

FOREIGN POLICY AND DISABILITY

NATIONAL COUNCIL ON DISABILITY

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EXECUTIVE SUMMARY

Does the United States maintain a coherent disability policy within its foreign policy? In 1995 the National Council on Disability (NCD) was designated by the Department of State to be the official contact point within the U.S. government for disability issues. Through this study, NCD has sought to measure the extent to which U.S. disability rights laws are extended in international settings through the activities of three key U.S. foreign policy agencies: Department of State, Agency for International Development (AID), and United States Information Agency (USIA). The study examined the employment, accessibility, and outreach policies and programs of these agencies and the attitudes of their officials in light of U.S. disability rights law and democratic principles. The primary objective was to assess the impact of American foreign policy and programs on individuals with disabilities, both U.S. citizens and residents of other nations.

Researchers used both primary and secondary sources of data. They reviewed laws and federal regulations protecting people with disabilities at home to determine how these laws and regulations apply to U.S.-sponsored activities abroad. Officials at the three target agencies as well as others active in foreign affairs were interviewed. A database of projects funded by AID was searched to identify those that are disability-related. A questionnaire was sent to 135 U.S. embassies, and the 62 valid responses were assessed to evaluate programs and policies and to identify gaps in awareness of disability issues. Obvious noncompliance with U.S. disability laws was encountered in some cases.

The study found that the United States does not have a comprehensive foreign policy on disability. Those responsible for creating and implementing U.S. overseas policies and programs generally lack awareness of disability issues, cannot articulate our national policies with respect to people with disabilities, do not incorporate the interests of people with disabilities into U.S.

foreign policy objectives, and do not see the importance of U.S. disability advances and achievements for people with disabilities in other countries.

Recommendations include

- creating a comprehensive foreign policy on disability to advocate for people with disabilities through activities on international levels;
- extending U.S. disability law by legislation or executive order to include unambiguously the international operations of the U.S. government;
- employing domestic standards of nondiscrimination in U.S.-sponsored international activities;
- training U.S. foreign affairs agencies and their contractors to plan for programmatic accessibility; and
- establishing the principle that no U.S. international activity should have a lower standard of inclusion than its domestic correlate.

PROBLEM STATEMENT

In 1973 the U.S. Rehabilitation Act barred federal funds from programs or projects that discriminated against people with disabilities. In its 1986 report *Toward Independence*, NCD first recommended "a comprehensive law requiring equal opportunity for individuals with disabilities." This protection was further extended when President Bush signed the Americans with Disabilities Act (ADA) in 1990, establishing a national commitment to independent living, equality of opportunity, and economic self-sufficiency for people with disabilities. Never before had a country so clearly and comprehensively set as a national goal the full participation of all its citizens by proscribing discrimination on the basis of disability.

The unparalleled legal protection given Americans through the Rehabilitation Act, ADA, and other disability rights laws won the admiration of people with disabilities, human rights activists, and people of goodwill around the world. These laws underscored the authority of the United States to speak not only as a rich and powerful nation but also as a good and moral one. By demonstrating its strong commitment to the equality of all people, including those with disabilities, the United States strengthened its global position. Disability policy fit naturally with foreign policy.

Advocating equality is a U.S. foreign policy tradition. In the course of its more than two centuries, the United States has justified its overseas actions as a way to extend the freedoms enjoyed at home. This tradition is consistent with our democratic values and with what the people demand. U.S. policymakers have found they have to distinguish their goals and actions from Old World-style behind-the-scenes statecraft if they want to garner the public support they need for overseas actions. When Americans get involved overseas, they do so because they believe their actions will help political and personal liberties prevail everywhere. This democratic base for U.S. foreign policy gives it a uniquely moral tone. Americans want to do not

only the smart thing but the right thing. Thus it is right and proper to ask if the actions and activities of U.S. foreign policy agencies and their programs reflect this country's consensus that people with disabilities are fully equal and should be allowed to make their maximum possible contribution to society.

The U.S. government maintains thousands of international programs administered by a number of agencies at a cost of roughly \$22 billion annually. Determining exactly how many of these programs specifically address disability is difficult because they are distributed through a number of agencies at different levels of funding. It is even more difficult to identify those programs that do not specifically address disability yet include, or could include, people with disabilities in their activities. Because people with disabilities are a significant portion of the world's population, with estimates ranging from 5 to 15 percent, any sizable government program overseas has the potential to attract participants with disabilities or have an influence upon them.

A Personal Account

When examining the U.S. foreign policies and programs that affect individuals with disabilities in other countries, it is useful to begin with an example taken from the experience of a U.S. delegation. Certainly, the participation of Americans with disabilities in U.S. delegations to working meetings (such as the UN World Program of Action and the Standard Rules on the Equalization of Opportunities for People with Disabilities) and meetings (such as the UN World Summit for Social Development in Copenhagen) has contributed significantly to enhancing America's reputation as a democratic leader, while at the same time inspiring people with disabilities abroad to advance democratic principles in their own countries.

