



You're listening to Disability Nation - an audio magazine by and for people with disabilities. I'm Larry, your host, and thanks again for turning in this time. Well, Happy Holidays to everyone. I know we're at a busy time of year and the holiday season is upon us and before you know it, it will be the New Year. And I appreciate you taking the time out of your busy schedule to listen to the show again.

Recently I read about a new website that just launched called RatifyNow.org. This website is geared directly towards providing information and resources to people about the United Nations' treaty on the Rights of Persons with Disabilities, and providing people with the tools they need to lobby their governments to support and ratify the treaty. This time on the show I'm pleased to welcome Michele Magar, who is part of that organization, and she has a lot of information to share with us about the treaty, how it will work when it's actually in effect, and how it actually will impact poverty around the world today.

If you wish to contact Disability Nation you can do that in a number of ways. You can send e-mail to contact@disabilitynation.net; visit our website at www.disabilitynation.net; and be sure to call the Disability Nation phone portal at (480)302-9300, where you can listen to past episodes and also leave voice mail.

Thanks for listening and enjoy the show.

Larry Wanger: If you've been a regular listener to Disability Nation you know that over the past couple of months we've brought you bits and pieces of coverage about the United Nations' treaty on the Rights of Persons with Disabilities. I've also mentioned on recent episodes that there have been some things going on with that and I wanted to have an opportunity to bring you up to speed about those things, but also to bring you, hopefully, a clearer explanation about the treaty, why it's important, and what the process is for that treaty to become active.

So this week I'm pleased to welcome Michele Magar to Disability Nation. And Michele has been very much involved in the treaty, both its development and moving forward through the United

Nations. Michele, why don't you take a couple minutes just to tell listeners a little bit about who you are, how you got involved in the United Nations disability treaty, and also about how you got involved in the disability rights movement.

Michele Magar: I've been involved in the disability rights movement for 26 years now. I started out as a journalist. I started with Pacifica National News Bureau originally, and then from there, like many Pacifica veterans, I went over to NPR so I could get paid for a change.

And while I was at NPR I was recruited to work on a very tiny little backwater show called "Let's Hear It." And everything was great for four years. We focused on civil rights, which I covered, and we built it up into a much better show over four years.

And then suddenly in the mid 80s, years and years ago, NPR had a funding crisis and had to fire a third of its staff; and "Let's Hear It" was killed, which was the name of the disability right show. And instead, one person, which was me, was transferred to the general news division in order to continue to do disability rights coverage, but this time my work appeared on All Things Considered, Morning Edition. So that's how I became involved in disability rights as a journalist.

I did that for about 14 years and then I went off to law school. And then I became a disability rights lawyer and went on my merry way doing disability rights. And then a few years ago I learned that the treaty existed and that the U.N. was drafting it. And the way that it worked at the U.N. was they would get together in person every six months for two weeks at a time to write the treaty. And the rest of the time, people worked on it in regions and in their own nations, but they only really wrote it together twice a year over about four years.

And so I was able to go up for some of those sessions in New York and what I discovered there was amazing because it was literally the most effective advocacy strategy I have ever witnessed in 26 years of working in the disability rights movement, and even longer before then because I had been a civil rights activist before I learned that there was such a thing as the disability rights movement.

So it was very inspiring because there were people like us from all over the world who came together and figured out how to transcend not only geographical boundaries, but also language, religion, culture, and cross-disability. And what they did was they coalesced into something called the International Disability Caucus.

So the International Disability Caucus, which still exists, is made up over 70 individual disability rights organizations, some of the regional or national, some of them international, and they were able to speak with one voice during the treaty negotiations in order to help really very effectively lobby for a strong and effective treaty.

As you know, the treaty was adopted by the U.N. in December and opened for ratification in March. However, after the treaty was adopted some of us who were members of the International Disability Caucus became a little bit antsy and wanted to sort of start a website, because the International Disability Caucus is still the leading disability rights organization but it has no website, and without one, as you know, it's kind of difficult to get a presence in cyberspace. So we decided to start Ratify Now this year as sort of a similar -- it's not in any way in competition with the International Disability Caucus, or instead of, but just more alongside their effort so that we could have a website and a visible presence.

