

The Institutional Determinants of #DisabilityTooWhite

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Thank you!

The Institutional Determinants of #DisabilityTooWhite

The study of disability in political science suffers a twofold problem. The first is the discipline's reluctance to center the politics of minoritized identities, such as disability. Second, when it has tackled disability, it has replicated what disability studies scholars have come to recognize as the overriding Whiteness of disability activism and research – that is, the lack of people of color in activist spaces and the scholarly focus on the accomplishments and lived experiences of White people with disabilities. The critique is not meant to denigrate the significance of activists aligned with the modern mainstream disability rights movement or the importance of its legislative achievements. Rather, critique is born of the activist desire, however imperfectly realized in practice, to uplift all people with disabilities and to take on the layered exclusions of ableism, racism, sexism, and heteronormativity. This paper contributes to the ongoing effort by disability studies scholars to rectify the overriding Whiteness in the historiography of disability politics and by political scientists to center race and ethnicity in their analysis of U.S. politics. It argues that understanding why disability is too White (to paraphrase the viral hashtag coined by activist Vilissa Thompson) requires attending, not simply to the intentions and attitudes of individual activists and their organizations, but to the political institutions that structure and channel their activism. Applying theories of discursive institutionalism and racial institutional orders, this paper examines the period between 1981-1996, specifically the years culminating in the Americans with Disabilities Act of 1990 and, a few years later, the welfare reform law the Personal Responsibility and Work Opportunity Reconciliation Act. Its purpose is to analyze disability, race, and poverty as imbricated systems of oppression and inequality. It draws from the records of the Leadership Conference on Civil and Human Rights to understand how disability became legislatively incorporated under the umbrella of civil rights and how activists navigated competing claims of disability and racial equity. As the premier lobbying arm of the Black freedom struggle, during this period, the Leadership Conference broadened its agenda from race-based civil rights to embrace disability rights, while at the same time subordinating, its prior attention to welfare rights, busing, and affirmative action – issues that had been organizational priorities for decades. The paper identifies key institutional mechanisms that shaped disability rights legislation, keeping protections against people with disabilities distinct from intersecting claims of racial justice.

In 2016, frustrated that media presentations of people with disabilities featured only White models, activist Vilissa Thompson tweeted out her exasperation with the hashtag #DisabilityTooWhite and went viral.¹ Thompson had tapped into a growing chorus of criticism from activists and scholars alike about the Whiteness of disability advocacy and scholarship.²

¹ Carrie Elizabeth Mulderink, "The Emergence, Importance of #DisabilityTooWhite Hashtag," *Disability Studies Quarterly* 40, no. 2 (2020): <https://dsq-sds.org/index.php/dsq/article/view/6484/5565>; Sarah Blahovec, "Confronting the Whitewashing of Disability: Interview with #DisabilityTooWhite Creator Vilissa Thompson," *HuffPost*, June 28, 2016, https://www.huffpost.com/entry/confronting-the-whitewash_b_10574994.

² On Disability Studies, see Chris Bell, "Introducing White Disability Studies: A Modest Proposal," in ed. Lennard J. Davis, *The Disability Studies Reader*, 2nd edition, New York: Routledge, 2006, 275-282, especially 275; Chris Bell, "Is Disability Studies Actually White Disability Studies?" in ed. Lennard J. Davies, *The Disability Studies Reader*, 5th edition, New York: Routledge, 2010, 402-410. On disability activism, see Chris Bell, "Doing Representational Detective Work," in ed. Chris Bell, *Blackness and Disability: Critical Examinations and Cultural*

Not only are people of color missing from disability spaces, but more significantly, injustices that largely affect people of color with disabilities are missing from disability rights. Disability justice activities have called attention to environmental degradation, dilapidated housing, prisons, and police violence as issues that confront people with disabilities who come from or live in low-income communities of color, yet rarely are these discussed as disability issues.³

Using Thompson's tweet about disability being "too White" as an occasion for intellectual inquiry, this paper examines the absence of people of color in the early disability rights movement. Rather than presume that disability politics is race-neutral simply because race is unnamed, I think carefully about why people of color and attention to race are largely missing from disability activism and historiography. This paper is part of a larger project that seeks to unravel the complex relationship between disability, race, and poverty. Here I focus on the Americans with Disabilities Act (ADA) of 1990 because the law's enactment was a pivotal moment, revealing and reshaping disabled subjectivity (i.e., how people with disabilities see themselves) and disabled citizenship (i.e., how fellow citizens in the polity see people with disabilities). I argue that, although disability rights became institutionalized into law and policy through its organizational affiliation with race-based civil rights, the ADA marked a turning point in which disability became discursively framed as White and "people with disabilities" as

Interventions, Lansing, MI: Michigan State University Press, 2011, 1-8; Susan Schweik, "Lomax's Matrix: Disability, Solidarity, and the Black Power of 504," in eds., Matthew Wappett and Katrina Arndt, *Foundations of Disability Studies*, New York: Palgrave Macmillan, 2013, 105-123; Sami Schalk, *Black Disability Politics*. Chapel Hill, NC: Duke University Press, 2022; Lezlie Frye, "Toward a Feminist Genealogy of US Disability Rights: Mapping the Discursive Legacies and Labor of Black Liberation," in eds., Mel Y. Chen, Alison Kafer, Eunjung Kim, and Julie Avril Minich, *Crip Genealogies*, Chapel Hill, NC: Duke University Press, 2023, 85-102.

³ Sins Invalid, *Skin, Tooth, and Bone – The Basis of Movement is Our People: A Disability Justice Primer*, 2nd edition, Sins Invalid, 2019. See also Anna Hinton, "On Fits, Starts, and Entry Points: The Rise of Black Disability Studies," *cla Journal* 64, no. 1 (2021): 11-29; Jina B. Kim, "Disability in an Age of Fascism," *American Quarterly* 72, no. 1 (2020): 265-276; Sami Schalk and Jina B. Kim, "Integrating Race, Transforming Feminist Disability Studies," *Signs: Journal of Women in Culture and Society* 46, no. 1 (2020): 31-55; Jane Dunham, Jerome Harris, Shancia Jarrett, Leroy Moore, Akemi Nishida, Margaret Price, Britney Robinson, and Sami Schalk, "Developing and Reflecting on a Black Disability Studies Pedagogy: Work from the National Black Disability Coalition," *Disability Studies Quarterly* 35, no. 2 (2015): <https://dsq-sds.org/index.php/dsq/article/view/4637/3933>.

“deserving” of rights because of their aspirations toward productive and contributory citizenship. People of color, by contrast – especially low-income Black women – served as the rhetorical counterpart whose dysfunction and lack of contribution not only “disabled” the health of the nation but also rendered them outside the bounds of democratic inclusion. While (White) “people with disabilities” deserved rights poor (Black) people (many also with disabilities) required discipline in order to attain their independence.

The triumphant narrative of the ADA’s passage is a familiar one.⁴ Inspired by the Black freedom struggle and, to a lesser extent, the second wave women’s movement, wheelchair-using activists organized the independent living movement in the late 1960s and early 1970s. For the better part of a decade, these activists collaborated with other disability groups to form the wider disability rights movement, a movement that for the first time brought together people of different diagnoses and impairments. Drawing from a social model of disability rather than a medicalized one, these young activists argued that their impairments were not disabling in and of themselves but only became so in a society that rejected bodily differences and constructed environments to exclude them. They came to view having a disability as a minority identity rather than as a medical tragedy, and they demanded their rights. Although President Ronald Reagan was hostile to Black civil rights and, at best, skeptical of disability rights, in 1986, an obscure agency in his administration, the National Council on the Handicapped (renamed the National Council on Disability, or NCD, in 1988, and referred to hereafter as such) released the draft of a bill to grant civil rights protections to the disabled. The bill became the ADA, enacted

⁴ Joseph P. Shapiro, *No Pity: People with Disabilities Forging a New Civil Rights Movement*, New York: Three Rivers Press, 1993. Shapiro wrote the first book-length account of the ADA and the disability right movement. Others that followed are Lennard J. Davis, *Enabling Acts: The Hidden Story of How the Americans with Disabilities Act Gave the Largest US Minority Its Rights*, Boston: Beacon Press, 2016; Jonathan M. Wright, *Equality of Opportunity: The Making of the Americans with Disabilities Act*, Washington, DC: National Council on Disability, 1997, 2010. Wright’s account was commissioned by the National Council on Disability and then re-released in commemoration of the 20-year anniversary of the ADA’s enactment.

into law in 1990, after mobilization by people with disabilities and under the leadership of President George H. W. Bush and members of Congress, many of whom counted themselves or loved ones as disabled. The enactment of the ADA demonstrated what unity among people with disabilities could accomplish.

The celebratory origins of the ADA, however, pose a puzzle. On the one hand, the ADA is presented as the culmination of, what historian Jacqueline Hall called, the “long civil rights movement,” or, as Diane Driedger dubbed it, the “last civil rights movement,” finally ending discrimination against America’s “most disadvantaged minority.”⁵ On the other hand, if disability rights was the apogee of the civil rights movement, why did a conservative Republican president and a majority of the Republican caucus in the U.S. House of Representatives and Senate support it? The support of Republicans is especially perplexing given that there was no groundswell of public pressure. While some grassroots organizations like ADAPT mounted highly visible protests, the disability rights movement did not galvanize the public the way the Black freedom struggle did. This is not to say that disability rights and the ADA were not popular, but that they lacked public salience. They were, sociologist John Skrentny argues, “an act of the government.”⁶ To explain the unlikely enactment of the ADA, political scientists have turned to explanations that highlight the motivations of elites, from presidents seeking to win over disabled voters to lawmakers shifting costs and burdens to local and private actors to the personal experiences strategically placed decisionmakers had with disability.⁷ Yet other scholars

⁵ Jacquelyn Dowd Hall, “The Long Civil Rights Movement and the Political Uses of the Past,” *Journal of American History* 91, no. 4 (2005): 1233-1263; Diane Driedger, *The Last Civil Rights moment: Disabled Peoples’ International*, New York: St. Martin’s Press, 1989.