Given the fundamental importance of this effort, U.S. foreign policy agencies could be expected to lend as much practical support as possible. However, the following firsthand account from an American with a disability attending the recent UN Fourth World Conference on Women, held in Beijing, suggests that is not the case. Although both the official conference and the concurrent NGO (nongovernmental organization) Forum were supported with U.S. government funds,

government agencies were largely indifferent to the needs of U.S. participants with disabilities. It should be noted that the Beijing meetings marked the first time Americans with disabilities attended an international forum in substantial numbers. The following account was taken from a report written by Jennifer Kerns, an American with a disability:

In August and September of 1995 a group of women with disabilities from the U.S. joined the thousands of participants at the Fourth World Conference on Women NGO Forum in Huairou, China, to address issues of concern to women worldwide. These women were assured in writing that the conference site would be as barrier-free as possible. Skeptical of having real accessibility, however, various women with disabilities approached the Department of State and AID to try to resolve accessibility issues in advance. Such efforts to work with U.S. agencies to assure access before the conference were unsuccessful because the government believed that extraterritorial accessibility was not the responsibility of the U.S. or of AID contractors.

Despite notification to the U.S. government and new construction at the actual NGO Forum site, meaningful participation in the NGO Forum for women with disabilities was extremely limited due to the lack of both program and architectural accessibility. Approximately 90 to 95 percent of the workshops were scheduled in buildings with stairs, without elevators or ramps. Even events by participants with disabilities with the word disability in the title were scheduled in rooms accessible only by climbing up to 75 stairs, which essentially excluded all women with wheelchairs or mobility impairments. For half the conference, even the tent designated for women with disabilities was located in a remote area impossible to reach in a wheelchair without planning and assistance. For those with mobility disabilities who did not have wheelchairs, the trek to the tent was even more

difficult and often hazardous. At this tent site, participants were essentially insulated from the vast majority of events. This remained true even after the disability tent was moved to a more central location. The new architecture built for the purpose of the NGO Forum and even the newly designated disability tent had four- to five-inch curbs surrounding them, limiting the access for wheelchair users.

In addition, only one sign language interpreter was available.

These types of barriers exemplify the lack of planning and consideration for allowing the full participation of people with disabilities. The U.S. played a minimal advocacy role in negotiating on behalf of these women with disabilities. The government's primary consideration seemed to be to limit its liability instead of playing a leadership role in the world.

The low priority given disability issues within the U.S. foreign policy establishment is not typical of many other industrialized nations. In Scandinavian countries and in Canada, disability is a significant part of foreign assistance programs and overseas policy, and disability organizations take part in shaping and executing these programs (see the appendix).

OBJECTIVES

This study sought to (1) discover if the United States maintains a coherent disability policy within its foreign policy and (2) assess how this policy, or its absence, affects individuals with disabilities, both U.S. citizens and foreign nationals.

To this end the study asked the following questions:

- Do laws protecting people with disabilities at home extend to U.S.-sponsored activities abroad?
- Do officials of U.S. overseas agencies understand U.S. disability law and how it affects their activities?
- Does U.S.-sponsored international programming ensure accessibility for and seek to involve participants with disabilities?
- Do U.S. agencies abroad treat people with disabilities in other countries in the spirit of U.S. commitment to full equality?

METHODOLOGY

The study focused on the projects and activities of three of the four main U.S. government agencies authorized to execute foreign policy: the Department of State, AID, and USIA.

The following methods were used.

Review of Written Resources

The Development Information System, a database of AID-funded projects, was searched on disability-related keywords. The search was restricted to projects that (1) either had a disability focus or mentioned people with disabilities in the text of the abstract and (2) began between 1989 and 1995 and were scheduled to conclude between 1989 and 2003.

The Foreign Affairs Manual, which provides guidelines for overseas personnel of the Department of State, AID, and USIA, was searched for disability-related subjects. Reports of USIA activities and policies were taken from a 1994 report to Congress from the USIA administrator and the United States Code and Code of Federal Regulations underwent keyword searches.

Interviews

Project staff conducted 11 interviews with foreign affairs officials from December 1994 through July 1995. Those interviewed were officials of the Multilateral Development Bank in the Department of the Treasury; program officers in the Asia Foundation, the African Development Foundation, and the Inter-American Development Foundation; program and placement officers in the Peace Corps; officials in the Office of the United States Director of the World Bank; program officers and officers in the legal departments of the Department of State, AID, and USIA; officials in the Department of Justice; and foreign affairs experts with disabilities.

Survey of Embassies

A questionnaire was sent to each of 135 major diplomatic missions in U.S. embassies throughout the world. To ensure a high level of responsibility for the responses, the questionnaire was addressed to the chief of mission (ambassador, consul general, or charge d'affaires).

Questionnaires were sent on March 3, 1995; responses received by May 30, 1995, were used to compile data for this report.

Definitions

This study uses the following definitions:

- **Disability** is "a physical or mental impairment that substantially limits one or more of the major life activities...of an individual" (from the ADA).

- **Programs** are the sum of activities conducted abroad under the auspices of the United States. Current policies and programs are those extant as of fiscal year 1994-95.

- **Policy** is the active expression of not only explicit laws, rules, or guidelines but of all factors governing the actions of the United States.

FINDINGS

Review of Existing Laws and Regulations

Key disability rights laws are of ambiguous applicability outside the United States. In a landmark 1991 decision (*Equal Employment Opportunity Commission [EEOC] v. Arabian American Oil Co.*), the principle of statutory construction limited legislation enacted by Congress to the territorial jurisdiction of the United States unless there was evidence of legislative intent to the contrary. The laws giving the greatest protections to individuals with disabilities generally do not demonstrate such an intent. ADA and the Air Carriers Act specify some specific overseas applications, but laws prohibiting the U.S. government or its agents from discriminating against people with disabilities do not have provisions extending their protections abroad. It is important to note, however, that the jurisdiction of disability rights laws has never been specifically tested in court.

