# HISTORY OF THE CIVIL RIGHTS MOVEMENT FOR THE PHYSICALLY DISABLED

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### **ABSTRACT**

Like many other minority groups, the physically disabled are not always represented in the study of American History; further study is needed, especially in the area of civil rights. There is a need to examine whether the civil rights movement of African Americans in the 1960s was an impetus to this increased awareness. What impact did the civil rights movement of African Americans in the 1960s have in the momentum of the civil rights movement for the physically disabled in the United State? My research will focus on sources that include accounts and analyses of the social impact of disability, the historical accounts of the civil rights movement of the 1960s, and the steps toward the passage of the Americans with Disabilities Act.

# INTRODUCTION

This paper examines the impact of the Civil Rights movement for the physically disabled toward the passage of the Americans with Disabilities Act and the continued movement since the passage of the ADA. This topic is narrowed to the category of the physically disabled and will not discuss the civil rights issues of the emotionally or mentally disabled. While these groups have a common goal with the physically disabled, their movement is distinct and unique, and worthy of additional research. The primary focus of this paper will be on civil rights and public policy changes since 1960, the influence of various disability rights groups on these policy changes, and the sociological impact of and on these policies.

## CIVIL RIGHTS MOVEMENT OF THE PHYSICALLY DISABLED AFTER 1960

During the 1960s the Civil Rights Movement and other social movements were occurring and changing the scope of political activism. A number of authors suggest that the Civil Rights Movement for persons with disabilities arose from, or because of, the Civil Rights Movement.

From the bus boycott in Montgomery in 1955 to the sit-ins in southern lunch counters by freedom riders in the early sixties to the 1963 march on Washington, the goals and strategies of black (and white) activists have been equated with the term civil rights and have been adopted by others seeking social change. (Scotch, 2001b, pp. 24-25)

Sharon Barnhartt and Richard Scotch acknowledge the influence by the civil rights and other social movements of the 1960s on the disability movement by discussing the importance of a frame of meaning (2001, pp. 17-20). Barnhartt and Scotch refer to D. A. Snow, et al, and the discussion of "frame" in the article "Ideology, Frame Resonance and Participant Mobilization" published in the *American Sociological Review.* "A central part of any collective consciousness is a frame or an overall system of interpretation that enables individuals to 'locate, perceive, identify, and label occurrences'" (2001, p. 17). If an appropriate frame exists, such as in the Civil Rights Movement, then it will be easier to recruit participants for other social movements. Barnhartt and Scotch contend that for those participating within the disability community, the frame of the Civil Rights Movement was invaluable as it

.... included the notion that places should be accessible for all groups; the notion that all citizens should be able to exercise their political power through the voting booth; the notion that discrimination in hiring, promotion, or firing was not acceptable; and the notion that separate facilities were inherently unequal. (2001, p. 18)

One example of the parallel activities of the two movements can be seen in 1962 when Edward Roberts, a physically disabled student, sued to gain admission to the University of California during the same semester that a lawsuit was required for another student, James Meredith, to become the first African American person to attend the University of Mississippi (Fleischer & Zames, 2001, p. xxii). Roberts won his suit for independent living and continued his activism, later becoming director of the California State Department of Rehabilitation in 1975 and then Judith E. Heumann's appointment as assistant secretary of the Office of Special Education and Rehabilitation Services at the U.S. Department of Education (Fleischer & Zames, 2001, p. 208).

During the period from 1964 to 1968, several laws were passed that defined the terms of how the American government would protect and benefit African Americans. The Civil Rights Act of 1964 guaranteed access to employment, education, and public accommodations for African Americans. The Voting Rights Act of 1965 guaranteed access to political participation, and the Civil Rights Act of 1968 guaranteed access to housing. These laws, designed specifically to address the rights of African Americans, ". . . . defined the terms of how [the] American government would establish and protect the rights of subordinate groups" (Scotch, 2001b, p. 25).

Following the lead of those who fought the battle for civil rights, the individuals in the disability movement recognized that legislation could be passed against discrimination on the basis of disability. This was the fuel that sparked a concerted effort to organize with the goal of influencing public policy. Throughout the next several decades, disabled Americans and their advocates actively protested and organized to influence social and political change. According to an oral interview with Mary Lou Breslin, a disability rights activist who was a student at the University of Illinois, Champaign-Urbana from 1962-1966, the strongest influence was SNCC, SDS, and CORE (Congress on

Racial Equality), and the other race groups that were working on civil rights (16, n.d.).

