



The discrimination and barriers faced by individuals with disabilities in Colombia are not unique. Our experience in the United States has been very similar.

It's taken four decades to raise awareness, develop, implement and enforce laws and we are not where we want to be. For example, people with disabilities have twice the unemployment rate as nondisabled individuals. This presentation is an overview of how the U.S. changed and is still evolving.



Inclusion of Persons with Disabilities

- Inclusion means all individuals, with or without disabilities, are full members of the community and can access the same opportunities that are available to all people.

Examples:

1. A ramp into a building with stairs is a simple example of removing a barrier for people who use a wheelchair.
1. A bus with a lift or ramp
2. A chirping traffic signal for pedestrians with visual impairments.



Inclusion of Individuals with Disabilities

- Inclusion is achieved by removing barriers at school, in housing, in the workplace, in public accommodations, and in government programs.
- In the US inclusion is achieved through a civil rights model.

It didn't happen overnight, it took decades and we had to change the way we view disability – both people with and without disabilities.



Disability Rights in the USA

How did we get there?

Individuals with disabilities
realized our rights and spoke up.

For the most part, the U.S. is an inclusive society, but of course there is more to do.



Embracing a Rights Perspective

Models of Disability:

- Charity
- Medical
- Social



Charity Model:

- Disability resides in the individual
- The burden of dealing with disability is on the individual
- Society has no responsibility

In the first half of the 20th century we had the Charity Model.



Medical Model:

- Disability resides in the individual
- The remedy for disability-related problems is a cure or normalization
- The agent of remedy is the professional

After WWII, with so many returning soldiers with injuries and permanent disability we shifted to a medical model.

Professionals with expertise include: doctors, physical therapists.



Social Model:

- Disability arises from interaction between the individual and society
- The remedy for disability-related problems are a change in that interaction
- The agent of remedy can be the individual, an advocate, or anyone who affects the interaction between the individual and society

In the 1960s with the rise of other civil rights movements we adopted the Social Model.

An advocate can be an architect or a teacher.



Civil Rights and Disability

- The development of civil rights laws built the foundation for disability rights in the US.
- In order for US laws to be effective they include regulations that direct:
Implementation, and
Enforcement

The civil rights movement began with African-Americans working to end discrimination that primarily took the form of segregation

Two very important factors for our relative success toward equality in the US are implementation and enforcement. A third factor is public funding for both of these activities.



Civil Rights Act of 1964

Prohibits discrimination based on race, ethnicity, religion and gender in:

- Employment
- Public accommodations
- Programs receiving federal funds

(The CRA does not include disability)

Was a model for disability civil rights.

Section 504 of Rehabilitation Act of 1973

- Protects people with disabilities from discrimination in programs receiving federal funds
- All States and local agencies including public schools, universities and transit agencies receive federal funds



Section 504 recognized that:

- All people with disabilities belong to a class.
- This class has the common experience of discrimination.

Education for All Handicapped Children Act of 1975

Now known as the:

Individuals with Disabilities
Education Act (IDEA)

The next major milestone was eradicating school based segregation and ensuring ALL children went to school

The push for an inclusive education law was led by parents of children with disabilities.



IDEA mandates:

- A free, appropriate public education (FAPE) for every child with a disability in the least restrictive environment (LRE) appropriate for the child.
- The ultimate outcome for a student under IDEA is an Individual Education Plan (IEP).

LRE - Usually the general education classroom.

IEP - Each child has a team, including parents, who draw up a written plan for the school year that **MUST** be followed.



IDEA works in part because:

- The US Congress provides funding to all 50 states to help cover the cost of special education and inclusion.
- IDEA gives parents the power to enforce the law.
- Congress also provides funding for Parent Training and Information Centers (PTIs) in all 50 states to help parents understand their rights and advocate for their children.

Enforcement - Parents can file complaints to enforce the Individual Education Plan (IEP)

DREDF has one of the grants to do this work. We are a PTI. We talk to thousands of parents and school employees every year.



The Americans with Disabilities Act of 1990 (ADA)

The ADA prohibits discrimination on the basis of disability by employers, public accommodations, state and local governments, public and private transportation, and in telecommunications.

The ADA is the MOTHER of all disability rights laws.

The ADA has changed the face of the US, especially physical access and communications.

A public accommodation is the legal term for any place the public visits - restaurants, stores, insurance companies, real estate agencies, banks. You get the picture.



Definition of Disability

The ADA defines a person with a disability as someone who has:

1. An impairment that substantially limits one or more major life activities,
2. A record of such an impairment, or
3. Is regarded as having such an impairment

If you are a person with a disability you are protected by the ADA

Unfortunately, we had more trouble with the definition than we anticipated. The courts began excluding people from protection. For instance, if you could mitigate your disability by wearing a prosthesis, you weren't covered. But if you didn't wear your prosthesis, you could be protected by the ADA.

Definition of Disability (continued)

The ADA Amendments Act of 2008 broadened the definition by rejecting limitations imposed by U.S. Supreme Court decisions that resulted in fewer people having the protection of the ADA. It clarified that:

1. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

The Fix.

Definition of Disability (continued)

2. The determination of whether an impairment limits a major life activity shall be made without considering mitigation measures (other than ordinary eye glasses or contact lenses); and

For example, diabetes.

Definition of Disability (continued)

3. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

Leukemia, for example.



Key Terms in the ADA

Reasonable Accommodation is required to ensure that qualified persons with disabilities have an opportunity for employment. It includes:

- modifications or adjustments to a job application process
- modifications or adjustments to the work environment
- modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment

These terms are also incorporated into the UN Convention on the Rights of Persons with Disabilities.

Job Descriptions - Does the job really require a drivers license

Modifications - can include a large screen monitor

Equal Benefits - Is the cafeteria accessible to all employees; are ALL employees covered by health insurance?



Reasonable Accommodations at Work

- Allowing an employee with diabetes to take regular meal breaks during a shift.
- Providing a large-button telephone for someone who has low vision or poor hand coordination.
- Lowering shelves or raising a desk for a person who uses a wheelchair.



Key Terms in the ADA

Reasonable Modification:

Public accommodations must make modifications in their policies and practices so goods and services are accessible to a person with a disability. If the public accommodation can demonstrate that modifying the policy or practice would fundamentally alter the nature of the goods and services offered, the modification is not required.

But not if it fundamentally alters the program or service.



Civil Rights vs. Human Rights

In the US, there is a tension in the use of civil rights for disability rights because the American legal system emphasizes formal equality, which requires the law to treat similarly situated persons the same.

Treating people with disabilities *exactly* the same results in exclusion and discrimination.

But, when you think about it...



Disability Rights as Human Rights

The concept of accommodation embedded in the ADA requires society both to acknowledge that persons with disabilities may achieve results through different means, **and** to make requisite structural and process changes.

Human rights start from the assumption that all human beings *are* inherently equal in value and dignity, regardless of individual variation, and leads beyond the rigid construction of “equal treatment.”

The difference between human rights and civil rights:

Civil - “to acknowledge”

Human “are inherently”



Disability Rights as Human Rights

There is an inherent connection between disability rights and human rights.

A human rights perspective of disability acknowledges that the inherent dignity of every person, and the need to meet the political, civil, economic, social, and cultural needs of *all* people, ultimately converges with the spirit of “equal opportunity.”



Disability Rights as Human Rights

The human rights perspective on disability rights has resulted in the UN Convention on the Rights of Persons with Disabilities (CRPD).

A rights perspective acknowledges that denial of reasonable accommodation is a form of discrimination.