The Rehabilitation Act of 1973 is the most significant legislation affecting federal practices and policies toward individuals with disabilities. No court decisions have been rendered on the applicability of the Rehabilitation Act outside of the United States. Barring specific decisions, it is probable that the principle of statutory construction would limit the protections of the Rehabilitation Act to U.S.-based components of international federal programs that affect individuals with disabilities, whether or not they are physically located in the United States.

ADA extends its protections to U.S. citizens working for U.S. companies abroad under Title VII, Section 2001(e). This coverage does not include foreign nationals nor does it embrace public accommodation rules. Title II, which protects individuals with disabilities from discrimination by state and local governments, may apply to the international activities of these entities regardless of citizenship or territorial location. In essence, a foreign national with a disability

enjoys the same protection as a U.S. citizen when participating in the international activities of state and local governments.

The Architectural Barriers Act requires all federal facilities constructed or altered after 1968 to provide physical access to people with disabilities. Because no evidence exists to establish legislative intent to apply the act outside the United States, there may be no direct mandate to make overseas federal facilities accessible. However, the law covers all federal facilities and does not exempt those overseas. No court decision on this subject exists.

In the light of recent court cases, many experts, including officials in the Department of Justice, find little evidence that disability rights laws cover federally sponsored activities conducted outside the territory of the United States. In interviews with officials of the Department of State, the General Services Administration, and the Architectural and Transportation Barriers Compliance Board, these sources distinguished between federal activities and policies carried out inside and outside the United States. In a few recent incidents, people with disabilities were told by government officials and contractors that antidiscrimination laws did not compel U.S. international programs to provide programmatic accessibility or auxiliary aids such as personal assistance.

With regard to federal regulations, the nondiscrimination regulations of the Department of State, USIA, and AID, as well as the Uniform Federal Access Standards, do not differentiate between programs that occur inside and outside the territory of the United States. A decision rendered by EEOC has determined that the Rehabilitation Act protects an individual from being denied placement in the Foreign Service on the basis of a dependent's disability. This decision implies that the Rehabilitation Act protects individuals seeking employment in the international programs of the U.S. government. Americans working for American companies overseas are protected from employment-related discrimination by ADA.

Particularly contrary to U.S. antidiscrimination policy is Title VIII, Section 1182 of the United States Code. This provision authorizes the Immigration and Naturalization Service to exclude

admission and deny visas to classes of aliens who “have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others” or “have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior.” This provision, and another that specifically bars entry to the United States of foreign nationals with HIV/AIDS, are directly at odds with the protections of ADA. Under this section, people with disabilities from outside the United States are subject to discrimination by the U.S. government that is thoroughly illegal at home.

Agency Review: Programs and Policies

Although the three foreign affairs agencies examined in this study are each an instrument of the president's overall policy and often coordinate their activities, the agencies themselves are autonomous. Each agency head is accountable only to the president, and each organization has its own management structure.

The following disability-related federal regulations apply to the agencies studied:

- A directive from the Secretary of State requires the inclusion in the Department's *Annual Report on Human Rights* of country-by-country reports on the human rights status of people with disabilities.
- The Foreign Service Act of 1981 authorizes the Department of State to exclude from or limit participation in the Foreign Service applicants whose medical condition may require not available at many posts. The medical condition of eligible family members is no longer considered for preemployment purposes. Family members are, however, required to obtain appropriate medical clearances before traveling overseas to accompany an employee on assignment at U.S. government expense.

- Public Law (P.L.) 103-236 directs USIA to issue an annual report on agency efforts to promote the inclusion of people with disabilities in the general exchange activities of the agency and to detail disability-specific exchanges.
- P.L. 97-113 directs the Peace Corps to administer programs that "give particular attention to programs, projects, and activities which tend to integrate people with disabilities into the national economies, thus improving their status and assisting the total development effort."

Peace Corps

Among U.S. agencies with an overseas mandate, the Peace Corps has the most accomplished record of placing Americans with disabilities in its programs. The Peace Corps is the only U.S. international agency to have a disability-specific program area, i.e., special education. It also places volunteers with disabilities in-country to staff its programs. People with disabilities in the communities where Americans with disabilities serve as Peace Corps volunteers have benefited immensely from these role models. The overwhelming number of Peace Corps volunteers with disabilities have visual or hearing disabilities.

When deciding whether to place a candidate with a disability, the Peace Corps informs and confers with medical authorities, the Peace Corps office in the host country, and host country officials to determine the suitability of a given post. In this respect the Peace Corps treats disability differently from other considerations in that host countries may not reject proposed volunteers on the basis of race, gender, religion, or other protected status.

Foreign Service

Foreign Service officers with disabilities make invaluable contributions in demonstrating U.S. commitment to the equality of people with disabilities. Unfortunately, people with disabilities can encounter significant barriers when seeking to serve as U.S. diplomats. Because there are few known cases of people with significant disabilities applying for the Foreign Service, it is

difficult to draw final conclusions. Overseas work in the Foreign Service can present particular physical challenges to all employees.