The activism of disabled veterans from World War I to the Gulf War seeking medical services, benefits, education, and jobs impacted the disability rights movement as well (Fleischer & Zames, 2001, p. 170).

In 1977 people with disabilities occupied the sixth floor of the Department of Health, Education and Welfare (HEW) for twenty-five days to protest HEW Secretary Joseph Califano's refusal to sign regulations on Section 504 ("Footnotes – Disability History," n.d.). Also, during protests for the 1977 Rehabilitation Act, protestors sang "We Shall Overcome" and "We Shall Not Be Moved," which were clear symbols from the Civil Rights Movement (Barnhartt and Scotch, 2001, p. 21).

As the disability movement progressed and policies were enacted, some additional attainments were reached without legislation. Senator Paul Simon and Reverend Jesse Jackson were instrumental in the appointment of the first deaf president of a major university (Scotch, 2001b, p. 181). Gallaudet University in Washington, D.C., had a large population of deaf and hard-of-hearing students. Protests and marches were held because the Board of Trustees demanded the university hire a non-deaf president. Gallaudet University refused to consider a deaf candidate, who was serving as the dean of arts and sciences. While marching on the Capitol, the protestors during the Deaf President Now campaign (DPN) carried a banner that read "I Have a Dream" (Barnhartt & Scotch, 2001, p. 21). This linked their protest specifically to Dr. Martin Luther King, Jr. and the Civil Rights Movement for African Americans. The action at Gallaudet concluded with the appointment of its first deaf president, I. King Jordan, the former dean of arts and sciences. The Gallaudet uprising also helped set the stage for the 1990 Americans with Disabilities Act. (Fleischer & Zames, 2001, pp. 28-20).

# POST CIVIL RIGHTS ACT DISABILITY POLICY

Throughout the history of the United States, policies have been implemented to ensure the rights of individuals. These rights often came after a long period of discrimination that led to an informal and then formal movement by those afflicted. Dr. Martin Luther King, Jr., and foremost leader of the Civil Rights Movement in the United States, said:

It is an historical fact that the privileged groups seldom give up their privileges voluntarily . . . . Freedom is never voluntarily given by the oppressor, it must be demanded by the oppressed. (DeJong, 1979, p. 1-4) As a result of this new momentum, some effects were seen as early as 1968 when the passage of the Architectural Barriers Act prohibited architectural barriers in all federally owned or leased buildings (MacDonald & Oxford, n.d.). From the onset, efforts were made to find exceptions to the law (Potok, 2002, p. 254). For example, while the law specified that entrances to buildings could not have barriers to accessibility, because of the costs of renovation, arguments were made that stairs, fountains, and other obstacles were essential elements of the foundation of the buildings. The courts were held up for years with cases involving technicalities and interpretations of definitions and accommodations. Even though

the legislation was without substance or teeth due to loopholes that could be used by the courts, this act laid the groundwork for the beginning of disability legislation. It also revealed attitudes and legal complications that would have to be faced as the movement progressed and new legislation was passed.

In 1970 Congress passed the Urban Mass Transit Act requiring "that all new mass transit vehicles be equipped with wheelchair lifts" (MacDonald & Oxford, n.d.). As with the Architectural Barriers Act, this legislation was challenged on several levels. One challenge involved its Constitutionality with arguments that it was unreasonably costly (Mayerson, n.d.).

Andrew Potok in his book *A Matter of Dignity* states that mass transit authorities argued that the additional wheelchair lifts would provide accessibility to entering; however, it was the responsibility of the person in the wheelchair to actually enter (2002, p. 57). This argument was used to support the claim that the costly wheelchair lifts would not fulfill the law and were therefore unnecessary. Once again the courts were backlogged until legislation could be passed that did not have as many loopholes or room for interpretation.

In the spring of 1990 the Secretary of Transportation, Sam Skinner, issued regulations that mandated lifts on buses, therefore implementing the 1970 law. Skinner's

decision came after lobbying efforts by ADAPT (American Disabled for Attendant Programs Today) convinced Skinner to mandate the policy (MacDonald & Oxford, n.d.). ADAPT's efforts also helped influence the mindset of the American people, laying the groundwork for the Rehabilitation Act of 1973.

