

Disability Rights

A Brief Study of the Americans With Disabilities Act of 1990
and the Disability Discrimination Act of 1995

By
Larisa AhMu

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Immouna Ephrem, Instructor

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When I was born, my parents knew I would have a vision impairment, they just didn't know how much of an impairment I would have. As I was growing up, I did not see myself as disabled or impaired, I saw myself as a regular kid that just didn't see well. It wasn't until I started kindergarten and tried to learn how to read that I realized I was different. I learned to read with a magnifying glass I found in a Cracker Jack snack box. I taught myself to read and write, not the public school system. I knew I had to overachieve to overcome the stigma of being "that handicapped girl" in our community. But there were always barriers of some sort: smaller writing I couldn't read, places I couldn't go because of accessibility issues, and activities I couldn't participate in such as driving.

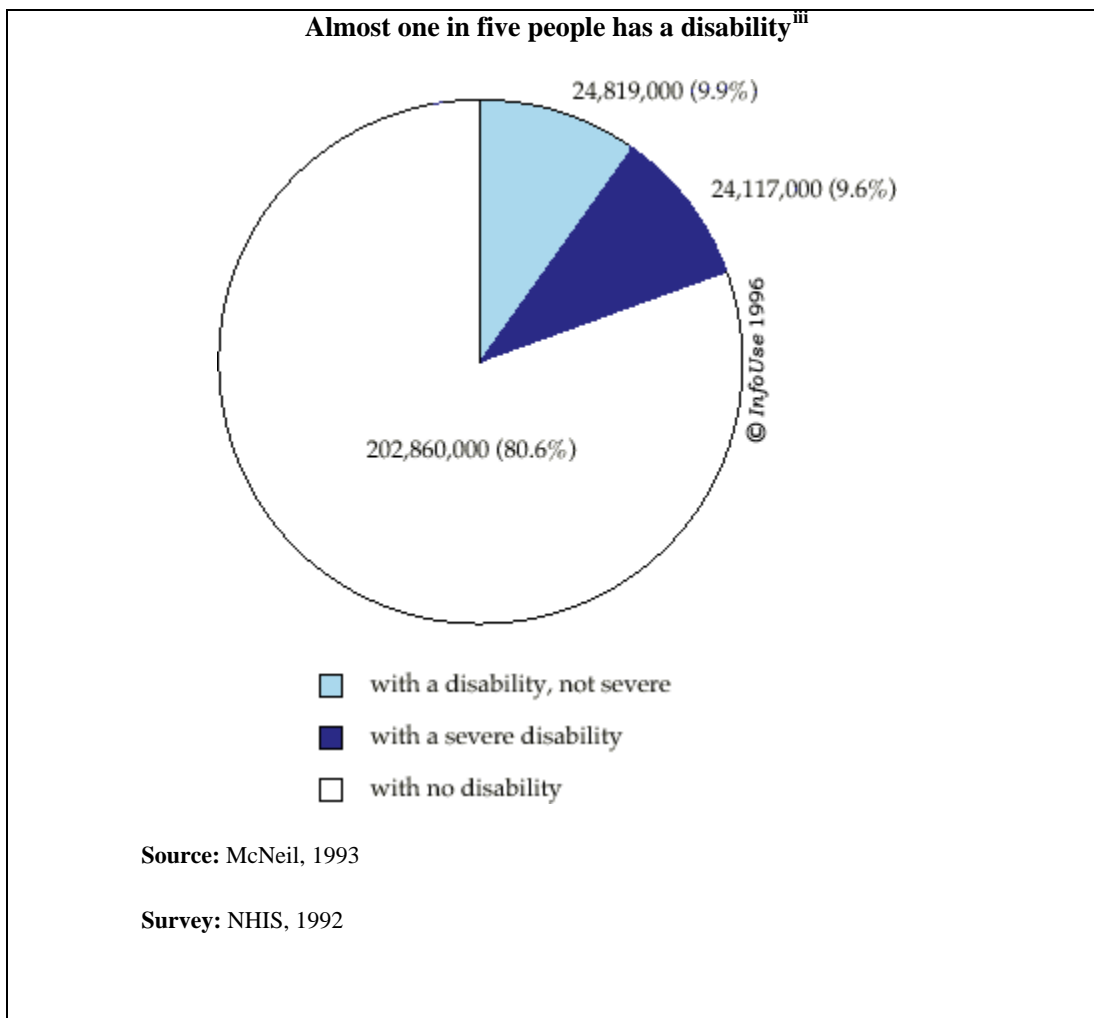
In the United States and United Kingdom, how does the government define the word "disability"? How comparable are the two Laws? Are the laws comprehensive enough in today's society? As a student researching my rights, these are some of my questions. I am using the Americans With Disabilities Act of 1990 and the United Kingdom's Disability Discrimination Act of 1995 as my guides to answering these questions.

How does the American government define the word Disability? According to the published Americans With Disabilities Act of 1990, the definition of "disability" is broken into three parts and states: "The term 'disability' means, with

respect to an individual (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such impairment."ⁱ The United Kingdom's Disability Discrimination Act of 1995 (DDA) defines a disabled person as follows: "a person has a disability for the purposes of this Act if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities."ⁱⁱ

In comparing the two definitions, they are very close in wording and intent. Could they be more specific? Yes, but both emphasize that the individuals must have an impairment that substantially limits one or more life activities. The U.S. Supreme Court narrowed the definition of "life activity" as being able to perform such things as see, hear, walk, tend to personal hygiene, or perform daily chores in Justice Sandra Day O'Connor's written opinion for the case of *Toyota v. Ella Williams*.