⁶ Skrentny, *The Minority Rights Revolution*, 263-267, 271-274, quote on 270. ADAPT was formerly American Disabled for Attendant Programs Today, before the ADA known as Americans Disabled for Accessible Public Transit.

⁷ Christopher Howard, *The Welfare State Nobody Knows: Debunking Myths About US Social Policy*, Princeton, NJ: Princeton University Press, 2006; Thomas F. Burke, “On the Rights Track: The Americans with Disabilities Act,” in

argue that the independent living movement, a movement of middle-class and highly educated White men, imparted to the larger disability rights movement a “libertarian strain” that appealed to Republicans.⁸ Nowhere was that “libertarian strain” clearer than in activist assurances that civil rights protections would turn people with disabilities from “welfare recipients” into “taxpayers.” Presumably, Republicans hate civil rights, but they hate welfare even more.⁹

The problem with these explanations, however, is that they present the ADA as a stand-alone achievement, oddly disconnected from the larger political transformations occurring around it. The ADA was not the culmination of the civil rights movement, but rather a brief victory at a moment when Black civil rights and racial liberalism itself were in retreat, beaten back by White resentment and the rise of neoliberal economic management, which prioritized deregulated markets, tax cuts, and a dramatically scaled-back welfare state. Neoliberalism also recast the terms of citizenship, from the equal possession of democratic rights to the achievement of free market self-reliance.¹⁰ On the one hand, the de-racialized, de-gendered market society opened avenues for civic incorporation, as “all are welcome[d] as buyers and sellers.” Multicultural neoliberalism supplanted racial liberalism with a political order in which “a purified inclusive version of individualism” became central to legal egalitarianism. Within this political order, race was no longer the central metric by which elected leaders and policymakers would measure inequality. On the other hand, however, those without the wherewithal to act as

ed. Pietro S. Nivola, *Comparative Disadvantages? Social Regulations and the Global Economy*, Washington, DC: Brookings Institution Press, 1997, 242-318.

⁸ Quote by Ravi Malhotra, “Empowering People with Disabilities,” *New Politics* 11, no. 1 (Summer 2006): https://newpol.org/issue_post/empowering-people-disabilities/; Eileen Boris and Jennifer Klein, *Caring for America: Home Health Workers in the Shadow of the Welfare State*, New York: Oxford University Press, 2012, 94-122.

⁹ Samuel R. Bagenstos, “The Americans with Disabilities Act as Welfare Reform,” *William and Mary Law Review* 44 (2002): 921-1027. The same argument is made in Burke, “On the Rights Track,” 242-318.

¹⁰ Wendy Brown, “American Nightmare: Neoliberalism, Neoconservatism, and De-Democratization,” *Political Theory* 34, no. 6 (2006): 690-714.

buyers or sellers face a new, more insidious form of exclusion and marginalization. “The devil might take the hindmost,” historian Thomas Borstelmann ominously warns.¹¹ This new regime of inclusivity was, according to Joe Soss and his co-authors, “equality with a vengeance.”¹²

In this paper, I examine the role that disability played in facilitating the transformation from racial liberalism to multicultural neoliberalism. To do so, I trace the emergence of the ADA, not through government agencies and congressional committees, but through the civil rights coalition itself: namely, the Leadership Conference on Civil Rights (today called the Leadership Conference for Civil and Human Rights, but hereafter referred to as the Leadership Conference or LCCR). An umbrella coalition of organizations that support civil rights, the Leadership Conference – or just the Conference, as its staff and members sometimes called it – played an important role in mediating the growing demand for rights articulated by women, gays and lesbians, and the disabled. Founded in 1950, as a partnership between Black organizations, Jewish groups, labor unions, and the Japanese American Citizens League, the Leadership Conference served as the lobby arm of the civil rights movement. Its legislative efforts complemented the judicial strategy of the NAACP-LDF and the mass protest efforts of the Southern Christian Leadership Conference (SCLC), the Student Non-Violent Coordinating Committee (SNCC), and the Congress of Racial Equality (CORE). Although the Conference was not a mass membership organization, the purpose of organizational partnership was to demonstrate broad public support for race-based civil rights. The Conference was so successful

¹¹ Thomas Borstelmann, *The 1970s: A New Global History from Civil Rights to Economic Inequality*, Princeton, NJ: Princeton University Press, 2011, 4, 313; Jodi Melamed, “The Spirit of Neoliberalism: From Racial Liberalism to Neoliberal Multiculturalism,” *Social Text* 24, no. 4 (Winter 2006): 1-24.

¹² Joe Soss, Richard C. Fording, and Sanford Schram, *Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race*, Chicago: University of Chicago Press, 2011, 45, borrowing the term from Karen Joe and Meda Chesney-Lind, “Just Every Mother’s Angel: An Analysis of Ethnic and Gender Variations in Youth Gang Membership,” *Gender and Society* 9, no. 4 (August 1995): 409-431.

that it coordinated lobbying campaigns for every major civil rights bill that came before Congress during the postwar years.¹³

Furthermore, in this paper, I broaden the scope of disability politics to include the politics of race and poverty. Reaching back to the decade before the ADA, I underscore the recurring connections between Black rights and disability rights. In the 1970s, the Leadership Conference added disability rights groups to its membership and ensured that at least one disability rights organization sat on its executive committee. It essentially institutionalized disability rights into national politics and legitimized it as a civil rights cause. I examine why the Leadership Conference not only accepted disability rights as civil rights, but also laid the groundwork for the ADA by incorporating people with disabilities into civil rights legislation during the 1980s. The ADA would not have come to pass had the civil rights coalition not provided that all-important institutional and political foundation. I also push the timeframe of disability rights forward. While most political science accounts of disability rights stop with the enactment of the ADA, I extend the lens of disability to the reform of welfare in 1996. I want to reconsider the triumphant narrative of the ADA because I am struck by the recurring discourse of free market empowerment in disability rights and poverty politics during the late 1980s and 1990s. To reconstruct the politics of the ADA and PRWORA, I draw on a wide variety of primary and secondary sources from the records of the Leadership Conference on Civil Rights at the U.S. Library of Congress in Washington, DC.

I take this approach in order to trouble the analytical distinctions often made between people of color and people with disabilities. I believe those distinctions render us unable to see the full scope of injustice experienced by people with disabilities, injustices evident in the life

¹³ For a history of the LCCR prior to the 1970s, see Shamira Gelbman, *The Civil Rights Lobby: The Leadership Conference on Civil Rights and the Second Reconstruction*. Philadelphia, PA: Temple University Press, 2021.

and death of Marsha Motipersad. In 1997, three years after severe heart disease and two heart attacks had forced Motipersad to resign from her job at New York City's Children's Aid Society, she was called back to work. She joined thousands of low-income women compelled to work or else lose cash assistance and food stamps. Federal and state welfare reformers argued that employment would give women's lives "structure, meaning, and dignity."¹⁴ In the end, welfare reform did none of these things for Motipersad. Several weeks into her work assignment, the 50-year-old died on the job from cardiac arrest. Her friend Evelyn Selby explained that the daily commute had taxed Motipersad, who would rise at 4:30 a.m. to take three buses to her workfare placement at the city's Parks Department. "I would have to wait for her as she climbed the steps and such," said Selby. "She was always behind."¹⁵

Motipersad's life – her material need, her health, her long commute, her mandatory summons to workfare – denote the terms of inclusion for many people with disabilities. Despite experiencing limitations in their mobility, health, or ability to function in daily life, they are not officially "disabled" and are not recognized as such because of their race and poverty. Policymakers have long known that non-immigrant people of color, especially those who are poor or live in low-income communities, are more likely to experience disability than White Americans.¹⁶ Mothers on family assistance (currently Temporary Assistance with Needy

¹⁴ Bill Clinton, "Remarks on Signing the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and an Exchange with Reporters," August 22, 1996, <https://www.govinfo.gov/content/pkg/PPP-1996-book2/pdf/PPP-1996-book2-doc-pg1325.pdf>.

¹⁵ Joe Sexton, "A Death Prompts Concerns Over Workfare," New York Times, June 24, 1997, <https://www.nytimes.com/1997/06/24/nyregion/woman-s-death-prompts-concerns-over-workfare.html>.

