repeating the talking points already established by Heritage, the HSLDA, and ParentalRights.org.

Starting in late July, the media blitz against the CRPD began, using the aforementioned developed sovereignty messages. Richard Rahn in Newsmax said that “the proposed convention would undermine U.S. sovereignty and laws,”⁵¹ a Washington Times editorial argued that the U.S. “could soon find itself taking orders from international bureaucrats,”⁵² and Breitbart.com published a diatribe⁵³ by Dr. Susan Berry, which parrots the positions of Lee, Santorum, and Farris.

As the clock wound down towards December 4, the sovereignty “Big Lie” continued to spread. The grassroots Patriot Action Network launched a series of actions in September to fight the “U.N. tyranny” that was a “threat to our sovereignty.”⁵⁴ The John Birch Society⁵⁵ and the Family Research Council⁵⁶ both published articles decrying the ceding of our national sovereignty to the power-hungry U.N. In the very last stretch, just days before the Senate ratification vote, the opposing politicians vociferously voiced the concerns, all of which were unified around the same thread of sovereignty threats. Former Senator Jim DeMint (R-SC) warned against going “beyond our Constitution and federalist system by allowing our fundamental rights to be dictated by unaccountable and unelected international bureaucrats,”⁵⁷ Senator Jim Inhofe (R-OK) railed against the CRPD’s “imping[ing] upon our sovereignty,”⁵⁸ and Senator Mike Lee (R-UT) cautioned descending down the “rabbit hole” of the CRPD, which would have “serious consequences for domestic law.”⁵⁹ Following this onslaught of “Big Lie” actions and campaigns, the votes were tallied and ratification of the CRPD failed, just five votes short.

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50 Schlafly, Phyllis. “UN Treaty Mischief on Disabilities.” Eagle Forum. 25 July 2012.

51 Rahn, Richard. “UN Treaty for Disabled Oversteps Mission.” Newsmax. 7 Aug 2012.

52 “Editorial: Dangers of U.N. disabilities treaty.” The Washington Times. 11 Sept 2012.

53 Berry, Susan. “Sen. Mike Lee and Rick Santorum: U.N. Treaty Undermines US Parents.” Breitbart.com. 29 Nov 2012.

54 <http://patriotaction.net/profiles/blogs/don-t-let-republicans-give-away-our-sovereignty-to-the-u-n-fax>

55 http://www.jbs.org/index.php?option=com_k2&view=item&id=10038:oppose-ratification-of-the-un-treaty-on-disability-rights&Itemid=413&tmpl=component&print=1

56 http://www.huffingtonpost.com/ken-blackwell/un-disability-treaty_b_2213812.html

57 Rosen, James. “SC’s DeMint Slows International Accords.” The State. 26 July 2012.

58 “Republican opposition downs U.N. disability treaty.” USA Today. 4 Dec. 2012.

59 http://www.lee.senate.gov/public/index.cfm/press-releases?ContentRecord_id=4cd5b7f7-6a2a-4c23-b11e-26beec2893e8

But even with the failed ratification of the CRPD, proliferation of “Big Lies” about it didn’t end. In the July/August 2013 issue of *Foreign Affairs*, former Senator John Kyl (R-AZ), George W. Bush’s Under Secretary for of Defense for Policy Douglas J. Feith, and Senior Fellow at the Hudson Institute John Fonte co-wrote a scathing anti-internationalist article, “The War of Law: How New International Law Undermines Democratic Sovereignty,”⁶⁰ which picked up the threads of the CRPD sovereignty “Big Lie.” Reading the tea leaves and seeing the return of the CRPD to the Senate floor as imminent, the co-authors did their best to use sovereignty fears to once again scare the American public into not supporting CRPD ratification. They write that there are only two ways to look at ratification of the CRPD: “If the treaty lacks substance, then there is no point in ratifying it, and if it makes substantive demands on the parties, then the concerns about sovereignty are well founded.” The authors claim that these concerns arise from the dangers associated with potential “interpretations made by foreign government officials and judges and by nongovernmental organizations, none answerable to American voters.” But perhaps the most obvious lie in the piece, which underlies most sovereignty “Big Lies,” is that “transnationalists propound ideas at odds with the practical requirements of the real world and with basic American principles,” and that American sovereignty, to them, “is growing increasingly problematic.” To the authors, and very likely to those who excitedly and adamantly read their words, this is a simple truth: internationalist liberals want a world government not constrained by the annoyances of state sovereignty, free to meddle in the lives of all peoples around the globe. But to those of us whom this quote attempts to mischaracterize, we know it’s nothing more than another “Big Lie.”