According to the U.S. National Institute on Disability and Rehabilitation Research, in statistics taken in 1996, there were approximately 48 million people with disabilities in the United States. This group made up 19.4% of the total U.S. population. And of this percentage, nearly half (24 million) are considered to be severely disabled. The pie chart below shows a breakdown of these figures.



At the time of this report, the UK government website was unclear as to how many disabled people live in the United Kingdom, and are affected by the UK's Disability Discrimination Act of 1995. From my research I would guess that the numbers are comparable to the United States in many ways.

Both laws (the ADA and the DDA) are very similar. The ADA provides laws to protect against disability discrimination in employment, education, public agencies, private agencies and businesses, goods and services available, and

transportation, The DDA provides coverage for the following: employment; trade organizations and qualifications bodies; access to goods, facilities and services; the management, buying or renting of land or property; and education

How do these laws compare and contrast? From my research I believe the ADA is stronger in employment, education, and accessibility to goods and services. The ADA mapped out more strict policies in the way of discrimination in employment and labor. But the one item I found most interesting in the DDA is the management, buying, or renting of land or property. I did not see any provisions in the ADA for this. Or perhaps it was written in a different context. They both emphasized the importance of equality in the workplace and education. They both specified enforcement rules. But in my opinion, the ADA.gov web site gives individuals the perfect venue to study the law. It also gives individuals excellent resources for up-to-date information, as well as a list of agencies to contact. The web site for the DDA has not been updated recently to include changes that were enacted in the last five years. Documents were more difficult to locate, and convoluted wording made it difficult to understand without a guide or solicitor.

To answer my question of employment discrimination, I looked at the Toyota v. Ella Williams case. Ms. Williams claimed that she was unable to perform her duties on an auto assembly line due to Carpel Tunnel Syndrome. She sued Toyota

believing she was wrongly terminated under Title 1 of the ADA. The Sixth Circuit Court sided with Ms. Williams, but the decision was overturned by the United States Supreme Court. The Court held that the lower court had applied the wrong standards test, and thus overturned the lower court's ruling. Ms. William's Carpal Tunnel Syndrome did not limit her daily life activities—such as personal hygiene, walking, or seeing. It only limited her range of movement and grip. If this case was tried in the UK, I believe the same decision would have been made based on the same testing criteria. Ms. William's case is one of many and brings up another question. Does the Toyota v. Williams decision leave workers like her unprotected in the workplace? Definitely! She seems to have a major limitation, but it is not life altering enough to be covered under the 1990 version of the ADA. I believe amendments should be made to the ADA and DDA to cover these growing groups of our workforce population.

The prevalence of work-related injuries such as Carpal Tunnel Syndrome should be a wake-up call to congress and parliament to perhaps broaden the definition of "disability" to include individuals such as those with Carpal Tunnel Syndrome, Persian Gulf Syndrome, Post Traumatic Stress Disorder, Bi-Polar Disorders, and other physical and mental disabilities that have arisen since the passing of the legislation in 1990 (ADA) and 1995 (DDA).

In early 2008 congress passed amendments to the ADA to clarify Title II and Title III. Similarly, amendments to the DDA were made by Britain's parliament to broaden the definition and clarify sections of their laws.

Timothy Cook of the National Disability Action Center testified before a Senate Subcommittee saying, of discrimination: "As Rosa Parks taught us, and as the Supreme Court ruled thirty-five years ago in *Brown v. Board of Education*, segregation affects one's heart and mind in ways that may never be undone. Separate but equal is inherently unequal."^{iv}

As a society, have we moved beyond discrimination and segregation? I believe through the passing of legislation such as the Americans With Disabilities Act of 1990 and the Disability Discrimination Act of 1995 we have gone far beyond the expected. Have we evolved enough? No, we still have a long way to go to reach equality for all. But these laws have given us so much, and a great starting point to erase that borderline between "normal" and "disabled".

Someone asked me, over the weekend, what my definition of disabled is. I believe that we are all disabled in some way. But some of us have a more visible impairment than others. The ADA has given me so many opportunities that I may not have had 20 years ago. I am a contributing and thriving member of society, a "normal" person.

Endnotes and Bibliography

ⁱ United States, "Americans With Disabilities Act of 1990", U.S. Department of Justice: Americans With Disabilities Act ADA Home Page 7 Nov. 2008, Sierra College, 19 Nov. 2008 <<http://www.ada.gov/pubs/ada.htm#Anchor-Sec-47857>>

ⁱⁱ United Kingdom, "Disability Discrimination Act 1995 (c. 50) Part I", Office of Public Sector Information 8 Nov. 1995, Sierra College, 19 Nov. 2008 <http://www.opsi.gov.uk/acts/acts1995/ukpga_19950050_en_1>

ⁱⁱⁱ L. Kraus, S. Stoddard, D. Gilmartin, "Access To Disability Data: Chartbook on Disability in the United States", InfoUse Report 1996, Sierra College, 20 Nov, 2008 <http://www.infouse.com/disabilitydata/disability/1_1.php>

^{iv} Maureen Harrison, Steve Gilbert, "The Americans With Disabilities Act Handbook" Excellent Books, Beverly Hills CA, 1992. P. 10.

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