And we're going to be doing some things that they're not doing. For example, because of my radio background we're going to be producing audio programming via podcasts that will be broadcast quality and available free to radio stations worldwide. And we hope to also do the same thing with video programming and offer it to PBS equivalents throughout the world at no charge. And the idea is to try to, at the same time as we're spreading the word about legal rights, to also do some serious stereotype busting via the media.

Larry Wanger: We've heard a great deal over the past year, and more than that actually, about this treaty moving through the United Nations so it could be adopted by member states, and ratification and that process. Can you talk a little bit about that and what's happened especially in the past year?

Michele Magar: Basically the deal is that whenever any treaty gets adopted, the way that it works is that the first thing that happens is that the United Nations adopts it and then it's open for ratification. And the first step is that nations will sign the treaty. Now, when they sign the treaty there's no legal consequence. All that means is that they support the general principles and it indicates that they're interested in exploring ratification, but it's not legally binding.

What has to happen is that the nations then have to come back and formally ratify the treaty. And when they do that, then what they're saying is that they agree to be legally bound by the terms of the treaty. And after 20 nations have done that, 30 days later the treaty becomes legally binding. That doesn't mean that other nations can't continue to ratify; nations at any point in time can ratify. So it just

means that whenever treaties are written, the U.N. always decides as part of the treaty how many nations it's going to take to become legally binding, and in this instance they decided 20 nations and we're already more than half-way there.

I have to say that some people are discouraged because they think, "Well, it was open for ratification the last day of March. How come it hasn't been ratified by 20 countries yet?" The answer is, it takes a lot of time for this to happen because nations have to go back and look at their own laws and figure out if they're really willing to bring their laws into harmony with the treaty. Some nations do that as a prerequisite to ratification, others ratify and then bring their laws into harmony; but in either case it takes a good amount of time for national governments to study the treaty, understand it, and make a decision, because it's a very serious step, obviously, to ratify.

I just want to mention that ratification has actually been going on in record time for this treaty. There is no treaty that has ever been ratified as quickly as this one is proceeding. So people should not in any way be discouraged that it's taking a few months for us to get 20 nations to ratify.

Larry Wanger: It's been well documented and well reported that that United States, at least currently under the Bush administration, is not going to sign on and ratify the United Nations treaty.

Michele Magar: Well, but you know, that's another very important issue that I don't want people to feel frustrated about. The reality is that the Bush administration really didn't have any problem, as far as any of us know, with the provisions of the treaty. It's just that the Bush administration doesn't like to sign treaties of any kind; that's why we're not parties to the Kyoto agreement and other treaties.

I mean, President Bush, as you might know, just doesn't believe that much in having the U.S. be held accountable legally to other nations. And when you sign a treaty and then you violate it, you're liable for those violations. And since he doesn't quite believe in having the U.S. law be subject to anyone else's review, that's the problem. The White House indicated that they were not ratifying because they believe that the best way to go is to have every nation come up with its own system and its own set of laws for how to advance disability rights.

So what that tells us is that as soon as we've seen the last of the president and we have a new person in the White House, a new administration, we're confident they'll ratify. And we're asking for whoever is elected to take that step and for the Senate to approve it

within the first year of the new administration. We don't want this to be left over after other priorities have been taken care of. And that's why we're giving it a year. We believe that's more than enough time for the new administration to take a look at this, to sign it, and for the Senate to ratify the president's decision to sign.

Larry Wanger: When looking at a treaty like this, how are specific guidelines or requirements or deadlines arrived at and put in place? And then I guess the second part of that question is, what happens if in fact a country doesn't uphold those? What happens with a treaty like this in that kind of situation?

Michele Magar: Okay. Those are two excellent questions. The first on you need to have a little bit of background to understand, and that is that the United Nations works very differently from Congress in that it operates by consensus. So when there is disagreement, you can't just take a majority vote and go on; you have to keep talking and talking until the people who are objecting remove their objections so that we can go forward. If that doesn't happen, that means that the discussion is dead, that item is dead, and we have to move on to a new item.

So what that meant in reality when you draft a treaty, is that you can't get very specific about what the treaty has in it, because the more specific you get with specific deadlines or funding levels or that type of thing, the less it's going to be possible to get 192 nations to come to consensus.