Medical screening is a prerequisite for applicants to the five foreign affairs agencies, State, AID, USIA, Department of Agriculture, and the Department of Commerce. For these agencies worldwide availability is a condition of employment. If the applicant has a disqualifying medical condition, the case may be appealed to the Employment Review Committee which may grant an administrative waiver. An applicant with a medical condition who received an administrative waiver will be given a modified medical clearance. Applicants in this category can only be assigned to posts with appropriate medical facilities and generally have fewer assignment possibilities available to them.

Applicants to the other agencies participating in the overseas medical program are brought in on a post-specific basis, i.e., Drug Enforcement Administration agents assigned to Bangkok and Peace Corps Volunteers assigned to Mali do not have to be worldwide available.

A distinction should be made between a medical disability and a medical condition in the screening process. A medical disability that requires no medical treatment, blindness for example, will not preclude a full medical clearance. The disability is not considered during the medical clearance process. When the applicant is hired personnel decides which posts can make reasonable accommodation to the disability.

The current process of medical evaluation for foreign placement may be too arbitrary to avoid discriminating against people with disabilities. A nurse in the office that conducts medical evaluations for the Department of State and AID cited as a disqualifying medical condition one in which the applicant needs a medical treatment not available in many posts. Another point of disqualification could be a medical condition that might worsen or develop secondary complications. The nurse cited as an example the pressure sores that she saw in Africa. Based

on that personal experience, she said sending people with spinal cord injuries to tropical posts was risky.

Agency for International Development

AID was created in 1961 with the dual purposes of stemming the tide of communism and developing poorer nations through economic assistance. AID remains a foreign affairs agency, and it distributed around \$6 billion of overseas economic assistance in fiscal year 1995. The agency has thousands of projects in its major program areas of

- improving health and population conditions;
- promoting economic growth;
- protecting the environment; and
- supporting democracy.

In keeping with the agency's development mandate, projects are supposed to target people at the lowest socioeconomic levels. People with disabilities suffer an astronomically high rate of unemployment and poverty. Yet, among those embassies responding to this study's survey, less than half of those with AID-funded programs reported funding disability-related projects.

Moreover, a search of several thousand projects in the agency's database of project abstracts yielded only 14 that specifically targeted disability as a component. Only two of these (scholarship programs administered by Georgetown University) purposefully included people with disabilities among other categories of participants. The remaining projects were primarily medical model, that is, medical or vocational rehabilitation with specified audiences such as amputees or people who are blind.

The U.S. embassy survey found great regional differences in AID funding for disability-related projects. Of the 62 responding embassies, 45 reported AID project funding in their countries. Of these, 22 reported AID funding for disability-related projects.

United States Information Agency

USIA's mission is to promote U.S. national interests by understanding, informing, and influencing foreign publics. In keeping with its mission, USIA operates the government's educational and cultural foreign exchange programs. The best known is the Fulbright program, which embraces 140 countries. In addition, each year approximately 3,000 foreign leaders come to the United States as USIA's guests and another 2,000 come at their own or their government's expense for periods of up to 30 days. Under the Arts America program, USIA carries out the government's overseas performing and fine arts programs.

USIA exchange activities involve a wide variety of partners—the academic community, U.S. private sector organizations, foreign governments, and American volunteers. However, the agency's record is faulty in establishing viable partnerships with participants with disabilities. Those persons needing personal assistance have been subjected to excessive medical verification, been told to pay for services themselves, and not received payment for promised services. In one particularly troublesome case, a visiting foreign scholar was compelled to use a home health agency for personal assistance services after the USIA-sponsored program would not cover the airfare and salary of her chosen assistant. The scholar was told that because she was not a U.S. resident the protections of the Rehabilitation Act did not apply to her. Another fellowship recipient was denied a salary for his personal assistant while traveling under USIA auspices. Also, exchange program participants have been denied sign language translator services.

The new P.L. 103-236 disability mandate for USIA is expected to increase the number of people with disabilities participating in USIA programs; this mandate, in turn, will reveal previously unseen gaps in agency disability policy. USIA is in the process of instituting a committee to review requests for accommodation and create policy consistent with that of agencies more experienced with participants with disabilities, such as the Department of Education.

Department of State

As representatives of the United States in other countries, U.S. embassies are at the center of official U.S. overseas activities. The embassy is headed by a chief of mission, and its staff may include specialists in commerce, economics, natural resources, agriculture, animal and plant health inspection, the environment, science and technology, financial affairs, consular activities, immigration and naturalization, regional security, AID, politics, labor, post administration and information systems, military assistance, and public affairs. Thus the embassy is a complex bureaucracy capable of presenting many different faces to both foreign nationals and U.S. citizens seeking services.

The limited scope of this study precluded a comprehensive assessment of U.S. embassy-centered activities with regard to disability. However, it was felt that an accurate global sampling could be obtained by surveying 135 U.S. embassies as to inquiring into their disability-related activities and attitudes. The five survey questions were open-ended, allowing responding embassies to expand on answers as needed. Sixty-two completed responses were received for a response rate of 46 percent.

The questions were as follows:

1. Has the embassy contributed funds to projects directly related to people with disabilities?
2. Is the embassy in contact with indigenous NGO's comprising people with disabilities?
3. How does the embassy gather data on people with disabilities for its annual human rights report?
4. Does the embassy have an explicit policy on employing people with disabilities from within the country?
5. Does the embassy encourage participation by people with disabilities in programs that are not specifically disability-related?