¹⁶ Amy Steinweg, "Non-Hispanic Black Adults Have Higher Rates of Disability Due to Arthritis, Diabetes, Hypertension than Non-Hispanic White Adults," Washington, DC: U.S. Census, July 12, 2023, <https://www.census.gov/library/stories/2023/07/disparities-in-disabilities.html>; Liming Dong, Vicki A. Freedman, Brisa N. Sánchez, and Carlos F. Mendes de Leon, "Racial and Ethnic Differences in Disability Transitions among Older Adults in the United States," *Journals of Gerontology: Series A* 74, no. 3 (2019): 406-411; Danielle M. Taylor, *Americans with Disabilities, 2014*, Washington, DC: US Census Bureau, 2018, 1-32; Martha Ross and Nicole Bateman, "Disability Rates among Working-Aged Adults are Shaped by Race, Place, and Education," Brookings Institution, May 15, 2018, <https://www.brookings.edu/articles/disability-rates-among-working-age-adults-are-shaped-by-race-place-and-education/>; Catherine A. Okoro, NaTasha D. Hollis, Alissa C. Cyrus, and

Families or TANF, but before 1996, Aid to Families with Dependent Children, or AFDC) are more likely to have a disability than women of similar age and family status, and those that have disabilities have a more difficult time leaving welfare than able-bodied mothers.¹⁷

But women like Marsha Motipersad – Black, older, poor, afflicted with chronic heart disease – are hardly the disabled citizen-subject of civil rights political discourse. Their omission reveals the limits of what feminist disability scholar Lezlie Frye calls “the era of inclusion.” Stretching from the 1970s to the 1990s, that era saw the consolidation of “legitimate and illegitimate forms of disability.”¹⁸ While the former indicated a disabled citizen deserving of rights within a multicultural democracy, the latter suggested a degenerate being, one whose deviance challenged the imperative of liberal egalitarianism. That being – the illegitimate form of disability – finds its fullest expression in the “welfare queen,” whose deceit, criminality, and unbridled sexuality point to her hyper able-bodiedness, even as her addiction, poverty, and

Shannon Griffin-Blake, “Prevalence of Disabilities and Health Care Access by Disability Status and Type among Adults—United States, 2016,” *Morbidity and Mortality Weekly Report* 67, no. 32 (2018): 882-887; Lena K. Makaroun, Rebecca T. Brown, L. Grisell Diaz-Ramirez, Cyrus Ahalt, W. John Boscardin, Sean Lang-Brown, and Sei Lee, “Wealth-Associated Disparities in Death and Disability in the United States and England,” *JAMA Internal Medicine* 177, no. 12 (2017): 1745-1753; Elizabeth A. Courtney-Long, Sebastian D. Romano, Dianna D. Carroll, and Michael H. Fox, “Socioeconomic Factors at the Intersection of Race and Ethnicity Influencing Health Risks for People with Disabilities,” *Journal of Racial and Ethnic Health Disparities* 4 (2017): 213-222.

¹⁷ Michele Adler, “Health and Disability Status of AFDC Families,” Assistant Secretary for Planning and Evaluation, Office of Disability, Aging, and Long-Term Care Policy, U.S. Department of Health and Human Services, 1988, https://aspe.hhs.gov/sites/default/files/migrated_legacy_files/41566/afdc.pdf; Pamela J. Loprest and Gregory Acs, “Profile of Disability Among Families on AFDC,” Urban Institute, August 1, 1996, <https://www.urban.org/sites/default/files/publication/67211/406491-Profile-of-Disability-Among-Families-on-AFDC.pdf>; Marcia K. Meyers, Henry E. Brady, and Eva Y. Seto, “Expensive Children in Poor Families: The Intersection of Childhood Disabilities and Welfare,” Public Policy Institute of California, 2000, https://www.pplic.org/wp-content/uploads/content/pubs/report/R_1000MMR.pdf; David C. Stapleton, David C. Wittenburg, Michael E. Fishman, and Gina A. Livermore, “Transitions from AFDC to SSI before Welfare Reform,” *Social Security Bulletin* 64, no. 1 (2002): 84-114; U.S. Commission on Civil Rights, “A New Paradigm for Welfare Reform: The Need for Civil Rights Enforcement,” August 2002, <https://www.usccr.gov/files/pubs/prwora/welfare.htm>.

¹⁸ Lezlie Frye, “Crippling the ‘Crack Baby’ Epidemic: A Feminist Disability Genealogy of Welfare Reform,” *Feminist Formations* 34, no. 2 (Summer 2022): 69-98, especially 81.

unemployment appear as impairments of her own making.¹⁹ To recognize Motipersad as disabled, therefore, is to trouble the categorical distinction between “people with disabilities” and “welfare recipients” that has long animated official public policy. This paper explores how that distinction crystalized as disability rights became institutionalized.

The Plan of the Paper

This paper proceeds in two parts. Part One situates the disability rights movement within a larger political context. Drawing on Desmond King and Rogers Smith’s theory of racial institutional orders, it shows disability rights was concretized into statutory law because it was incorporated into the larger civil rights movement during the 1980s. While Section 504 existed, it took the institutional linkages between disability and race, facilitated by the Leadership Conference, to lay the groundwork for the ADA and to give the ADA the enforcement power it currently has. Yet the fact that disability rights became ingrained within the civil rights coalition and civil rights law reveals the ebbing of the quest for racial egalitarianism that was at the heart of the “long civil rights movement.” Disability rights advanced because activists were able to distinguish people with disabilities from African Americans.

Part Two builds on the analysis in Part One using Vivian Schmidt’s framework of discursive institutionalism. By linking disability rights to social welfare policy, the section shows that the discourse of disability rights was, if not anti-Black, at least exclusionary of people of color, and thereby represented a break with, rather than a continuation or culmination of the

¹⁹ Moya Bailey and Izetta Autumn Mobley, “Work in the Intersections: A Black Feminist Disability Framework,” *Gender and Society*, 33, no. 1 (2019): 19-40. Bailey and Mobley argue that Black people, particularly women, are often regarded as too able-bodied, too strong, to be affected by pain and trauma.

minority model that had long animated disability rights activism. This discourse had both a communicative function, fostering unity around a politicized disabled identity, and a coordinative function, signaling to elites the kinds of policy reforms that would best realize equality for people with disabilities. By positing civil rights as the antithesis of welfare rights, disability rights activism facilitated the emergence of multicultural neoliberalism, which found expression in the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Race neutral on its face, PRWORA presented formal labor as equality and freedom for low-income women, echoing many of the arguments disability rights activists had made for the ADA. If Congress thought of the “Americans with Disabilities Act as welfare reform,” to borrow Samuel Bagenstos’s apt formulation, I find it fruitful to apply a disability lens to racialized poverty and to ponder welfare reform as disability rights.²⁰

By grounding the discourse and politics of disability rights within an institutional framework, I integrate disability into the wider research agenda of political science. Scholars of disability politics and policy typically adopt a top-down approach to explaining how the ADA came to be – and before it, Section 504 – leaving themselves simply stating that disability rights built on Black civil rights without explicating the tensions inherent in those two “minority movements.” They repeat that same siloing of disability from race that critical race theorists warn against.²¹ Instead, I reach out to critical disability studies. By centering the work of activists rather than elected leaders, congressional staffers, and bureaucratic insiders, I follow Sami

²⁰ Bagenstos, “The Americans with Disabilities Act as Welfare Reform,” 921-1027.

²¹ For examples of this approach, see Richard K. Scotch, *From Good Will to Civil Rights: Transforming Federal Disability Policy*, Philadelphia: Temple University Press, 2001; Skrentny, *The Minority Rights Revolution*. But at least these historians and sociologists pay attention to disability. For their part, political scientists have scarcely touched disability. Rogers Smith surmises that the tendency of political scientists to study elites leaves them ill-equipped to see race as worthy of scholarly attention; when political scientists study race as a variable among mass publics, they tend to frame questions in terms of race relations. I suspect a similar dynamic is at work with respect to disability. See Rogers M. Smith, “The Puzzling Place of Race in American Political Science,” *PS: Political Science and Politics* 37, no. 1 (2004): 41-45.

Schalk and Jina Kim's advice to examine "disability as a relationship to power that intersects with and is mutually constituted by race, gender, class, and sexuality."²²

Part One

Conventional wisdom presents disability rights as the obvious blossoming of Black civil rights, rendering straightforward the addition of disability rights organizations into the national constellation of civil rights interest groups. That perspective, however, obscures tensions between the priorities of African American civil rights leaders and other groups claiming the mantle of civil rights. It also presents Black gains as much more durable than they actually are. By contrast, this section underscores the extent to which the weaknesses within the coalition supporting racial egalitarianism created opportunities for disability groups to enter formally into the civil rights alliance. In addition, the attack on race-based civil rights became an occasion for that coalition to push forward disability rights, institutionalizing it into federal statutory law. Disability rights, I argue, simply could not, would not, have become as firmly established had it not piggybacked on Black civil rights. These two mechanisms, political alliance and statutory codification, brought disability rights into the larger political and legal edifice of civil rights, without necessarily aligning it with Black equality.

In contextualizing the politics of disability rights, I find Desmond King and Rogers Smith's concept of the racial institutional order helpful. According to King and Smith, racial political orders are stable coalitions of political institutions, organizations, and actors that are held together by shared beliefs about race and common aims with respect to race relations.

²² Sami Schalk and Jina B. Kim, "Integrating Race, Transforming Feminist Disability Studies," *Signs: Journal of Women and Culture and Society* 46, no. 1 (2020): 31-55, 39.