Now I can tell you that there are some parts of the treaty that are very, very, absolutely clear and there's no room for really navigation. For example, it's very clear that every child with a disability has the right to an education. So that kind of thing you can't kind of wait 100 years and sign the treaty, ratify it, and then say, "We'll get around to making sure that schools are accessible for kids with disabilities in 20 years." So some things they're going to have to do pretty quickly. But at the same time, it's really not a "this has to happen by x date, and that has to happen at such and such funding level." It's more a general type of thing.

But I don't want to leave the impression that it doesn't have any teeth in it or it can't be enforced or it's just another set of inspiring words that aren't going to lead to anything. It isn't that. It does require very specific things, that people with disabilities be allowed to vote, be allowed to marry, etc.

Now the one thing that we did compromise on throughout the treaty, which was the only way to get the treaty done and to even get

the countries to consider a treaty, was to say that this treaty is not going to create rights that don't already exist. In other words, all that this treaty does is give people with disabilities exactly the same rights as everyone else has in that nation. So, for example, if a nation does not allow women to own property -- any women to own property -- then women with disabilities will not be able to own property in that nation. But if any woman in that nation is allowed to own property, then women with disabilities also immediately get that right. So it doesn't create new rights, but it does definitely level the playing field so that any rights that currently exist for anyone, those rights have to be provided on an equal basis to people with disabilities.

And it also very much enshrines the use of reasonable accommodation because, as you well know, with disability rights, it's not sufficient to provide equal rights; you also have to provide the accommodations that are necessary for the person with the disability to be able to make use of that right to the same extent that someone can who does not have a disability.

Vis a vis enforcement, the way the treaty is written, within six months after it becomes legally binding a special meeting has to take place at the U.N. And that's a meeting where every nation that ratified the treaty would send a representative to sit down and between those nations come up with the monitors who are going to be enforcing the treaty from that point forward.

So what happens is that the treaty envisions monitors who will be chosen according to geographic diversity and other types of diversity criteria, but all of whom will have expertise in disability rights. And those 18 people, their terms rotate and they're staggered so that they're not the same 18 people forever. They're, I think, chose for four or six year terms, I forget exactly. But it's all in the treaty so if you read it, it spells it out. And those experts will then be the ones who make sure that nations comply with the treaty.

Now, the way that that's done is that every nation that ratifies the treaty, among its immediate obligations is that it has to form its own independent body that will be in charge of monitoring that nation's adherence to the treaty. And so what that independent monitoring body in every ratifying nation will do is to keep statistics, keep records, send out questions, get answers, sort of be the eyes and ears of the United Nations for treaty implementation.

And every five years, every single nation that ratifies the treaty has to send a very thorough and detailed report to the monitoring body of 18 people, saying exactly what their nation has done correctly

and what it has not done well enough yet, what it needs to improve. And then the monitoring body at the U.N. will take a look at each of those reports and decide whether or not a nation is or is not in violation of the treaty. If it finds that it is in violation, it then will let that nation know that it is, for example, in violation of Article 12, and ask why, and ask what steps the nation is willing to voluntarily take immediately. And if those steps don't satisfy the U.N., there's a negotiation that takes place until the nation comes into compliance with the treaty.

The second thing that even fewer people know about is that in addition to the treaty there's a distinct and separate document that's called the Optional Protocol. And nations are also free to sign and ratify that document, just like they can sign and ratify the treaty. What that document provides is that if a nation signs that document, the Optional Protocol, any individual citizen of that nation, if they feel that a treaty violation has taken place -- for example, let me make it concrete.

If we have a 12-year-old kid in a nation who has a disability and cannot attend public school, then that kid would first have to exhaust all legal remedies within their nation. So if it was here in the U.S., that kid would have to take their case to the Supreme Court. If they don't get satisfaction from the Supreme Court, they would then be enabled to go straight to the monitoring committee at the U.N. and bring a complaint that the U.N. would then take seriously and attempt to resolve just the same way as it would if it got a report from a nation that the nation wasn't really up to par.

So that's a completely separate document. And for that document, only 10 nations need to ratify it in order for that to become legally binding, and so far five nations have ratified that. Eleven have ratified the treaty, and of those 11, five have ratified the Optional Protocol.

Larry Wanger: One of the goals of Ratify Now is obviously to educate people about the treaty and to help get them involved in pushing countries to ratify the treaty itself. Let listeners know how they can learn more, how they can get involved in that effort.