Rick Santorum’s Patriot Voices saw the same signs, and on June 20, 2013 launched a new action on its website to “Help Us Stop CRPD.”⁶¹ The short action, in few words, shrilly cries that “[t]he U.N. Disabilities Treaty is back” and asks supporters to take three minutes to send a pre-written email to their Senator to quash future ratification attempts. As of July 16, 2013, 12,526 letters have been sent so far, all of which demand defeat of the CRPD because it “threatens U.S. sovereignty and parental rights, and if ratified, it would effectively put us under international law when it comes to parenting our special needs children.” There’s nothing new under the sun, especially in the world of the Right’s vertically-integrated echo chamber, and nothing works better than a tried-and-true “Big Lie.”

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60 Kyl, John, Douglas J. Feith, and John Fonte. "The War of Law: How New International Law Undermines Democratic Sovereignty." *Foreign Affairs* 11 June 2013.

61 http://www.patriotvoices.com/help_patriot_voices_stop_crpdc

WHY DOES IT MATTER?

The opportunity to address ratification of the CRPD will likely resurface in the near future. CRPD proponents in the Senate, including Senate Majority leader Harry Reid (D-NV) the Chairman of the Senate Committee on Foreign Relations Robert Menendez (D-NJ), have expressed hope that the treaty would come up again in the 113th Congress. Senator Mark Kirk (R-IL) also pledged his support for the CRPD in July 2013, adding yet another voice to the group of ratification proponents. To be truly successful in a future opportunity to ratify the CRPD, CRPD supporters and proponents of multilateral treaty ratification must learn and understand how we failed in the past.

The opposition's vertically-integrated echo chamber is specially designed to take "Big Lies" produced by the think tanks and interest groups and project them through its messaging network to reach a large audience. Moving through the network, the "Big Lie" is honed and refined, repeated time and again by media outlets, grassroots organizations, and politicians. The universality of "Big Lies" on the Right and within treaty ratification opposition is exactly why proponents must not only learn but develop strategies to combat the echo chamber and level the playing field.

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Facts and figures are only worth so much in the face of visceral, emotional "Big Lies" that tap into the fears and concerns of an easily incensed constituency. How can CRPD proponents counter opponents' "Big Lies" when they're met with blatant mistruths? Brian Fraley, of RedState.com, showed why the opposition was able to trump proponents by framing opposing ratification as a moral question: "[S]upporting the treaty would give tacit acknowledgement of the United Nation's moral authority."⁶² By warping the conversation and using direct emotional appeals to mobilize the opposition's base, a motivated and angry – although misinformed – constituency yelled, emailed, called, and bullied their representatives until the CRPD's ratification efforts were buried. Rick Santorum's Patriot Voices' anti-CRPD petition contains over twenty-thousand signatures,⁶³ while the organization's letter campaign sent over fourteen-thousand letters to Senators.⁶⁴ ParentalRights.org, whose Facebook page is liked by over 30,000 people,⁶⁵ launched a number of blitz campaigns in 2012 targeted at Senators to keep them from

62 Fraley, Brian. "About That Disability Treaty." RedState.com. 10 Dec 2012.

63 http://www.patriotvoices.com/take_a_stand_against_crpdc

64 http://www.patriotvoices.com/crpdc_letters_to_senators

65 <https://www.facebook.com/parentalrights.org>

supporting the CRPD, inundating them with thousands of phone calls and emails.⁶⁶ The Home School Legal Defense Association, fearing a resurgence of the CRPD in the Senate, has already asked its large member base to reach out to their Senators over the summer recess to stop the CRPD in its tracks once again.⁶⁷ The true danger of the “Big Lie” machine and the vertically-integrated echo chamber is not the mistruths that are created, but rather how they are used effectively to motivate a massive group of Americans into action.