Political leaders maintain these coalitions by pursuing governing agendas that distribute authority, resources, and prestige along racial lines. They consolidate their aims through the enactment of public policies, rules, processes, and other arrangements that maintain political power and manage shifts in the exercise of that power, even in issues that go beyond race, such as urban policy, immigration, and the internal organization of Congress. In the United States, competition between two such orders, one committed to White supremacy and the other to racial egalitarianism, have informed the nation's conflicts over other forms of social hierarchy and profoundly shaped the terms of civic membership across time. While the forces of White supremacy controlled U.S. politics for first decades of the 20th century, a governing coalition committed to racial liberalism emerged in the aftermath of World War II, fundamentally altering the New Deal political alignment. The rise of the New Right in the late 20th century led to a politics of anti-transformation; the opponents of civil rights were no longer openly White supremacists – they at least felt compelled to pay lip service to “colorblindness” – but they had the power to block policies to promote greater racial – and with it – economic equality.²³

By underscoring that which is politically durable over time, the racial institutional order induces us to look beyond the day-today tumult of political contests to discern the larger political forces at work. Thus, despite Ronald Reagan's election, the 1980s saw a flurry of civil rights statutes passed. The Voting Rights Act of 1982 (1982 VRA), the Civil Rights Restoration Act of 1987 (CRRRA), the Fair Housing Amendments Act of 1988 (FHAA), and the Civil Rights Act of 1991 (1991 CRA) were major omnibus civil rights bills passed despite the opposition of

²³ Desmond S. King and Rogers M. Smith, “Racial Orders in American Political Development,” *American Political Science Review* 99, no. 1 (2005): 75-92. A racial order is one of many possible ideological orders that coexist within a polity. While internally coherent, friction and tensions between them give rise to opportunities for change. See Robert C. Lieberman, “Ideas, Institutions, and Political Order: Explaining Political Change,” *American Political Science Review* 96, no. 4 (December 2002): 697-712.

Presidents Reagan and George H. W. Bush. Congress also passed civil rights laws specific to the rights of people with disabilities: the Voting Access for the Elderly and Handicapped Act of 1984 (VAEHA), the Air Carriers Access Act of 1986 (ACAA), the Individuals with Disabilities Education Act of 1990, and of course the ADA. Two of these statutes, the Civil Rights Restoration Act and the Civil Rights Act of 1991, were especially significant because they brought the remedies for disability-based discrimination in line with those for race-based discrimination, thus formally treating disability as analogous to race. Even though disability rights seemed imperiled at the start of the decade, activist and lobbyist Patrisha Wright concluded that the 1980s proved to be “the golden age of disability rights legislation.”²⁴

That “golden age,” however, took place while the larger civil right agenda was waning. In fact, one book characterized the civil rights trajectory during the 1980s as “winning while losing.”²⁵ This section takes up the paradox of disability rights “winning” while civil rights lost and explains, not only why this was possible but how it came to be.

The challenges the Leadership Conference confronted in the 1970s and 1980s are indicative of how civil rights organizations met the threat that an anti-transformative racial order posed to Black progress. After the enactment of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, Conference leaders wanted to keep the Conference intact but struggled to maintain enthusiasm among coalitional partners as the work of civil rights shifted from visible legislative wins to the administrative enforcement of much more divisive policies like busing and affirmative action.²⁶ As the participation of labor unions and Black fraternal organizations

²⁴ Jaipreet Virdi, “ADA Turns 30,” All of Us series, Disability History Association, July 27, 2020, <http://allofusdha.org/editorial/ada-turns-30-2/>.

²⁵ Derrick E. White and Kenneth Osgood. *Winning While Losing: Civil Rights, the Conservative Movement and the Presidency from Nixon to Obama*, Gainesville, FL: University Press of Florida, 2014.

²⁶ Gelbman, *The Civil Rights Lobby*, 110-128.

dwindled, the shifting civil rights agenda introduced friction into a coalition that had operated by consensus and relied on voluntary financial contributions and borrowed staff from the NAACP and other member groups. The Conference needed to maintain amity among its member but found that new members risked new conflicts.

An example is the way the Conference reckoned with women's rights. In 1973, the National Organization for Women (NOW), a coalitional member, balked at honoring Rep. Emanuel Celler (D-NY) and Rep. William McCulloch (R-OH) at the LCCR annual meeting. While these lawmakers had championed Black civil rights, NOW objected that they had opposed the Equal Rights Amendment, and it considered picketing the Conference's 1973 annual meeting. After much back and forth between NOW president Wilma Scott Heide and Conference chair Roy Wilkins, the dispute ended when Helen Claytor of the Young Women's Christian Association brusquely reminded Heide that to "equate 'women's rights' with the Equal Rights Amendment" showed "a lack of historical perspective." Moreover, the LCCR's priority, she argued, was necessarily racial equality "while also continuing the fight against sexism and other forms of oppression" and Celler and McCulloch had certainly earned recognition in that regard.²⁷ The following year, the LCCR's executive committee rejected a membership application from the National Abortion Rights Action League (NARAL) because some coalition members, many religious groups, did not view abortion as a civil right.²⁸ Between 1971-1974, the executive

²⁷ Minutes of the General Board Meeting of the Leadership Conference on Civil Rights, January 29, 1973, 1-2; General Board Meeting of the Leadership Conference on Civil Rights, Transcript, January 29, 1973, 14-21; Letter from Roy Wilkins, LCCR, to Wilma Scott Heide, NOW, January 2, 1973, Letter from Wilma Scott Heide, NOW, to Roy Wilkins, LCCR, n.d.; LCCR, "NOW's Objection to Honoring Emanuel Celler and William McCulloch," January 29, 1973; Letter from Lucy Wilson Benson, League of Women Voters, to Wilma Scott Heide, NOW, January 23, 1973; Letter from Helen J. Claytor, Young Women's Christian Association (YWCA) to Wilma Scott Heide, NOW, January 17, 1973, Part I: Box 18, Folder 5, Leadership Conference on Civil Rights Records, Manuscript Division, Library of Congress, Washington, D.C. (hereafter LCCR).

²⁸ Letter from Baynard Rustin, LCCR, to Robert W. McCoy, National Abortion Rights Action League, December 3, 1974, Part I: Box 9, Folder 5, LCCR.

committee deliberated off and on whether to support adding gender discrimination to the titles of the Civil Rights Act that did not already mention it and whether to endorse the Equal Rights Amendment. Even the inclusion of women into affirmative action created strain, as supporters of Black civil rights worried that White women, because of their sheer numbers, would take jobs and government contracts from people of color.²⁹

By 1980, the Leadership Conference had reached a crossroads. It faced a yawning budget deficit, one that it could not hope to close with voluntary contributions and member dues. Its chair Clarence Mitchell feared that the Conference did not have enough resources even to pay the salary of its meager secretarial staff through the end of the year. With the Conference getting requests to weigh in on everything from urban renewal to the effect of inflation on the poor, he grew concerned that coalition members did not agree on which issues were central to the civil rights agenda or the role of the Conference in furthering that agenda.³⁰ Executive committee member William Taylor agreed that the coalition was insufficiently organized around key civil rights priorities. He worried that organizations joined the coalition to further their individual goals rather than those of civil rights. He wrote to Mitchell: “With endorsement from the Leadership Conference, issues that are regarded as merely the agenda of limited interest groups may then be perceived as concerns of a broader public, including civil rights, labor, and religious organizations.” For liberal causes, Conference support is “a kind of ‘good housekeeping seal of

²⁹ Minutes of the meeting of the National Board Annual Meeting, January 25, 1971, 12-15, Part I: Box 18, Folder 5; Letter from Marvin Caplan, LCCR, to Jean W. Whittet, Public Policy Center for the National Board of Young Women’s Christian Association, January 4, 1974, Part I, Box 9, Folder 1; Letter from Marvin Caplan, LCCR, to Sister Ann Gillen, National Coalition of American Nuns, February 1973; Letter from Roy Wilkins, LCCR, to Sister Margaret Ellen Traxler, National Catholic Conferences for Interracial Justice, February 6, 1973, Part I: Box 8, Folder 5; Jacqueline Trescott, “Mr. Rights: ‘You Saw It Alive,’” *Washington Star-News*, January 30, 1974, Part II: Box 1, Folder 7, LCCR.

³⁰ Memo from Sandy Newman, Center for Law and Social Policy, to LCCR Retreat Planning Committee, “Fund-Raising Problems and Generation of Grass-Roots Efforts,” October 29, 1980, Part II, Box 15, Folder 2; Letter from Clarence Mitchell and Aron Aronson, LCCR, to Frank Bowe, ACCD, October 31, 1979, Part I: Box 11, Folder 4, LCCR.

approval.”³¹ More importantly, however, Mitchell anticipated a changing of the guard. The Leadership Conference had been founded by three icons of civil rights: Roy Wilkins of the NAACP, A. Philip Randolph of the Brotherhood of Sleeping Car Porters, and Arnold Aronson of the National Community Relations Advisory Council (today the Jewish Council for Public Affairs). As the chief lobbyist for the NAACP, Mitchell had joined the Conference to coordinate legislative strategy during congressional debate over the Civil Rights Act and the Voting Rights Act in 1964-1965. When the LCCR’s long-serving chair Roy Wilkins stepped down in 1977, he had passed the chair onto Mitchell, and by 1980, Mitchell was ready to retire. But he was loathe to leave the Conference in disarray. The election of Ronald Reagan to the White House in November lent further urgency to Mitchell’s desire to remake the Conference for a new, more difficult era.³²

In March 1981, Mitchell convened an emergency retreat with representatives from all member organizations. “I regard this as one of the most important meetings we have held,” he wrote in his appeal for attendance. On the agenda were questions fundamental to the coalition’s survival: what to do about the New Right, how to handle issues that divided members, how to formulate policy and set priorities, how to build a grassroots base for civil rights, and how to stabilize the LCCR’s finances.³³ Over 80 participating organizations sent representatives to the emergency retreat.³⁴ There members agreed that the Conference could no longer operate through informal consensus and volunteered staff time if it were to defend the civil rights gains from the

³¹ William L. Taylor, Center for National Policy Review, “Background Memorandum for LCCR Retreat,” **DATE**, 2, Part II, Box 15, Folder 2, LCCR.