Of the 64 responses, 2 respondents provided no answers to the questions and were not entered into the survey results. Some respondents did not answer all questions; therefore, some questions have sample sizes smaller than 62.

Of the 62 responses, 18 were signed by the chiefs of missions, 7 by AID officials, 6 by political or economic officers, 3 by human rights officers, and 27 by others such as an administrative secretary, science officer, and vice-consul. The relatively low number of chiefs of missions responding may be significant because they are usually the only ones aware of all U.S. activities within host countries.

Embassies in South America had the highest rate of response (74 percent), while those in South Asia and the Near East had the lowest (30 percent).

Of the responding embassies, 36 said U.S. funds were supporting disability projects in the host country. Two of the 36 respondents provided no further details. The remaining 34 provided descriptions of projects in varying detail. We used this information to categorize projects by region and by funding source. In measuring whether respondents had contributed funds to disability-related projects, we chose to include not only foreign assistance but a broad range of projects, such as USIA exchanges and foreign commercial service activities. It is important to note that not all diplomatic missions have funds to contribute.

We also sorted projects by the following types: empowerment, rehabilitation, prevention, and income generation:

- **Empowerment** programs in general are directed at strengthening the ability of people with disabilities to assert control of their lives in social, political, and economic realms. The objective is usually to create change at the societal level. Projects of this nature focus on organizations of people with disabilities more than on individuals. Programs are considered consistent with the goals of ADA when they strengthen organizations directed

by people with disabilities, facilitate community employment, increase political participation or generally fight discrimination, and foster the self-representation and economic empowerment of people with disabilities.

- **Rehabilitation** activities are designed to assist an individual with a disability with medical or vocational needs related to disability. The objective is usually change at the level of specific individuals or their families. Projects may include assistive technology, special education, sheltered workshops, or trade skills development. Current rehabilitation activities encompass a trend toward disability-specific focuses, i.e., training amputees or people who are blind. Another trend, especially in vocational rehabilitation, focuses on regional and national centers where people with disabilities and their families may reside during training.
- **Prevention** activities are aimed at limiting the number of people with disabilities in a society through projects such as removing land mines or through public health initiatives such as dispensing vitamin A to prevent blindness. Prevention is not exclusively for people without disabilities. Prevention may also address secondary disability effects in people who already have disabilities.
- **Income generation** activities provide resources to effectively integrate people with disabilities into the local economy. The objective is change at the level of individuals or small cooperatives or collectives. Although vocationally or trade oriented, income generation is not traditional vocational rehabilitation. Income generation is usually an entrepreneurial activity in which the participant is the proprietor of an enterprise, often a micro-enterprise. Project funds are often used for small grants or loans to individuals or collectives to purchase such items as sewing machines or grain mills. Unlike traditional rehabilitation, income generation is not exclusively disability-related but rather a common economic strategy for developing countries.

The other categories of funded projects reported by respondents were a broad mix, ranging from special olympics and para-sports to schools and institutions for people with disabilities.

Survey responses were classified by types of projects reported and by funding source. Of the 10 countries with empowerment-type projects, 5 were funded through AID; of the 15 countries with rehabilitation projects, 13 were funded through AID. Four of the 10 countries with empowerment projects also funded rehabilitation projects; and 4 of 15 countries with rehabilitation projects also funded empowerment projects. The two countries specifying prevention programs used AID funds for these activities. AID funded income-generation projects in three of the six countries. Only one respondent provided funds for empowerment, rehabilitation, and income generation projects. The rehabilitation project mentioned in that response was an assistive technology project.

The countries where the United States does not fund disability-related projects tend to be those receiving relatively smaller levels of assistance. Ten of the 28 countries (36 percent) receiving less than \$50 million in assistance do not fund disability-related programs compared with 3 of 18 countries (17 percent) receiving \$50 million or more. Embassies in countries with higher economic development are also less likely to fund disability-related projects. In countries with a per capita gross domestic product (GDP) of \$3,000 or higher, 7 of 14 (50 percent) did not fund disability-related projects compared with 6 of 33 (18 percent) with a per capita GDP below \$3,000.

Embassy Awareness

One of the study objectives was to assess U.S. embassy awareness of disability rights, organizations, and issues. To this end, question 2 asked embassies if they were in contact with indigenous NGOs comprising people with disabilities. Forty-four of the 62 respondents said they were in contact with disability organizations in-country. Although a definition of organizations directed by people with disabilities was provided in the survey, many respondents did not distinguish between organizations of and for people with disabilities. Some responding

embassies were unaware of the existence of such organizations within their host country, although the researchers knew of a substantial number of organizations directed by people with disabilities in these countries.

The Department of State requires embassy personnel to investigate the status of human rights for people with disabilities and include the findings in the Department's country-by-country *Annual Report on Human Rights*. It is standard practice in human rights data collection to seek information from nongovernmental, as well as governmental, groups. This practice creates another potential point of interaction between people with disabilities in other countries and the U.S. government.

Survey responses were classified by source for the people with disabilities component of the Department of State *Annual Report on Human Rights*. Most respondents to question 3 said they used both official and unofficial sources; however, a substantial number cited data from only official sources. Fourteen embassies collecting human rights data from unofficial sources had no contact with organizations directed by people with disabilities.