The Rehabilitation Act of 1973 was a major milestone in the progress of the American disability movement. It set the stage for how Americans viewed people with disabilities as members of a legitimate minority. Individuals on the National Council of Independent Living, Max Starkloff, Charlie Carr, and Marca Bristo were successful in their attempts to lobby Congress (MacDonald & Oxford, n.d.). Overriding President Richard Nixon's veto, Congress passed the Rehabilitation Act that included Section 504 (MacDonald & Oxford, n.d.). "Enactment of Section 504 evidenced Congress' recognition that the inferior social and economic status of people with disabilities was not a consequence of the disability itself, but instead was a result of societal barriers and prejudices" (Mayerson, n.d.). As Congress was convinced that society's barriers and prejudices hindered the civil rights of the disabled, legislation could not be interpreted in such a way to indicate it was the disabled person's responsibility to find accommodation. Society had a responsibility to accommodate the disabled. Now that the disabled were seen as a legitimate minority, it was now Congress' responsibility to find legitimate legislative protections; not only removing the barriers to accessibility, but also the social and communication barriers that faced disabled Americans.

Section 504, a noteworthy component of this policy in and of itself, was a momentous step in the American disability movement. It became a foundational building block that can be compared to the significance of the Civil Rights Act of 1964 for people of color. Richard Scotch, professor of sociology and political economy and the University of Texas, and foremost researcher on civil rights for the disabled, draws a clear parallel between the two acts and states that Title VI of

the Civil Rights Act of 1964 was the specific model for Section 504 (2001b, pp. 25-27). Scotch identifies the rationale of Title VI by stating:

The rationale behind Title VI was that, if the federal government was pursuing a policy of nondiscrimination, then it should not allow anyone practicing discrimination to benefit by receiving federal assistance. While the provision has been applied to a range of federally supported programs, it has probably received the most attention with regard to public school programs. (2001b, p. 26)

The foundation now was set for further legislation that would be viewed by the courts as constitutional. Amendments to Section 504 were added to promote equality among the disabled. The Education of All Handicapped Children Act required "free public education in the least restrictive environment possible for children with disabilities" (MacDonald & Oxford, n.d.). The momentum established by the passage of the Rehabilitation Act of 1973 and subsequent amendments and accomplishments led to the efforts of Senators Kennedy, Harkin, and Durrenberger, Representatives Coelhoe and Fish, Vice-President Bush, and Governor Dukakis to make a 'comprehensive civil rights law' that would be closely modeled after the Civil Rights Act and Section 504 (Mayerson, n.d.). After considering the number of amendments to existing policies that would be necessary to provide civil rights and to promote equality for the disabled, these efforts resulted in the passage of the Americans with Disabilities Act.

A Reagan-appointed federal advisory council, the National Council on the Handicapped (NCH), actually contributed to the very roots of the ADA. Founded in 1978, NCH became an independent federal agency in 1984 ".... with a mandate to promote equal opportunity, economic self-sufficiency, independent living, and integration into society for Americans with disabilities" (Scotch, 2001b, pp. 25-27). Later, in 1986, the Council issued Toward Independence, a report analyzing existing federal disability laws and recommending one comprehensive law that would require equal opportunity for individuals with disabilities (Scotch, 2001b, pp. 174-175). The results of the ongoing work of this agency and the publishing of their report paved the way for the development of the Americans with Disabilities Act.

The passage of the Americans with Disabilities Act was not without opposition. Introduced in 1988, the act was not passed until 1990 due largely to the opposition in Congress (Scotch, 2001b, p. 174). The two leaders of the opposition were Senators Robert Dole and Jesse Helms (Potok, 2002, p. 66). Ironically, Senator Dole himself is a disabled American veteran. However, the focus of the opposition was the financial impact on small business. Dole, Helms, and other Republicans argued that the ADA would be too costly and that the disabled population was not large enough to justify the cost to business owners (Potok, 2002, p. 66). After examination of the 20-year-old census of 1970 and also the influence of the thousands of testimonies by disabled Americans, their parents, and conscientious citizens, the opposition did not gain much ground.

The Senate easily passed the Americans with Disabilities Act in 1990 with only six negative votes (Scotch, 2001b, p. 180). It was in the House of Representatives where passage was stalled. The bill was sent through a number

of House committees before passage. Some of these committees were Labor, Transportation, and Agriculture (Mayerson, n.d.). At each step various elements of the bill were altered or manipulated to meet the needs represented by the various disabled communities across the United States. Frequently the bill remained in committees as a way to stall passage. It was the protests and unity of the disabled community and its advocates that pressured the house to pass the bill without further delay in 1990 (Mayerson, n.d.). The House passed the ADA in the summer of 1990 with a bipartisan majority of 377 to 28, and President George Bush signed it into law on July 26, 1990 in the White House rose garden with over 2,000 disability rights activists in attendance (Scotch, 2001b, p. 176).

The ADA gives comprehensive rights to people with disabilities in every aspect of public life. A comprehensive law finally supported the rights to public transportation, employment, and accessibility for all disabled Americans. A key component is the right to accessibility to almost every public building.