³² On the challenges that Reagan posed to civil rights administration and enforcement, see Kenneth Osgood and Derrick E. White, “The Paradox of Success: Civil Rights and the Presidency in a New Era,” in eds. Osgood and White, *Winning While Losing*, 1-25, 5-18.

³³ Letter from Clarence Mitchell to the LCCR Executive Committee, October 14, 1980; Letter from Clarence Mitchell to Heads of Member Organizations, “For Immediate and Urgent Attention; Emergency Meeting, December 9 and 10,” n.d., Part II: Box 15, Folder 2, LCCR.

³⁴ “Representatives who Attended March 4th Emergency Meeting,” n.d., Part II: Box 15, Folder 7, LCCR.

Reagan assault. The Conference, they argued, needed a permanent professional staff, including an executive director to implement the strategic vision laid out by the chair and the executive committee. Members also agreed that the coalition needed a clear set of civil rights priorities, and they set as one of the first tasks of the newly hired executive director the reorganization of the executive committee so that members could more effectively formulate those priorities. Fearing that the LCCR's focus on legislative lobbying had left it "too Beltway," they proposed connecting to state and local organizations that could be mobilized to contact members of Congress when needed. They created plans for a newsletter, replete with human interest stories on civil rights, to communicate with the interested public. Lastly, they raised the annual dues paid by member organizations, created plans for expanding membership, and pledged to raise money from foundations, corporations, and law firms to build the Leadership Conference into a clearinghouse and lobbying powerhouse for civil rights.³⁵

To guide the coalition, the Leadership Conference hired as its first executive director Ralph Neas, a former legislative aide to Rep. Ed Brooks (R-Mass.) and Sen. David Durenberger (R-Minn.). Neas was an unlikely choice for an organization that had heretofore been steered by Black and Jewish leaders. Neas was well-aware that his hiring marked a turning point for the storied organization. "I'm white, male, Republican, and Catholic, which is 0-for-4," he once quipped.³⁶

³⁵ Letter from Clarence Mitchell to Heads of Member Organizations and Draft Agenda for the LCCR Retreat, n.d., Part II: Box 15, Folder 2; "Summary of the March 4 Emergency Meeting," n.d., Part II: Box 15, Folder 5; Emergency Meeting, March 4, 1981, Typed Notes, Part II: Box 15, Folder 5. Fundraising was a major initiative of Neas', and he was largely successful. Annual Report of the Ex Director, January 23, 1983, 13, Part III: Box 35, Folder 7, LCCR, reporting that approximately 30 corporations and law firms had donated to the LCCR's annual meeting.

³⁶ *Regardie's The Power Elite*, 77, January 1990, Part III: Box 35, Folder 1, LCCR. Regardie's compilation of "the one hundred most influential people in private Washington."

Neas and the newly elected Conference chair Benjamin Hooks of the NAACP assumed the helm of an organization unsure of how best to confront White backlash. But Neas came with a savvy understanding of politics and the brashness to take on the Reagan administration. In his first address to the annual meeting of Conference partners, barely weeks into his job, Neas acknowledged the growing strength of the New Right, but promised to tackle it head on. “We must fight fire with fire,” he told the attendees. “We have to show everyone that we are not just 150 Washington lobbyists. We have to show them that we also represent millions of informed and active citizens.”³⁷

In the decade that followed, Neas and Hooks built the Leadership Conference into a formidable grassroots and lobbying organization. The Conference grew from roughly 150 member organizations, not all of them active or dues-paying, to over 200 groups claiming a civil rights platform. Just as significant was the changing composition of the civil rights umbrella, as Neas reached out to groups representing Latinos, senior citizens, and people with disabilities. Neither did the LCCR shy away from a fight. It successfully contested President Reagan’s appointment of assistant attorney general William Bradford Reynolds to a senior post at the Department of Justice and led the campaign to defeat Reagan’s nomination of Robert Bork to the Supreme Court, forever altering the judicial nominating process and winning the Conference – Neas specifically – the accolade of “giant killer” from the national press.³⁸

The political inclusion of people with disabilities became central to the coalition’s reorganization. Part of the reason was undoubtedly Neas’ personal experiences. In February

³⁷ Handwritten notes of the executive director report, April 28, 1981, Part III, Box 35, Folder 8, LCCR.

³⁸ Michael Pertschuk, *Giant Killers*, New York: W.W. Norton, 1987, 27, 149-150, photocopied and included in Part III: Box 35, Folder 2, LCCR. On the LCCR’s skirmishes with the Reagan administration, see Mary Frances Berry, “Ronald Reagan and the Leadership Conference on Civil Rights,” in eds. Osgood and White, *Winning While Losing*, 82-120; Richard L. Pacelle, Jr., “Rebuilding Institutions and Redefining Issues: The Reagan Justice Department and the Reconstruction of Civil Rights,” in eds. Osgood White, *Winning While Losing*, 121-152.

1979, at the age of 32, Neas became afflicted with Gillian-Barre Syndrome (GBS). Within weeks, he was completely paralyzed and unable to breathe without a respirator. He spent nine months in the hospital and, at one point, was so ill that a priest administered him last rites. Once GBS abated, Neas spent two months relearning to walk and rebuilding his fine motor skills. His bout with GBS proved a turning point in his life, one he mentioned frequently in retrospectives of his life.³⁹ When Neas finally returned to Washington, DC, he found a job offer from the Leadership Conference waiting. “Here I just came through an experience where I had been a disabled individual and here was a job that dealt with equal opportunity for disabled people, and victims of discrimination,” he said. “Whatever happened in 1979...there were some reasons for it happening. I learned a lot of lessons and I took the job.”⁴⁰ Though some civil rights activists mistrusted Neas because he was a Republican, disability organizations embraced him. One of Neas’ first acts as executive director was to fly out to San Francisco to meet with activists affiliated with the Disability Rights and Education Defense Fund (DREDF), and within a year, DREDF took the place of the defunct American Coalition of Citizens with Disabilities (ACCD) on the Leadership Conference executive committee.⁴¹

Beyond Neas’ personal identification with disability, however, moving civil rights for people with disabilities to the forefront of the Conference agenda served two strategic goals. First, disability rights furthered plans to hone the LCCR’s priorities in on recognizable civil rights issues. Compared to abortion, which divided the coalition, disability rights was familiar, as

³⁹ Ralph G. Neas, “‘I Could Probably Move My Fingers but Within Days, I’d Probably Be Totally Paralyzed,’” *Washington Post*, January 11, 2016, https://www.washingtonpost.com/national/health-science/i-could-move-my-fingers-but-within-days-id-probably-be-totally-paralyzed/2016/01/11/19e26b92-9dc7-11e5-8728-1af6af208198_story.html?fbclid=IwAR1lxXh3EAV8f_MPEQAlzFgqv12G0aXX_nqcUfl79cWESNhAwnfVz3vLWFU.

⁴⁰ Lois Romano, “Leading the Charge on Bork,” *Washington Post*, September 15, 1987, <https://www.washingtonpost.com/archive/lifestyle/1987/09/15/leading-the-charge-on-bork/520ab31e-c169-4511-8ad1-834036d27990/>.

⁴¹ Wright, *Equality of Opportunity*, 24-25.

disability rights activists had aligned their rhetoric and protest tactics with that of Black civil rights.⁴² African American leaders saw an affinity between their struggle and that of people with disabilities. In his 1978 address to the annual meeting, Clarence Mitchell took time to explain to attendees that the discrimination that people with disabilities faced was just like that which Black people confronted.⁴³ In 1976, shortly after supporting protests of Transbus organized by ADAPT and the ACCD, the Leadership Conference endorsed adding disability to the list of groups covered by the Civil Rights Act.⁴⁴ The following year, the Conference amended its bylaws to add disability to the list of identities in need of civil rights protections, and Reese Robrahn of the American Council of the Blind and the ACCD assumed a seat on the executive committee.⁴⁵

Second, even as disability rights harkened to core civil rights issues, it also served to broaden the appeal of civil rights. By the late 1970s, the Conference became cautious about how it framed civil rights. In the summer of 1979, executive committee member Baynard Rustin warned the Conference against devoting its annual meeting to the topic of the high unemployment rate among young Black men. While acknowledging the severity of joblessness in the Black community, Rustin questioned the wisdom of such a panel given the increasingly

⁴² On the presence of disability rights on the LCCR agenda since the 1970s, see Letter from Roy Wilkins, LCCR, to David Matthews, U.S. Department of Health, Education, and Welfare, September 11, 1975, Part I: Box 9, Folder 8, LCCR, expressing concern for first time about disability issues. See also Letter from Clarence Mitchell, to Ersa Poston, U.S. Civil Service Commission, December 14, 1977, Part I: Box 9, Folder 9, LCCR, regarding discrimination against the disabled in federal hiring. The ACB was recommended for membership in April 1976, and the ACCD in November of that year. See Minutes of the Executive Committee Meeting, April 23, 1976, Part II: Box 15, Folder 8, LCCR. The Executive Committee also discussed Transbus, Section 504, and adding the disabled to the Civil Rights Act and affirmative action, at the April meeting as well as Minutes of the Executive Committee Meeting, March 8, 1979, and Minutes of the Executive Committee Meeting, May 10, 1979, Part II: Box 15, Folder 9, LCCR.