Embassies were asked in question 4 if they had explicit policies regarding hiring people with disabilities from within the host country. This question sought information about accessibility, the number of staff with disabilities, unlawful practices, and so on. The majority of respondents (35, or 56 percent) said either that they did not discriminate (15) or that their embassy followed U.S. government policies that prohibit discrimination (20). Two embassies stated conformity to ADA, which does not apply to the Federal Government. Two stated compliance with the Rehabilitation Act of 1973, which does apply to the Federal Government.

By stating that their embassies have nondiscriminatory policies, the respondents could well mean that the embassies do not flatly reject people on the basis of disability. However, the question sought to identify general conditions or policies that would extend to foreign nationals with disabilities the employment protections granted to U.S. citizens by U.S. disability rights laws,

such as reasonable accommodation. (The question provided a definition of reasonable accommodation as an example of what such an explicit embassy policy might be.) Few embassies (6 of 60) stated that reasonable accommodation would be provided to employees with disabilities. Of the eight respondents mentioning employees with disabilities, only one also mentioned having a reasonable accommodation policy.

Two responding embassies mentioned practices that do not comply with the Rehabilitation Act. One stated that a large part of the embassy was inaccessible and that prospective employees must be able to function within the section of the embassy in which the open position was located. The other reported that the consular section of the embassy had relatively few steps and that embassy guards could carry people with disabilities in and out of it. Both respondents volunteering noncompliance information also stated that their embassies do not discriminate against people with disabilities in employment, so it is possible that other embassies claiming nondiscrimination also have discriminatory practices. In fact two major U.S. embassies stating nondiscrimination were visited and found to have no wheelchair access. One had even stated in its questionnaire response that "U.S. embassies overseas are designed to provide access." Note that no TDD numbers are listed for any embassy.

Question 5 sought to measure the inclusion of people with disabilities in the general activities of embassies. All but the smallest U.S. embassies conduct invitational programs such as ambassador's receptions, U.S. trade shows, and cultural affairs presentations. Those people invited represent constituencies in which the United States is seen to have an interest. In the United States, people with disabilities fully participate in every sector and level of our society. Do our diplomatic missions regard the participation of foreign nationals with disabilities in the same way?

Of the 59 respondents to this question, 23 (39 percent) reported that they encourage participation, 17 (29 percent) stated nondiscrimination, and 17 (29 percent) had no policy. The remaining five respondents either did not answer completely or did not understand the question.

Analysis of Embassy Awareness

The five open-ended survey questions were designed to encourage respondents to provide extended answers. These answers were evaluated for quality and consistency with ADA principles, using a level of awareness scale ranging from zero (lowest awareness) to four (highest awareness). Respondents who answered all questions but did not provide details were given an overall score of two, those answering in detail received a three, and those providing details that demonstrated an exceptional understanding of disability issues received a four. Respondents omitting answers to any one of the five questions were given a score of zero for that question and an overall score of no more than one.

Respondents achieved the highest average score on the human rights data collection process and the lowest on encouraging the participation of people with disabilities in general embassy programs. Embassies in wealthier countries consistently scored nearer the mean (62 percent) than those in less wealthy nations, which broadly ranged both above and below the mean score. The 14 countries scoring above 75 percent on awareness vary greatly in geography, development, political systems, and cultures.

CONCLUSIONS

The United States does not have a comprehensive foreign policy on disability. Those responsible for creating and implementing U.S. overseas policies and programs generally are unaware of disability issues, cannot articulate our national policies with respect to people with disabilities, do not incorporate the interests of people with disabilities into U.S. foreign policy objectives, and do not see the importance of U.S. disability advances and achievements for people with disabilities in other countries. For example, many of the officials interviewed in the course of this study contended that U.S. accessibility standards do not apply overseas, but federal accessibility regulations do not reflect this opinion. In fact accessibility standards and federal disability rights compliance regulations make no exemption for overseas U.S. operations, and there has been no definitive jurisdictional test of disability rights statutes in court.

Neither the spirit nor the letter of U.S. disability rights laws is incorporated into the activities of the principal foreign policy agencies. People with disabilities are rarely targeted in U.S. foreign assistance programs, and few programs address disability. The Peace Corps is the only agency with an entirely disability-oriented program area (special education). Agencies typically present barriers to the participation of people with disabilities in their programming, particularly in medical screening and programmatic access elements and in providing auxiliary aids. These barriers have not yet undergone the scrutiny of disability rights advocates.

U.S. foreign policy structures currently do not advocate for inclusion of people with disabilities through international organizations in which the United States holds sway. Except for some notable cases where exemplary work is being done, few U.S. international activities assist people with disabilities or their organizations. The United States does little to coordinate with other countries on disability projects through foreign assistance programs. Nor do most of these programs take access into consideration. Isolated examples of inclusion of disability interests

can be found in some international bodies, such as the Organization of American States and the Organization for Security and Cooperation in Europe, and in the U.S. position on recent UN meetings and summits. However, the United States generally has not advocated for specific nondiscrimination measures in programs of the World Bank, United Nations, and other organizations.