The standard shtick is no longer acceptable – to ratify the CRPD successfully, proponents must step up their game and develop an equally effective and vocal messaging network that can combat the opposition’s echo chamber. Just as opponents have unified think tanks, interest groups, grassroots organizations, media outlets, and politicians, CRPD proponents must do the same. Following the failed ratification of the CRPD in December,

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there was extensive coverage from a number of networks, and many politicians and representatives of organizations lamented the failure. Pro-ratification activists must bring these supporters together on one cohesive message and fight against the organized attacks coming from the “Big Lie” purveyors.

More importantly, though, the conversation surrounding treaty ratification must change. Taking part in global cooperation and becoming parties to international multilateral treaties can no longer be depicted as un-American or unpatriotic; we must reshape the conversation. Former Legal Advisor for the U.S. Department of State and the National Security Council during the George W. Bush Administration, John Bellinger III, said of the CRPD ratification process that “an increasing number of Republicans...[came] to view treaties in general (especially multilateral ones) as liberal conspiracies to hand over American sovereignty to international authorities.”⁶⁸ Failing to ratify treaties hurts our global leadership and national interest, and so a political cost must be imposed on those whose actions affect our standing in the world. GlobalSolutions.org’s Ratify and Thrive Campaign hopes to do just that.

66 http://www.parentalrights.org/index.asp?Type=B_BASIC&SEC={3B6D4B22-0E2A-47EB-BA5D-E0A76024DA6A}

67 <http://www.hslda.org/docs/news/2013/201308060.asp>

68 Bellinger, John B. “Obama’s Weakness on Treaties.” The New York Times. 18 Dec 2012.

CONCLUSION

The United Nations' Convention on the Rights of Persons with Disabilities is a landmark international agreement, born out of America's equally prominent Americans with Disabilities Act. As a global leader on disability rights, it should be our natural inclination not only to ratify this treaty, but to wholeheartedly support and promote it. Yet our ratification efforts failed last December, stonewalled by an intractable and powerful opposition. John Kerry called the failure "one of the saddest days I've seen in almost 28 years in the Senate," which "needs to be a wake-up call about a broken institution that's letting down the American people."⁶⁹ However, from this loss ratification supporters can learn and come back stronger, ready to take on the opposition's "Big Lie" machine. Only if this cautionary tale is taken into account will the CRPD be ratified successfully in the future.

These lessons are not only applicable to the ratification journey of the CRPD – they shed light on the entirety of the ratification process. In today's hyper-politicized, partisan world, multilateral treaty ratification no longer enjoys the widespread support it once had. Once a bipartisan, wholly patriotic issue, treaty ratification as a political issue has been warped by our vitriolic politics to become the contentious topic that it is today. The vote to ratify the CRPD "was the sort of pro-forma vote that would have passed with broad bipartisan support a decade or so ago – a symbolic signing on to a U.N. treaty that aimed to raise international standards on the treatment of the disabled, not to some dizzying new heights but to the level the U.S. achieved more than twenty years ago under President George HW Bush."⁷⁰ But such common-sense bipartisan votes are a thing of the past, and the anti-internationalist, xenophobic contingent in Congress has successfully grabbed hold of the legislative steering wheel.

The "Big Lie" tactic is not something that's going to go away. As long as it continues to be effective in quickly mobilizing the opposition's base, it will continue to be used to thwart all treaty ratification efforts – not just those centered on the CRPD. This case study has outlined the vast number of "Big Lies" established by the opposition, and how they are used to distort the CRPD ratification conversation. In order to combat the "Big Lie" machine and the vertically-integrated echo chamber effectively, treaty proponents must understand how these strategies are utilized and prepare strong communications campaigns to counter them. Armed with this knowledge and planning, ratification proponents can fight back efficiently and make real progress towards ratifying the CRPD and other treaties.

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⁶⁹ Avlon, John. "When Bipartisanship is a No-Brainer." The Daily Beast. 11 Dec 2012.

⁷⁰ Avlon, John. "Senate vote on U.N. disability convention shows pitiful state of US politics." The Telegraph. 8 Dec 2012.