⁴³ Annual Meeting of the National Board, January 30, 1978, Part II: Box 1, Folder 11, LCCR.

⁴⁴ Adding disabled to CRA affirmed as a priority – Letter from Clarence Mitchell, LCCR, to Emanuel Muravchik, Jewish Labor Committee, June 18, 1979, Part I: Box 11, Folder 2; Minutes of the Executive Committee Meeting, September 18, 1980, Part II: Box 15, Folder 9; S. 466, September 1979, to add disabled to the Civil Rights Act and Fair Housing Act, LCCR, Part I, Box 11, Folder 4, 1979, in LCCR.

⁴⁵ LCCR bylaws were amended to add age and handicapped as identities discriminated against in January 1979, in Letter from Ralph G. Neas to Participating Organizations and Friends of the LCCR, regarding 32nd annual meeting and dinner, December 23, 1981, Part II: Box 2, Folder 8; Summary of the 30th annual meeting, LCCR, January 27-28, 1980, Part II, Box 1, Folder 13, LCCR.

conservative mood of the country, most visible in the grassroots taxpayer rebellion sweeping the Western states. “Is black youth unemployment a truly viable political issue in our society?” he asked (emphasis in original). Noting that the annual conference would be held at the start of the 1980 presidential primary season, Rustin urged his fellow coalitional partners to use the annual meeting “to exert some influence on the selection and framing of issues” for the campaign, which they could best accomplish by “framing discussion in broad terms” so as to “recruit[] allies to our cause.”⁴⁶

When Neas assumed the executive director position in 1981, he was determined to put into operation Rustin’s admonition to frame civil rights “in broad terms.” Civil rights legislation, he insisted, must be “bipartisan,” championed by “broad-based and well-organized national lobbying campaigns.” The Conference had to show that the “coalitions we established were not just Washington-based operations.”⁴⁷ Disability helped the LCCR build its grassroots base. When the Reagan administration attempted to roll back the Education for All Handicapped Children’s Act (EAHCA) and Section 504 of the Rehabilitation Act of 1973, the LCCR partnered with parent and disability organizations to defend the laws. A few years later, the LCCR partnered with the National Society for Children and Adults with Autism (NSCA) and the Consortium for Children with Developmental Disabilities (CCDD, today the Consortium for Constituents with Disabilities, CCD) to secure passage of the Handicapped Children’s Protection Act of 1986.⁴⁸ The LCCR’s new newsletter *The Civil Rights Monitor* featured poignant personal

⁴⁶ Baynard Rustin, Memo on “Proposed Conference on Black Youth Unemployment,” to LCCR Subcommittee on Annual Meeting, July 18, 1979, Part II, Box 1, Folder 13; Howard Paster, UAW and Chair of the Program Committee, Memo on “1980 Annual Meeting,” to LCCR Executive Committee, September 13, 1979, Part II, Box 1, Folder 12; Letter from Howard Paster to LCR Annual Meeting Program Committee, July 19, 1979, Part II, Box 1, Folder 12, LCCR.

⁴⁷ Annual Report of the Executive Director, January 23, 1983, 6. Part III, Box 35. Folder 7, LCCR.

⁴⁸ Ralph Neas, LCCR, Victoria Paskin and Liz Savage, Co-Chairs of the CCDD Task Force, Memo on “Handicapped Children’s Protection Act,” to Membership Organizations of LCCR, April 28, 1986, Part II: Box 31, Folder 5, LCCR. The Handicapped Children’s Protection Act overturned the Supreme Court case of *Smith v.*

stories about the adverse impact of the Reagan Revolution on the lives of adults and children with disabilities, allowing the Conference to connect with outside-the-Beltway audiences. Lastly, incorporating disability rights into the civil rights agenda allowed the Conference to maintain its commitment to enacting civil rights laws on a bipartisan basis. Among the moderate Republicans that the Conference turned to for support were Sen. Robert Dole (R-KS), Sen. Durenberger (R-Minn.), Rep. Hamilton Fish (R-NY), Sen. Arlen Specter (R-Penn.), and Sen. Lowell Weicker (R-Conn.).⁴⁹ Disability, in short, allowed a two-pronged strategy of, first, defending current ground held by African Americans and, second, broadening the civil rights appeal beyond people of color to White women, the aged, and the disabled. Dispensing with abortion, the death penalty, and other areas that both stretched the meaning of civil rights and embroiled the coalition in internal divisiveness, the Leadership Conference returned to core planks of civil rights – employment, housing, voting, schooling – and extended these protections to people with disabilities.⁵⁰

The Supreme Court provided the occasion. The Court heard its first Section 504 case in 1979 and, in subsequent cases, had generally limited the reach of 504 protections.⁵¹ But unfavorable Supreme Court decisions on race provided an opportunity for disability rights groups to strengthen Section 504. With the Court rolling back affirmative action, voting rights, and civil

Robinson, 468 U.S. 992 (1984), which struck down attorneys' fees for families that won non-discrimination cases under the Education for All Handicapped Children's Act, even when courts or administrative law judges found that school districts had been in the wrong. See also Karen Tani, "After 504: Training the Citizen-Enforcers of Disability Rights," *Disability Studies Quarterly*, 42, no. 3-4 (2022): <https://dsq-sds.org/index.php/dsq/article/view/7558/7861>.

⁴⁹ Neas' partisan identification and his prior employment as legislative aide to Sen. Edward Brooke (R-Mass.) and Sen. Durenberger helped bridge the divide between parties in the increasingly polarized House and Senate. For a window into Neas' leadership of the LCCR during the Bork nomination, see Lois Romano, "Leading the Charge on Bork," *Washington Post*, September 15, 1987, <https://www.washingtonpost.com/archive/lifestyle/1987/09/15/leading-the-charge-on-bork/520ab31e-c169-4511-8ad1-834036d27990/>.

⁵⁰ At the same time that the LCCR embraced disability rights, it held gay rights at a distance. Brown, Nancy E. *AIDS and the Politics of Disability in the 1980s*. PhD diss., Purdue University, 2019, 212-225.

⁵¹ Western New York Law Center, "Selected Supreme Court ADA/504 Cases," online document at <https://www.wnyle.com/resources/courts/supct.htm>.

rights enforcement, the Leadership Conference mobilized to overturn the Supreme Court's interpretation of statute. Through their participation in these legislative efforts, disability rights groups not only strengthened their ties with other civil rights groups but also succeeded in having disability formally added to civil rights law. The Table following summarizes unfavorable Supreme Court cases regarding civil rights, the legislative response, and the ways in which the legislative response bolstered the statutory rights of people with disabilities.⁵²

The incorporation of disability into federal statute occurred through three different pathways. In the first path, illustrated by the Civil Rights Restoration Act of 1987 and the Civil Rights Act of 1991, disability organizations were part of a broader civil rights coalition, coordinated and led by the LCCR. The impetus for the CRRA was the Supreme Court's ruling in *Grove City College v. Bell* (1984). The case concerned a private college that refused to comply with Title IX of the Higher Education Amendments of 1972, which prohibited gender discrimination. The Department of Education terminated federal assistance to the college, and the college sued. In a 7-2 decision, the Supreme Court ruled that the non-discrimination requirements of Title IX and other civil rights laws applied only to the specific program or office that received financial assistance, the student financial aid program in the case of Grove College, not to the institution as a whole. Because compliance with federal civil rights law was conditioned on receipt of federal assistance, the Leadership Conference and other civil rights groups quickly realized that the *Grove City* ruling jeopardized, not only Title IX, but also Section 504, Title VI of the Civil Rights Act of 1964, and the Age Discrimination in Employment Act of

⁵² An important component of the campaign for disability rights dealt with the educational rights of children – for example, mobilizing opposition to Reagan's plan to gut special education and enacting the Handicapped Children's Protection Act. Not only did the LCCR support these efforts, partnering with parents' groups and mobilizing coalitional members, but parent organizations, namely the CCD, were central to the lobbying efforts leading to the ADA. For the purposes of clarity and brevity, however, I will focus on the rights of adults.

Supreme Court Decision	Legislative Response	Provision Extending Inclusion to People with Disabilities
<i>Mobile v. Bolden</i> , 446 U.S. 55 (1980)	Voting Rights Act of 1982	
	Voting Access for the Elderly and Handicapped Act of 1984	Required that provisions be made so that aged and disabled voters could exercise their right to vote.
<i>Grove City College v. Bell</i> , 465 U.S. 555 (1984)	Civil Rights Restoration Act of 1987	Clarified that non-discrimination provisions under Section 504 apply to a whole institution rather than only the unit receiving federal funds.
<i>U.S. Department of Transportation v. Paralyzed Veterans of America</i> , 477 U.S. 597 (1986)	Air Carriers Access Act of 1986	Extended Section 504 to commercial air carriers even when they do not receive federal funds.
	Fair Housing Amendments Act of 1988	Banned housing discrimination against disabled applicants and required that landlords allow tenants to make architectural modifications they are willing to pay for and to ensure that some housing stock is accessible.
	Americans with Disabilities Act of 1990	Banned discrimination in public accommodations, transportation, communications, and employment.
<i>Patterson v. McLean Credit Union</i> , 491 U.S. 164 (1989) <i>Wards Cove Parking Co. v. Atonio</i> , 490 U.S. 462 (1989) <i>Price Waterhouse v. Hopkins</i> , 490 U.S. 288 (1989) <i>Martin v. Wilkins</i> , 490 U.S. 755 (1989)	Civil Rights Act of 1991	Extended provisions from the Civil Rights Act, which allow for punitive damages, to the Americans with Disabilities Act.