The major provisions of the ADA included prohibitions against discrimination on the basis of disability

- by private employers of more than fifteen people, who must provide 'reasonable accommodations to otherwise qualified individuals unless such accommodations would prove an 'undue hardship';
- in public services provided by state and local governments, including public mass transportation;
- in public accommodations such as restaurants, hotels, retail businesses, museums and libraries, parks, private schools, and day care centers, including reasonable modifications in policies and procedures, the provision of auxiliary aids and services unless they would constitute an 'undue burden' and removal of physical barriers where 'readily achievable'; and
- in telecommunication services provided by common carriers through teletypewriter relay systems for the deaf and hearing-impaired. (Scotch, 2001b, p. 176)

This is the first such policy in the history of the world (Potok, 2002, p. 67). Great Britain, Canada, and France soon followed with similar laws reflecting the importance of this policy.

The ADA not only influenced disability rights policies in other nations, but it served as a springboard to other policies passed in the United States. Allen and Mor contend that while the ADA was viewed as a major victory, it set the stage toward the attainment of other rights (1998, p. 7). Parent observes that without these rights, ". . . . the ADA is an empty gesture" (1993, p. 340). These additional rights included guaranteed access to health care and community support for gainful employment and independent living.

Immediately after the passage of the ADA, legislation began to address the need to add additional rights beyond those outlined in the ADA. For the purposes of this paper, a highlight of these policies will be examined to provide an overview of the different areas of disability legislation.

In 1990, the Individuals with Disabilities Education Act (IDEA) reauthorized, overhauled, and changed the name of the Education for All Handicapped Children Act ("Footnotes – Disability History," n.d.). By 1994 two additional acts were

passed that focused on educational programs ("Footnotes – Disability History," n.d.). These acts, the Improving America's Schools Act (IASA) and Goals 2000: Educate America Act sought to improve education for all students in America, but had deep implications for disabled students.

Continuing problems for the disabled with architectural and transportation barriers resulted in new rules released by the Architectural and Transportational Barriers Compliance Board in December 2000. These rules, issued by the government of the United States, required that all IT companies selling their products to the federal government were mandated to provide accessibility features so that federal employees with disabilities could use them. These rules also stipulated that government websites must be accessible to people with disabilities and that any website also has to be provided in a way that is "comparable to" access enjoyed by people without disabilities ("FCC Mandates," 2000).

Unfortunately, there has been industry resistance to the requirements from the FCC for certain accommodations for people with disabilities, which were to have taken effect beginning in April 2002. One example of this resistance was the National Association of Broadcasters' assertion that it would cost each station more than \$160,000 to implement a plan for narration on television programs for people who are blind. "There is no consensus on this matter even within the affected interest community," said David Beckwith of the National Cable Television Association. "We think this is an area best left to industry effort, not government regulation" (Wallace, 2000).

Even though there is resistance to new rules and policies, this does not deter the introduction of new legislation and executive mandates. In 2001, President George W. Bush signed an executive order requiring federal agencies to work with state and local groups to place people with disabilities in community settings rather than in institutions. He also called on Attorney General John Ashcroft and Health and Human Services Secretary Tommy Thompson to make sure "no one is unjustifiably institutionalized" (Wallace, 2000).

Not all efforts to draw recent attention to the ADA are attempts to introduce legislation. Frequently, rhetoric is used either to draw attention to the needs of the disabled or to provide lip services to these needs. In some cases, presidents have appealed to Congress for additional funding to support the needs of the disabled. In July 2002 President George W. Bush recognized the anniversary of the ADA, which was signed into law by his father. At this time he called on Congress to fund his proposals to

.... expand even further the opportunities available to people with disabilities .... We have opened the doors of opportunity to millions of people with disabilities and together, we can ensure that everyone with a disability enjoys the respect that all citizens deserve. (Barnhartt & Scotch, 2001, p. 190)

SOCIAL IMPLICATIONS FOR DISABILITY RIGHTS WITH PASSAGE OF ADA

In the case of disability, public policies reflect assumptions about the nature of disability and the appropriate place of people with disabilities in our society. Our understanding of the meaning of disability for identity, work, and public life has been embedded in the availability of public benefits and in access to employment, public services, and public accommodation. Moreover, public policies not only reflect social status and cultural constructs; they also help create and reinforce them. (Scotch, 2001a, p. 385)

As with the civil rights movement for African Americans, the sociological effects of the passage of the ADA have had broad-sweeping implications. For the non-disabled population, acceptance of, and adjustments to the provisions set by the ADA have affected attitudes toward the disabled. For the disabled population and its advocates, the sociological implications involve integration into mainstream society and adjustment to its culture.