The survey of U.S. embassies found few programs not already disability-specific that attempted to involve people with disabilities. This finding suggests that in general U.S. diplomatic missions and their underlying policy infrastructure regard disability as outside their bailiwick even though many of their activities have strong implications for people with disabilities. Some embassy officials demonstrated in their survey responses a keen appreciation of the essence of U.S. national policy on disability, but on the whole there was minimal understanding of disability and failure to see the potential impact of U.S. overseas programs and policies on people with disabilities.

Where people with disabilities participate in U.S. international programming, this participation has been achieved by

- the actions of enlightened U.S. government officials, private voluntary organizations, and organizations directed by people with disabilities working for inclusion;
- advocacy by organizations of people with disabilities in other countries attracting U.S. attention;
- specific mandates for inclusion; or
- political and demographic factors in certain countries that call for action by the U.S. government and private voluntary organizations.

Currently, disability-specific provisions of foreign operations laws exist for the Peace Corps, mandating it to conduct programs to bring people with disabilities into the economic fabric of society; the Department of State, directing inclusion of the status of people with disabilities into

its *Annual Report on Human Rights*; and USIA, directing its administrator to report to Congress on USIA's disability-related activities. When disability is addressed in U.S. foreign policy through specific disability-related mandates and directives, agencies have been motivated to improve their programming and implement interaction with people with disabilities.

RECOMMENDATIONS

Representatives of the national disability advocacy community should work with foreign affairs agencies to create measurable goals to increase the inclusion of people with disabilities in U.S. international activities. The goals should incorporate, at a minimum, the following points:

- The Rehabilitation Act protections should be extended by legislation or executive order to include unambiguously the international operations of the U.S. government.
- In concert with organizations directed by people with disabilities, all U.S. government agencies active abroad should carry out Rehabilitation Act self-evaluations to identify barriers to participation and to establish transition plans to eliminate these barriers.
- Medical requirements for participants in U.S. Foreign Service or other international activities should be developed more clearly to prevent discrimination against people with disabilities.
- Prominent disability organizations and community representatives in cooperation with governmental bodies should formulate and carry out a program to train senior foreign affairs officials and their contractors in planning for programmatic accessibility.
- U.S. international activities should be evaluated to ensure that no program has a lower standard of inclusion than its domestic correlate. For example, activities supporting education in developing countries should provide opportunities consistent with those of the Individuals with Disabilities Education Act.
- In keeping with its role as the world's democratic leader, the United States should promote international disability policy in international organizations; provide disability foreign assistance; and set a high standard for accessibility and nondiscriminatory employment by U.S. government agencies abroad.

AID should create a disability development policy with measurable goals and timelines. Such a policy would

- develop goals and timelines in close cooperation with U.S. and other disability organizations;
- develop mission strategic objectives that are disability-specific in conjunction with indigenous organizations of people with disabilities;
- broadly increase participation by people with disabilities in all aspects of the development process;
- identify and incorporate the successful strategies of other nations (see appendix) into U.S.-sponsored development projects; and
- routinely evaluate the agency's progress in achieving goals and time lines.

The machinery of U.S. foreign policy-making should be modified to include a mechanism for including disability objectives. Such a mechanism would

- create disability policy standards to guide U.S. delegations and permanent representatives to international organizations in effectively and consistently advocating for positions and policy that bring the spirit of ADA into international relations;
- coordinate with U.S. disability leaders, policymakers, and relevant domestic agencies to identify the disability implications of U.S. overseas activities;
- ensure consistency between U.S. national goals toward people with disabilities and the government's activities abroad; and
- enable the United States to assume its rightful role as the world's leading proponent of equality for all people, including people with disabilities.

APPENDIX A: POLICIES OF OTHER COUNTRIES

We have included for consideration examples of policies from other countries with proven records of involving people with disabilities in development planning and projects. Both Canada and the Nordic nations have been funding organizations directed by people with disabilities to conduct development projects for over a decade. The Nordic nations have policies in place governing disability in development. Canadian disability organizations are still seeking to adopt the following policies.

Below are some examples of foreign policies sought by Canadian disability organizations¹.

- the inclusion of people with disabilities in key staff positions and decisionmaking bodies;
- the development of project criteria along the lines presently used to encourage women's participation in development;
- consultation with representative organizations of people with disabilities in projects directly impacting this sector;
- where advantageous to people with disabilities and legally possible, the application of the disability standards set by the donor country in the projects and programs designed for the South; including physical and communication accessibility, as well as the principle of de-institutionalization;
- certain financial incentives to promote programs and projects in favor of people with disabilities;
- policies and guidelines for including people with disabilities in emergency relief initiatives;
- the lifting of present barriers to people with disabilities to access scholarship and refugee programs in donor countries;
- adequate compensation for extra costs assumed by people with disabilities to participate in international forums;
- accessibility of all embassies;
- definition of disability as a human rights issue;

¹ Fricke, Yutte, "Disability and Development: The Canadian Experience," unpublished paper, 1993.

- preference to disability-related projects where people with disabilities have majority decisionmaking control; and
- routine education of aid organization personnel on disability and development.

The development ministers of the Nordic nations met in 1991 in Hanaholmen, Denmark, and drafted the most comprehensive policy statement on the inclusion of people with disabilities in development assistance yet issued. The resolution, known as the Hanaholmen Resolution, follows below in full:

The Council of Ministers recommends to the development cooperation agencies:

- to work actively within the UN and other international bodies and organizations to call attention to the cause of people with disabilities,
- that disability issues should be a principal objective of the development cooperation policies of the Nordic countries in line with women, environment and democracy as well as human rights, and
- that disability-oriented development programs should be aimed at enhancing equality, full participation, and equal opportunity for people with disabilities and at the same time focus in particular on the situation of women with disabilities.