1967. Overturning *Grove City* became the Conference's top legislative priority between 1984-1987, which it successfully did through the CRRA. The CRRA clarified that, for all civil rights laws, not just Title IX, the termination of federal aid applied to an entire institution or organization, not just the specific office or program that discriminated.

The Civil Rights Act of 1991 also grew out of adverse judicial rulings. Four Supreme Court decisions in 1989 shifted the burden of proof, making it more difficult for a victim to prove bias under Title VII of the 1964 Civil Rights Act, and limited the remedies that victims could achieve even after they demonstrated intentional employment discrimination.⁵³ By securing the 1991 CRA, the Leadership Conference was able to turn back some of these limitations. I will say more about the 1991 CRA further down to illustrate how protections against disability-based discrimination were strengthened through their association with race. For now, though, suffice to say that, taken together, the CRRA and the 1991 CRA enhanced the political standing of disability rights. Participating in the broad civil rights coalition lent legitimacy to claims by disability rights activists that the disabled were a minority group, similar to Black people and other people of color. Lawmakers extended statutory protections against race-based discrimination to the disabled even though none of the adverse Court cases were about disability.

The second path by which the disabled were incorporated into federal discrimination protections was through the addition of disability-specific provisions in general civil rights laws. This was the case with the Voting Rights Act of 1982 and the Fair Housing Amendments Act of 1988. Both laws strengthened current civil rights laws while also adding disability to anti-discrimination protections that already existed for people of color, religious minorities, and women. Disability-specific provisions were crucial because, even though activists likened disability to race, the remedies for disability-based discrimination were not same as those for race-based discrimination. Specifically, people with disabilities needed architectural

⁵³ These cases were: *Patterson v. McLean Credit Union*, 491 U.S. 164 (holding employees could not sue for damages in cases of racial harassment); *Wards Cove Parking Co. v. Atonio*, 490 U.S. 462 (holding that employees sue for racial discrimination unless they identify a specific hiring policy or rule and show its discriminatory effect); *Price Waterhouse v. Hopkins*, 490 U.S. 288 (shifting the burden of proof so that it was easier for an employer defend themselves against charges of racially discriminatory hiring); and *Martin v. Wilkins*, 490 U.S. 755 (permitting Whites to challenge consent decrees designed to rectify clear cases of racial discrimination).

modifications and other accommodations in order to access public spaces; such accommodations were not relevant in cases of race-based discrimination. The lobbying and debate over the VRA 1982 and the FHAA gave the Leadership Conference and allied organizations an opportunity to haggle out the statutory language defining disability and accommodations long before congressional debate over the ADA opened.

Voting rights illustrates this dynamic. One of the earliest battles between the Leadership Conference and the Reagan White House was renewal of the Voting Rights Act of 1965, through which the Conference hoped to overturn the Supreme Court's ruling in *Mobile v. Bolden* (1980). Black residents of Mobile, Alabama, argued that the practice of electing city commissioners at-large diluted the city's Black vote. By a 6-3 margin, the justices held that to show a violation of voting rights, an appellant had to demonstrate that a political jurisdiction intended to engage in racial discrimination; an election rule that was race neutral on its face was not unconstitutional absent proof of discriminatory motivations. Calling the VRA 1982 a "top legislative priority," Neas planned to target moderate Republicans to put them on record in support of civil rights and, in his words, "make [requiring a showing of] intent synonymous with being anti-civil rights."⁵⁴ Although the primary impetus for the 1982 VRA was to extend the original Voting Rights Act and overturn *Mobile*, the law also amended Section 2 to allow individuals with a disability or blindness or who could not read or write to receive assistance in voting. Having established the statutory precedent of voting accommodations, Congress expanded it two years later through the Voting Access for the Elderly and Handicapped Act of 1984, which required that polling and voter registration sites be fully accessible.

⁵⁴ Minutes of the LCCR Executive Committee Meeting, November 18, 1981, 4, Part III: Box 7, Folder 6, LCCR.

The 1982 VRA was one of the LCCR's first lobbying campaigns during the Reagan administration. The law's enactment validated the Conference's reorganized structure, its newly developed grassroots base, and its new executive director.⁵⁵ Ecstatic, Neas called the victory "a vivid demonstration of coalition politics."⁵⁶ "In the coming months and years," he urged, "it will be our responsibility to apply the knowledge and experience gained from our recent successes to other civil rights issues."⁵⁷

The Conference began exercising its responsibility almost immediately. Emboldened by its victory in voting rights, the Leadership Conference next set its sights on another pillar of civil rights law: the Fair Housing Act, where Neas pledged to bring the same intensity and tactics that he had deployed in the fight for voting rights.⁵⁸ With the FHAA, the Leadership Conference wanted to strengthen the enforcement provisions of the original Fair Housing Act, allowing victims of discrimination the right to seek redress before an administrative law judge or federal district court.⁵⁹ But the Conference also used this opportunity to broaden the appeal of civil rights beyond race. The law, therefore, extended anti-discrimination protections to families with dependent children and to people with disabilities. Significantly, the law barred landlords and condominium associations from preventing a disabled tenant from making modifications to a unit if they were willing to do so at their own expense. It also required housing providers to ensure that some units in newly constructed buildings were accessible and to make reasonable exceptions to general rules and practices for people with disabilities, such as allowing blind tenants to keep a guide dog despite policies banning pets. Because it applied to private landlords,

⁵⁵ Annual Report of the Executive Director, February 21, 1982, 4, Part III: Box 35, Folder 7, LCCR.

⁵⁶ Minutes of the LCCR Executive Committee Meeting, July 29, 1982, Part III: Box 7, Folder 7, LCCR.

⁵⁷ Annual Report of the Executive Director, January 23, 1983, 6, Part III: Box 35, Folder 7, LCCR.

⁵⁸ Minutes of the LCCR Executive Committee Meeting, July 29, 1982, 3, Part III: Box 7, Folder 7, LCCR.

⁵⁹ Annual Report of the Executive Director, January 23, 1983, 6, 8, Part III: Box 35, Folder 7, LCCR.

whether or not they accepted federal housing assistance, the FHAA represented the first time that people with disabilities were protected from discrimination in non-federally funded programs, an important precursor to the ADA.⁶⁰

A third approach to incorporation was the enactment of stand-alone bills: the Voting Access for the Elderly and Handicapped Act of 1984, the Air Carriers Access Act of 1986, and the ADA of 1990. Each of these had different origins. Although voting accessibility had been addressed in the 1982 Voting Rights Act, almost as soon as the law was enacted, Rep. Hamilton Fish and Sen. Durenburger introduced the Voting Access for the Elderly and Handicapped Act, which mandated, not just assistance with voting, but accessible spaces during federal elections and voter registration.⁶¹ Like the 1982 VRA and the CRRRA, the Air Carriers Access Act of 1986 was motivated by an adverse Supreme Court ruling. In *U.S. Department of Transportation v. Paralyzed Veterans of America* (1986), the justices held that Section 504 did not apply to private commercial airlines because they did not directly receive federal assistance. Sen. Dole promptly authored and introduced the ACAA to clarify Section 504's reach. A final law, the ADA, accomplished the LCCR's goal of extending civil rights protections to people with disabilities. But the ADA did not originate with the Leadership Conference, its congressional allies, or disability organizations aligned with the liberal civil rights community. Instead, it was drafted by the National Council on Disability, which was controlled by Reagan appointees.⁶² Once the NCD

⁶⁰ Jean Flatley McGuire, "Organizing from Diversity in the Name of Community: Lessons from the Disability Civil Rights Movement," *Policy Studies Journal* 22, no. 1 (1994): 112-122.

⁶¹ Annual Report of the Executive Director, January 23, 1983, 9, Part III: Box 35. Folder 7, LCCR, naming the Durenburger-Fish bill, the VAEHA, a priority for next Congress to "eliminate the innumerable barriers that thirty-five million elderly and disabled Americans face when they attempt to exercise their fundamental right to vote."

⁶² Wright, *Equality of Opportunity*, 40-41, 45-47.

released its draft, however, the Leadership Conference dropped its plans for adding disability to the Civil Rights Act and endorsed the ADA.⁶³

In sum, it would be a mistake to view the enactment of the ADA as politically sui generis. Advances made along all three pathways laid the foundation for the ADA long before the NCD released its draft bill. In particular, the Civil Rights Restoration Act and the Fair Housing Amendments Act were key to the success of the ADA, and together all three remade the rights of people with disabilities by extending Section 504's mandate from entities receiving federal funds to whole institutions, to entities not receiving federal funds, and finally to businesses open to the general public, the transportation sector, communications, and employment.⁶⁴ Politically, the battle for the 1982 VRA and the CRRA between 1984-1988 brought disability organizations firmly into the LCCR's coalition and established networks of strategic communication and coordination. Symbolically, the CRRA placed the disability-based protections in Section 504 on equal footing with race-based protections. Meanwhile, the 1982 Voting Rights Act, the Voting Access for the Elderly and Handicapped Act, the 1986 Air Carriers Access Act, and the fair housing amendments gradually introduced questions of accommodations to members of Congress such that, by the time the ADA was introduced in 1988, these were not new. Lawmakers had already considered, even if they had not fully resolved, what constituted reasonable accommodations and how the costs of these would be paid.