There are those who believe that the passage of the ADA and its implementation have become burdensome to the American society. For some, according to a report by CNN, there is a high cost of the "look-good, feel-good legislation" (Hamilton, 2000). Those with this opinion argue that while it seems no one is willing to question the ADA's goal of helping people with disabilities, there are those who feel that the ADA imposes substantial burdens on business and government. This concern includes the involvement of the Department of Justice in the management of private companies and local government agencies through the issuance of detailed regulations that explain how to comply with the act ". . . . because of the refusal of Congress to make the hard decisions associated with the enactment of an act as broad as the ADA" (Hamilton, 2000).

Within society have been those in public office and those with influence in the culture who have openly opposed the ADA and what it represents, thus creating division in the society and perceived alienation of the disabled.

The American Spectator and Readers Digest called it "a law that is disabling our courts." Pat Buchanan has called for its rollback, Newt Gingrich vowed, "I will dismantle the ADA" on Meet the Press in the spring of 1995 and Congressman Micky Edwards (R-Oklahoma) and Tom Delay (R-Texas) have called for its repeal. (Russell, 1998, p. 117)

In the implementation of the ADA in corporate America, there have been mixed reactions. Questions continue to be raised about work and the quality of life for the disabled. Businesses often want to hire one disabled individual to present an appearance of cooperating and acceptance, or many do not want to open the doors of integration. They ask questions concerning the implications of the ADA so as to find loopholes or ways to go around the law.

Other criticisms of corporate America include the significant dissatisfaction by extreme social activists in the disability movement concerning the role of corporate America in the implementation of the ADA. Marta Russell, a self-described "uppity crip" and political activists for the disabled, states in her book *Beyond Ramps*,

It would be revolutionary to force corporate America to hire disabled people and it would be revolutionary to prevent corporations from firing employees upon disablement. It is the economic area – beyond ramps – that is central to breaking out of the underclass that has kept us on the bottom socio-economic rungs of the capitalistic pyramid. Unfortunately, the ADA has not been given the power to fully deliver on its revolutionary promise. (1998, pp. 118-119)

Much of the concern expressed by the disabled is a reflection of the July 2000 national survey of Americans with disabilities that found big gaps in income and other quality of life issues when compared to people without disabilities. According to the survey, only three of 10 people with disabilities are employed full-or part-time. They are also more likely than people without disabilities to be living in poverty – earning less than \$15,000 (Knapp, 2000).

While some activists argue that corporate America is not cooperating with the ADA and is therefore holding back deserved opportunities for employment and advancement, there are those in the corporate and professional arenas who embrace the inclusion of the disabled into the workplace. Susan Scheer, former deputy director of the San Francisco's Mayor's Office for People with Disabilities, indicates that the "class of educated professionals with disabilities spawned by the movement are achieving influential positions . . . ." (Fleischer & Zames, 2001, p. 208). These educated professionals are becoming lawyers, judges, and doctors and are entering academia and politics.

There are other positive trends concerning general employment. More than half of the disabled who say they can work are working. More disabled people are also graduating from high school; for example, eight out of ten in 2000, compared to six out of ten disabled people in 1986 (Knapp, 2000).

Paul Wehman in his book *The ADA Mandate for Change* declares that the concept of ADA and acceptance in society can occur best through the empowerment of persons with disabilities. Wehman believes people with disabilities and their advocates must hold major key positions in all levels of government, business, and industry.

The placement of people into only "appropriate disability-specific" positions is not enough. People with disabilities must hold important positions (at least at subcabinet levels) . . . . people with disabilities must become aides on key congressional committees and run for office. The ceiling on jobs in key management and civic positions in business and the community must be erased for people with disabilities. Individuals in society will never accept people with disabilities if they do not work with them, recreate with them, and live in the same neighborhoods. Inclusion and acceptance can only occur as people with disabilities gain more influence and power, not only over their own lives, but also over important activities in the community and workplace. ADA is one positive step in the right direction for this to occur. (Wehman, 1993, p. 239)

However, there will still be those members of the disabled community who see a more pessimistic viewpoint.

It's better than nothing, but it's a law with no teeth. It's like the Montana speeding law. You can drive as fast as you like as long as you drive safely. What the hell does that mean? Look, I'm an ex-cop, and I know that the

only kind of law that matters is: if you don't make your business accessible, we put a padlock on your door. End of story. (Potok, 2002, p. 83)

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