discomfort posed by disability studies and, frankly, its radical promise.

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Developing Diversity and Equal Opportunity: Why the Disability Perspective Matters

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The passage of the Americans with Disabilities Act (ADA) was a great victory in justice for people with disabilities and for this nation. And though sometimes forgotten in the more recent wake of the ADA, the Individuals with Disabilities Education Act, or IDEA, passed in 1975, has been equally significant for people with disabilities and our nation. Together these statutes have changed the landscape of American society, what it means to be disabled, and, maybe most important, expectations of and about disabled people.

Integration in primary and secondary school education provided for in the IDEA and nondiscrimination in employment guaranteed in the ADA work together to provide equal opportunity for disabled people. Though traditionally excluded from educational opportunities, today an ever-growing number of individuals with disabilities are pursuing higher education, and more and more qualified individuals with disabilities are entering the job market. Additionally, because of laws such as the IDEA, today's students *without* disabilities have had, unlike their parents, significant experience with students with disabilities as peers and classmates. The incoming workforce, therefore, will be more comfortable learning and working alongside disabled colleagues than were previous generations.

People with disabilities are not only entering the workplace in greater numbers but also facing greatly changed expectations about how they will be treated there. Young people coming out of high school and college today do not know a society without the ADA and IDEA. These statutes have reshaped their environment for the better, and whether disabled or not, students expect to benefit from its provisions.

The purpose of the ADA is to confront and prohibit discrimination and expand opportunities by removing physical and attitudinal barriers. This law has often, and appropriately, been compared to the historic Civil Rights Act, Title VII, which celebrated its fortieth anniversary in 2004. But the ADA and Title VII grew out of different cultural and historical experiences. This difference helps explain the current backlash against the

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ADA that we are experiencing and the seeming inability of social commentators, the media, and judges to understand that the ADA's struggle is simply about civil rights, personal autonomy, and individual dignity.

Title VII of the Civil Rights Act was passed on the heels of a very public debate that occurred in this country about race. A social revolution unfolded in living rooms, on TVs, and in newspapers, convincing the nation that segregation was morally wrong and that separate was not equal. Television images of the civil rights movement helped to educate mainstream society about the experience of being black in America. This social revolution, led by Martin Luther King, Jr., in the streets and Thurgood Marshall in the courts, changed mainstream American thinking and resulted in the sweeping civil rights legislation of the mid-1960s.

The history of the disability rights movement is different. There was no publicly visible moral revolution that changed the hearts and minds of mainstream America. Rather, seemingly out of nowhere, President George Herbert Walker Bush signed the ADA into law in 1990. There was no social movement reflected on television or in the newspapers. Thus, with little public discussion or understanding about the issues that confront disabled people daily, employers and businesses came under the regulation of a comprehensive and revolutionary new law. As a result, the ADA has come to be defined primarily in relation to economic expenditures rather than in moral terms.

The disability civil rights revolution is invisible. I do not believe that anyone in mainstream America or in the mainstream media can name a single disability civil rights leader, even though we have our share of Martin Luther Kings, Rosa Parkses, Jesse Jacksons, Gloria Steinems, and Betty Friedans. Sadly, there is not even a common word in the English language that can be used to shame someone who discriminates against a disabled person as the labels *racist* and *sexist* do. Instead, for most of America, the disability civil rights movement developed under the radar screen, and now we must build mainstream public support for disability rights after legislation has been enacted. Disability studies education and scholarship can and should be central in filling this vacuum.

Unlike other civil rights laws, which have generally been interpreted expansively, courts have tended to construe the ADA narrowly. To understand these setbacks, we need to remain mindful of the culture and history of the disability civil rights movement. Courts, including the Supreme Court, have failed to recognize that the threshold purpose of Title I of the ADA is to address the myths, fears, and stereotypes employers have about people with physical and mental impairments that create barriers to equal treatment in the workplace.

Judges need to be educated about the disability experience so they can fully and broadly understand disability-discrimination cases. The ADA requires an individualized and fact-intensive analysis to determine such issues as the definition of disability and the reasonableness of a requested accommodation, and, accordingly, it is important that fact-finders who make such interpretations understand the experience of disability. The vestiges of a medical model of disability, which continue to shape most social, governmental, and legal policies, are not helpful to a comprehensive understanding of disability issues.

For example, the question of who is covered by the ADA, the definition-of-disability question, is framed differently from the standing issue in race and gender antidiscrimination cases. Rarely does a coverage question present itself in Title VII litigation, as there is little debate over an individual's racial or gender identity. Title VII protects not only people of color and women but people discriminated against on the basis of any race or any gender—that is, not just a discrete minority but all people.

