Sen. Robert Dole, seated at center, is honored at a reception prior to the Senate vote. Elizabeth Dole is seated at left. Sen. John Kerry (standing with microphone) addresses the crowd. (Photo courtesy of Cyndi Rowland).

On December 4, 2012, the United States Senate failed to ratify the United Nations Convention on the Rights of People with Disabilities (commonly known as CRPD). The treaty had the support of well over 300 advocacy groups for veterans and people with disabilities, as well as from political figures such as Bob Dole, John McCain, George H.W. Bush, Ted Kennedy, Jr. and Senate Majority Leader Harry Reid, yet failed on a vote of 61 to 38 with one abstention—five votes short. Utah senators Orrin Hatch and Mike Lee both voted against the measure. The vote came during a “lame duck” session of Congress, after some members had lost bids for re-election, but before their replacements took office. Reid and Sen. John Kerry, (D-Mass.) are expected to call for another vote during the current session.

Cyndi Rowland, associate director of the Center for Persons with Disabilities, was in Washington, D.C. at a conference and attended a reception in Dole’s honor before the vote was taken. Dole, a World War II veteran, was the recipient of two Purple Hearts and a Bronze star and had been instrumental in the effort to see the CRPD ratified.

“It was an amazing event,” Rowland said. “Three hundred people invited to celebrate Dole’s lifelong support of disability issues. It was so cool because a lot of the folks who were there are people who were spearheading the CRPD. It kills me that this thing didn’t pass.”

Rowland left the reception to attend another meeting, and got word of the vote on Twitter during her lunch break.

“I don’t ever remember hearing such emotion when this failed,” she said. She was told that there was audible grieving from the gallery after the vote.

“I don’t think it’s that common, but the gallery was filled with people with disabilities and their families,” she said.

What it is

According to the United Nations web site, “The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”

According to Wikipedia, the U.N. declared 1981-1992 as the “Decade of Disabled Persons.” In 1987, a group of experts recommended that the U.N. General Assembly should draft an international convention to end discrimination against persons with disabilities. A committee was established in 2001 to do just that. Much of the wording of the convention borrowed heavily from the Americans with Disabilities Act of 1990. It was adopted in December 2006, opened for signature in March 2007 and came into force in May 2008. As of now, 125 countries have ratified the treaty.

Pros and cons

Opponents of the treaty say it would jeopardize United States sovereignty and personal freedoms.

Republican Rick Santorum, a former Pennsylvania senator and presidential candidate who is the parent of a child with a disability, said in a televised speech, “It puts the state in the position of determining what is in the best interest of a disabled child. This is a direct assault on us.”

Michael Farris, chairman of the Home School Legal Defense Association, holds advanced degrees in international law and has been a leading opponent of ratification. In a CNN interview, Farris cited several cases where courts in the United States upheld provisions of U.N. treaties, essentially superseding state and federal law.
Responding to a much-publicized statement he made during a radio broadcast where he said children who wear glasses are disabled, and therefore could come under U.N. control, Farris defended the statement as an illustration of the idea that disability is not defined in the treaty.

The complete text of the Convention can be found on the United Nations website (www.un.org/disabilities/default.asp?id=261). The second paragraph of Article 1 states that “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

Proponents of the treaty disagree with Farris’ interpretation.

Rowland said, “Homeschoolers said the convention would take away their right to home-school their child. A lot of people with disabilities in other countries have to stay at home and be schooled there. This says that all individuals will have the right to be included in education.”

Former Republican Attorney General Richard Thornburgh, also the parent of a child with a disability, testified before the Senate Foreign Relations Committee in July 2012, saying, “…the treaty would protect U.S. sovereignty and recognize the Convention as a non-discrimination instrument, similar to our own Americans with Disabilities Act … There’s nothing in the treaty that would interfere with state or federal law.”

Kerry, the committee chair, said in a CNN interview after the Dec. 4 vote, “The United Nations has absolutely zero ability to order or to tell — they can suggest, but they have no legal capacity to tell the United States to do anything under this treaty. Nothing.”

Reservations and interpretive declarations

“One thing that kind of bugs me is that anyone who is a signer, before they ratify, can file a comment,” Rowland said. “There is room for all U.N. treaties to be interpreted at the local level. (Opponents) latch onto things that can be easily changed.”

Several countries have attached these comments, or “reservations and interpretive declarations,” to the treaty before ratification. For example, Australia does not consider itself bound to stop forcibly medicating those labeled mentally ill, The Netherlands interprets the right to life in Article 10 within the framework of its domestic laws and Poland interprets Articles 23 and 25 as not conferring any right to abortion.

Leadership responsibility

Although she was never part of a U.N. delegation, Rowland attended a conference soon after the U.N. began working on the treaty, and has been involved with international efforts to ratify it ever since.

Rowland said ratification by the United States will offer more protection to Americans with disabilities when they travel abroad.

“It’s all well and good for us to talk about how we protect people on U.S. soil, but it’s different to talk about protecting them in other places,” she said. “In some countries, systems are created to take care of people with disabilities, so they are not imbued with their own individual rights.”

The reality is that these systems are meant to protect people with disabilities, but it creates a cultural chasm, she said. In the U.S., she said, we believe that people with disabilities have rights and responsibilities, while in other countries, people with disabilities are meant to be cared for by others.

“The United States has a leadership responsibility,” Rowland said. “(Not ratifying) sends the wrong message at the international level.”

Participation in the treaty also would provide opportunities for partnerships with other countries.

“We need an international framework on disability issues,” she said.