To achieve these objectives, the following action is recommended:

- that disability aspects should be taken into account in all development cooperation, wherever there are no objective reasons for not complying with this requirement,

- that better cooperation and coordination should be ensured within Nordic development cooperation for people with disabilities, in each country as well as at the Nordic level,
- that assessments should be made to uncover whether separate bodies are required for this cooperation,
- that the organizations of people with disabilities should be involved to a higher degree in the planning, implementation, and assessment of measures in this area,
- that Nordic organizations of people with disabilities should be given wider scope for assisting their counterparts in developing countries,
- that the assistance rendered by these organizations for disability-oriented development programs should be tuned to the financial resources of the assisting organizations and not exceed 10 percent,
- that propagation of knowledge about Nordic disability cooperation measures should be improved through increased exchange of experience and information,
- that training in disability issues should be improved for the permanent staff as well as the field staff of development organizations and that better scope for further training should be provided,
- that people with disabilities should be given far greater opportunity for active involvement in development cooperation,

- that people with disabilities in recipient countries should be provided with possibilities for active participation in all decisions concerning themselves,
- that development activity should be based to the widest possible extent on existing structures and be planned in cooperation with organizations and authorities of recipient countries,
- that long-term support is often a prerequisite for making activities in recipient countries self-sustaining,

- that the needs of people with disabilities should, above all, be met in the community and that further measures that may be required must be a complement to action at the local level,
- that initiatives should be taken to lay down a common Nordic policy for disability issues of multilateral development cooperation programs, and
- that representatives of organizations of people with disabilities should be integrated in national delegations to the United Nations and other international bodies.

Now that the Nordic countries have ratified the UN Convention of the Rights of the Child, it should also be endeavored to realize this Convention in practical work for children with disabilities in the Third World. The principal objective of the Convention is outlined below:

The Convention reaffirms that education is a human right and makes special reference, in article 23, to the right of the mentally and/or [sic] physically handicapped child to receive education and training conducive to the child's achieving the fullest possible social integration and individual development.

The seminar calls on the Nordic ministers of development cooperation to establish an overall objective for the development cooperation policy for people with disabilities and to give a Nordic working group the assignment of preparing a specified action plan in accordance with the above recommendations and principles.

The organizations of people with disabilities are prepared to act as a source of reference and resource for the continuous work with these issues through the Nordic Council of Organizations of People with Disabilities.

March 6, 1991

APPENDIX B: MISSION OF THE NATIONAL COUNCIL ON DISABILITY

Overview and Purpose

NCD is an independent federal agency led by 15 members appointed by the President of the United States and confirmed by the U.S. Senate.

The overall purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

Specific Duties

The current statutory mandate of NCD includes the following:

- ❑ Reviewing and evaluating, on a continuing basis, policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, as amended, or under the Developmental Disabilities Assistance and Bill of Rights Act; as well as all statutes and regulations pertaining to federal programs that assist such individuals with disabilities, in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities.
- ❑ Reviewing and evaluating, on a continuing basis, new and emerging disability policy issues affecting individuals with disabilities at the federal, state, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for individuals to seek and retain employment.

- ❑ Making recommendations to the President, the Congress, the Secretary of Education, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of federal agencies, respecting ways to better promote equal opportunity, economic self-sufficiency, independent living, and inclusion and integration into all aspects of society for Americans with disabilities.
- ❑ Providing the Congress, on a continuing basis, advice, recommendations, legislative proposals, and any additional information that NCD or the Congress deems appropriate.
- ❑ Gathering information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- ❑ Advising the President, the Congress, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services within the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under the Rehabilitation Act of 1973, as amended.
- ❑ Providing advice to the Commissioner with respect to the policies and conduct of the Rehabilitation Services Administration.
- ❑ Making recommendations to the Director of the National Institute on Disability and Rehabilitation Research on ways to improve research, service, administration, and the collection, dissemination, and implementation of research findings affecting persons with disabilities.
- ❑ Providing advice regarding priorities for the activities of the Interagency Disability Coordinating Council and reviewing the recommendations of this Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of NCD to promote the full integration, independence, and productivity of individuals with disabilities;
- ❑ Preparing and submitting to the President and the Congress an annual report titled *National Disability Policy: A Progress Report*.

- Preparing and submitting to the Congress and the President an annual report containing a summary of the activities and accomplishments of NCD.

Consumers Served and Current Activities

While many government agencies deal with issues and programs affecting people with disabilities, NCD is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, status as a veteran, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of persons with disabilities and eliminating barriers to their active participation in community and family life.

NCD plays a major role in developing disability policy in America. In fact, it was NCD that originally proposed what eventually became ADA. NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation of the Americans with Disabilities Act, improving assistive technology, and ensuring that persons with disabilities who are members of minority groups fully participate in society.

Statutory History

NCD was initially established in 1978 as an advisory board within the Department of Education (Public Law 95-602). The Rehabilitation Act Amendments of 1984 (Public Law 98-221) transformed NCD into an independent agency.