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On the other hand, the definition of disability in the ADA is narrow and limited, and litigation is focused on excluding people with physical and mental impairments from coverage instead of on the question of whether the activity complained of was discriminatory. Moreover, "disability" as a self-identification category is weak because many people identify themselves only by their condition, for example, as blind, as deaf, or as having X-condition, not as being disabled. How does one define the community of disabled people that should be protected from discrimination? What is the rationale for coverage? And how do we communicate that model to the general public and to judges in particular?

I believe that academics and students of the humanities are a vital resource in addressing these questions. Lawyers can understand and argue the legal definition of disability, but I believe that something is missing from such a strict legal analysis. The role of disability studies is to create a context for people with disabilities to identify and get beyond their individual situation and medical diagnosis. The discipline can and should fashion, articulate, and communicate the idea of disability identity in a socially and historically meaningful way.

Disability studies provides profound insights into the human condition. For example, disability affects issues of body identity, autonomy, stigma, otherness, psychology, sexuality, and family and institutional roles. The disability perspective is thus relevant to the disciplines of social policy, economic policy, religion, ethics, health care, and human rights. These issues are reflected in literature, culture, architecture, medicine, law, public health, social work, geriatrics, and so on. Universities have a responsibility to encourage and develop disability curricula and scholarship and to recruit and support faculty members and students who are interested in these issues.

My term as commissioner of the Equal Employment Opportunity Commission came to an end in 2004, and I left government after twelve years: ten years as EEOC commissioner, and two years as the White House liaison to the disability community in the Clinton White House. I spent several months exploring job opportunities in academia before joining the faculty of the University of Washington School of Law in Seattle. Government policy making was a wonderful privilege, but I was ready to teach and write full-time.

My foray into the university job market left me with some very personal reflections on how disability perspectives are considered and valued in the academy. My overall experience was positive, and yet I believe that disability diversity in teaching and scholarship lacks the value and credibility afforded race and gender diversity and insights. In fact, nearly fourteen years after the passage of the ADA, I would estimate that there are only a handful of faculty members at tier-one law schools who identify themselves as people with disabilities and who understand disability culture. There are too few people who have integrated a disability experience and narrative into their theoretical work. Faculties at tier-one institutions are important because those schools tend to educate future scholars and disproportionately influence judges and courts. Imagine if in 1978, fourteen years after the passage of Title VII, there were only a handful of women or people of color on tier-one law-school faculties. The academy would recognize the crisis and would act to change.

The American Association of Law Schools (AALS) is the association of law faculties and controls the recruiting and hiring process for law professors. As part of that process, each candidate must fill out a cover-sheet form that appointments committees review, along with the applicant's c.v., when determining whether to grant an interview. Candidates must identify their teaching and scholarly interests from a predetermined list of over fifty

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subject areas, including such topics as sports law and securities transactions—but not disability law. What does that say about the legal academy, and what message does that send to new legal scholars and faculty members?

The effect of the dearth of disabled legal scholars is manifold. First, legal scholarship on disability civil rights is being written and published primarily by able-bodied scholars. Again, substitute race and gender for disability in this context, and imagine if reactions would be different. Just as there is tremendous value in quality scholarship from women and people of color, the disability voice can also be unique and valuable. There is also a need for faculty members to educate, mentor, attract, and encourage young disabled students in order that they become part of the future generation of scholars.

Moreover, I am not sure that many on university faculties even recognize a problem. Rarely is the lack of a disability voice on a faculty recognized or disability acknowledged as a valuable part of diversity. In fact, one faculty member at a prominent law school told me I was not going to be interviewed or considered for an appointment because the faculty needed to focus on diversity issues in its hiring, and thus, this year they were only interested in African American women who could teach business law courses. I agree that such diversity is valuable. When I noted that there were no members of the faculty who identified themselves as disabled, he acknowledged that I was correct but that no one had ever recognized or prioritized the issue as a problem. Nonetheless, nothing changed.

Universities must continue to recognize and develop disability studies programs. These programs should be interdisciplinary in nature, drawing not just on the humanities but also on law, public policy, public health, and other disciplines. Universities must do so not because it is politically correct or because such programs are not prevalent enough. They must do so because it is what is right for our students, what is right for our teaching and curriculum, and what is right for scholarship, because it is the mission of universities to do so.

After Words

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In the months since the Emory conference, my relation to disability studies has changed. I attended the conference as a spectator, eager to probe the shape and problems of the field. My PhD is in medieval studies, and I was beginning a project on historical representations of disability, deformity, and miraculous healing. Now, as a member of the MLA's Committee on Disability Issues in the Profession, I am involved in the post-conference evaluatory process and in other disability-related professional initiatives. Each stage of this journey has been informed by a growing awareness of what might in other contexts be articulated as a problem of field identity. When I read the conference title—Disability Studies and the University—and looked through the program, I found myself imagining conversations between the theme and the paper titles. That there was such a difference between what I envisioned and what I saw might be an index of my interpretive skills, but it might also indicate the challenges of defining and recognizing disability studies.

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