Michele Magar: Well, if they get to the treaty, there are definite things they need to check. For the latest, there's a new webpage they can go to. For example, this week presidential candidate Barack Obama put out a statement on December 3rd, which was International Disabled Peoples Day, saying that he intends to ratify the treaty if he's elected president. And also goes on to express in detail his support for

disability rights, both domestic and international. So something like that that is breaking news we put in our news section.

We would then move it into an archive of news on our press page because we are going to be putting new things there, be they a country has just ratified, or we've just heard of a new conference or event that has to do with the treaty, we would put on the news page.

One of the immediate things I would suggest people do if they're interested is get on the list serve because then they will get e-mails with updates all the time, both about new things that are happening, and also ways to become involved.

And the last thing that I would suggest is that they also check out -- we have a webpage that is entitled "Get Involved!" or "What You Can Do." And if they click on that there are lots of suggestions, from the ones that are not very time consuming at all to ones that are time consuming, because we wanted to give people a range of things that they can do to help. Because we understand that some people are very busy and may not have time, so we might ask them to do something that takes five minutes once and then they're done; or if they have more time that they want to devote, we have lots of suggestions for how people can plug in.

Larry Wanger: Are there other things that you want people to know about your efforts or about the treaty, anything you want to add?

Michele Magar: One of the things that I think is really important for people to understand is that the majority of people with disabilities in the world live in nations where there are absolutely no disability rights laws whatsoever. And worse than that, where there are negative laws that bar people with disabilities from access to things that we take for granted, and nations with disability rights laws.

For example, 90 percent of kids who live in developing countries have no access to education whatsoever if they have disabilities. So it's pretty severe. In many nations, women with disabilities are barred from marriage. People with disabilities cannot own or inherit property. There is no such thing as accessible housing or accessible transit or the right to employment. So the things that we in the U.S. often take for granted -- like we have the right to at least equal treatment, at least the right to vote -- people with disabilities are barred from those things in many, many nations simply because they have disabilities. So that's one thing that many people don't realize is that we very much need the treaty because it will jump start disability rights movements in each nation that ratifies the treaty.

The second thing that I think many people in the U.S. don't understand is because we have the Americans with Disabilities Act people say, "Why should the U.S. bother to ratify and why should I in the U.S. care that much about disability rights, since our nation has more or less taken care of it?" And to those people, I would say that the treaty enshrines disability rights in a way that the ADA has not been able to do, especially given the way that our Supreme Court has interpreted the Americans with Disabilities Act in ways that really cut out the protections that Congress intended people with disabilities to have when it enacted the ADA. That's why, as you know, and as I know that your show has already covered, there's a very big movement in this country to restore the protections of the ADA through Congress that is currently pending and currently underway.

But when the U.S. ratifies the treaty, which I'm confident it will do, we don't have to worry quite as much about what the Supreme Court does to the ADA because we'll always have the treaty to fall back on. So it is something that U.S. disability rights advocates, and even civil rights advocates, who may not be disability rights advocates but care very much about civil rights, should pay attention to.

And I have one last thing to say. I used to be a legal aid attorney. And as you know, legal aid attorneys, our job is to eradicate poverty and to help protect people who are too poor to hire their own lawyers. And I know that there are people in this nation and all over the world who want to eradicate poverty worldwide. In my opinion, the treaty is the globe's first international vehicle that will eradicate poverty in the world if it's broadly implemented. The reason I say that is because the minute you start mandating that nations have to let kids in wheelchairs into schools, you're going to have a very hard time keeping all other low income children and poor kids out of schools.

So when you reach out and you give rights to people who are the most disenfranchised in society -- and in every single nation people with disabilities are overrepresented among the poorest of the poor. So when you give those people rights and you empower them, you help those on the bottom to get a step up. And in my opinion, if every nation in the world ratifies the treaty, we will eradicate poverty within a generation.

Let me also do one more thing because I want to make sure people know how to reach us. And that is I just want to make sure that they

know the best way to get in touch with us is through our website, which is www.RatifyNow.org.

To contact Disability Nation you can call (480) 302-9300, send e-mail to contact@DisabilityNation.net, or visit our website at www.DisabilityNation.net.

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Thanks for listening and be sure to tune into the next episode of Disability Nation!