A final link between race and disability aided the advancement of disability rights. Enacted in response to four Supreme Court cases in 1989 that weakened the ability of victims of

⁶³ On executive committee prioritizes voting rights for the disabled, see Minutes of the LCCR Executive Committee Meeting, April 27, 1983, Part II: Box 16, Folder 7; On the LCCR endorses the ADA as a legislative priority, see Benjamin Hooks and Ralph G. Neas, Memo on "LCCR Celebrates its 39th Anniversary as the Nation's Oldest and Largest Coalition," to LCCR Friends, May 9, 1989, Part II: Box 4, Folder 8, LCCR.

⁶⁴ McGuire, "Organizing from Diversity in the Name of Community," 112-122.

racial discrimination to seek legal relief, the 1991 CRA made the ADA more forceful. As enacted, the ADA did not allow individuals who experienced employment discrimination to sue for punitive damages. But the 1991 CRA brought the ADA in line with the Civil Rights Act of 1964. It amended Title VII of the 1964 Civil Rights Act to clarify that damages were available as a remedy for intentional discrimination. It also reimbursed plaintiffs for their legal fees and reasserted the traditional rule that courts should broadly construe federal civil rights law. Most significantly for the disabled, the law made all protected classes – women, people with disabilities, and the aged – eligible for the same right to recover damages and attorneys’ fees. By linking disability, gender, and age to race-based discrimination, the 1991 CRA made laws barring other forms of discrimination much more robust than they otherwise would have been.

Part Two

In 1990, looking back on the previous decade, Neas celebrated what he saw as the LCCR’s most significant victories: the defeat of Robert Bork, the Civil Rights Restoration Act, legislation providing redress to Japanese Americans who were interned during World War II, the fair housing amendments, and the ADA.⁶⁵ These successes, he proclaimed, were “a bipartisan reaffirmation of civil rights and a bipartisan rejection of right-wing philosophy.”⁶⁶ At other moments, however, he was much more clear-eyed about the prevailing racial order. Presidents Reagan and Bush, Neas admitted, had compelled “the nation to refight the civil rights battles that had been won during the 1960’s and 1970’s,” leading Congress and the Conference to “devote an

⁶⁵ Ralph G. Neas, “The Civil Rights Legacy for Reagan Years,” *USA Today Magazine*, March 1990, 2, Part III: Box 35, Folder 3, LCCR.

⁶⁶ Wright, *Equality of Opportunity*, 36.

inordinate amount of time, energy, and resources in waging these rearguard actions.”⁶⁷

Notwithstanding his “kinder, gentler” conservatism, Bush was no champion of civil rights, a point he made clear when, just three months after signing the ADA into law, he vetoed the 1990 Civil Rights Act, calling it a “quota” bill.⁶⁸

What the Leadership Conference and the disability community accomplished during the 1980s was truly extraordinary, yet these accomplishments simultaneously reveal the fragility of civil rights. Unable to override Bush’s veto and gearing up for another fight the following Congress, the Leadership Conference strategically reframed civil rights. Recall that the purpose of the Civil Rights Act was to overturn four Supreme Court decisions in 1989 that had restricted the ability of victims of racial discrimination to sue. Neas, however, downplayed the racial aims of the bill. “Civil rights is not only a matter of the rights of blacks,” said Neas after Bush’s veto. “It’s a matter of the rights of women, of the disabled, of other minorities.”⁶⁹ Congressional Democrats agreed. Said Rep. Jack Brooks (D-Tex.), chair of the House Judiciary Committee and the bill’s sponsor: “If they [employers] flagrantly harass you and mistreat you in your job, a white woman, there is no compensation.” Brooks went further to imply the gendered and racial hierarchy at work: “Even if...your boyfriend or husband is upset, you get nothing for it. But if you are black, you could get punitive damages for flagrant harassment.”⁷⁰ The subtext was clear: African Americans should not have rights that were denied to Whites.

⁶⁷ Ralph Neas, “1981-1992: Gridlock on Civil Rights Legislation – Not!” January 1993, 9, Part III, Box 9, Folder 1 < LCCR

⁶⁸ Press Release, from Ralph Neas to Members of the Press, “Summary of President George Bush’s Record on Civil Rights,” August 13, 1992, 1, Part III, Box 9, Folder 8, LCCR. The ADA was signed in July and the veto of the Civil Rights Act occurred in October.

⁶⁹ Arch Parsons, “Ralph Neas Gears Up for Another Try at Gaining Enactment of Civil Rights Bill,” *Baltimore Sun*, January 20, 1991, <https://www.baltimoresun.com/news/bs-xpm-1991-01-20-1991020010-story.html>.

⁷⁰ Joan Biskupic, “New Struggle Over Civil Rights Brings Shift in Strategy,” February 9, 1991, *CQ*, 366-370, quote on 367, reprint found in Part III: Box 35, Folder 1, LCCR.

A similar discursive racial positioning took place regarding disability. This section unearths the racial politics of the ADA by examining the discourse of the ADA and grounding it in an institutionalized context. Discourse, Vivian Schmidt reminds us, is not simply free-flowing words or floating ideas; rather, these words and ideas are attached to power and deployed for specific purposes. Two forums of discourse matter for policymaking: the coordinative discourse among policymakers, and the communicative discourse between political actors and mass or interested publics. Somewhat technical and relatively insular, coordinative discourse is a conversation among the elites who design, expound upon, and rationalize the details of policies and programmatic ideas through legislation and administrative rules. When officials in the Bush White House, lawmakers, and the Leadership Conference and other disability rights lobbyists discussed what constituted a disability under the ADA, what kinds of accommodations would be considered “reasonable,” and what the penalties would be for violating the ADA, they took part in coordinative discourse. Communicative discourse, by comparison, is a cacophony, in which elected officials, the mass media, issue advocates, party leaders, and influencers of all sorts interact with the wider public to persuade and educate citizens about a particular political position.⁷¹ An example of communicative discourse is the Leadership Conference’s newsletter *The Civil Rights Monitor*. The Conference launched the newsletter to counter the discursive advantages of the Reagan White House, informing the interested public about upcoming civil rights legislation and rallying grassroots activists and concerned citizens, as needed.

Sitting at the nexus of coordinative and communicative discourses, citizen-based advocacy organizations like the Leadership Conference and its affiliated organizations connect the public to governing institutions, political processes, and public policies. In the corridors and

⁷¹ Schmidt, “Discursive Institutionalism,” 310-311.

meeting rooms of Washington, DC, they speak on behalf of their constituents to elected and administrative officials, cultivate coalitional partners, and introduce emerging cultural and social ideas into political debate. But they also bring politics to their constituents. They educate their constituents about policies and the operations of government, signal to them which issues are relevant to their interests, and provide a conduit for constituents to articulate their demands to government.⁷² By bringing coalitional partners together at the Executive Committee's monthly meetings, Leadership Conference aligned its coordinative and communicative realms. At those meetings, partners arrived at their yearly legislative priorities, harmonized their public messages, and negotiated potential conflict. LCCR officials liked to say that the Conference was strongest when it spoke with one voice; its monthly meetings were a chance to find that one voice and devise a strategy for conveying it to the public and political leaders.

Although disability is on its face race-neutral, it is situated within a larger racial institutional order. Within this order, discourse shores up the governing coalitions organized around racial aims. It emanates from authoritative bodies for political purposes and becomes concretized into programmatic rules and procedures to distribute power, privileges, and resources according to racial ends. I find it useful to think of disability rights discourse situated within a racial order, deployed to achieve communicative and coordinative purposes, in order to make sense of so much of what ADA supporters said, such as their vehement aversion to "dependency." Law professor Samuel Bagenstos has thoroughly documented the extent to which antagonism toward "dependency" was braided into the public statements of disability rights activists and congressional supporters of the ADA. The anti-dependency argument was not the

⁷² Dara Z. Strolovitch, *Affirmative Advocacy: Race, Class, and Gender in Interest Group Politics*, Chicago: IL: University of Chicago Press, 2007; 63; Dara Z. Strolovitch and M. David Forrest, "Social and Economic Justice Movements and Organizations," in eds. L. Sandy Maisel, Jeffrey M. Berry, and George C. Edwards, III, *Oxford Handbook of American Political Parties and Interest Groups*, New York: Oxford University Press, 2010, 468-484.

“predominant justification offered by the ADA’s supporters,” but, Bagenstos cautions, neither was it a tangential or isolated one; rather, it was “widely disseminated and promoted by disability rights activists themselves...form[ing] a major part of the public justification for the statute.” It played a communicative function in uniting the disparate strands of the disability rights movement around a shared disabled identity. Despite the diversity of organizations representing people with disabilities, an aversion to being “dependent” was one of the few things that disabled activists, parents, and professional groups could agree on.⁷³

Yet this discourse of “dependency” fulfilled a racial purpose as well by delineating between “legitimate and illegitimate forms of disability” and overlaying each on a racial map.⁷⁴ Activists liked to say that, despite their different impairments, people with disabilities had a shared experience with oppression. But it was oppression as experienced by White people. Feminist scholars Nancy Fraser and Linda Gordon argue that even though dependency characterizes all human relationships, political actors have historically used the term to describe the relationship between subjugated people of color to the White majority or that of colonized subjects to the ruling nation. It is a term used to justify racial and gendered rule, obscuring both middle-class women’s dependency on their husbands and middle-class men’s economic dependency on their employers as well as their emotional and domestic dependency on their wives.⁷⁵ By consciously distancing themselves and their movement from a condition so thoroughly associated with racial subjugation, ADA supporters constructed the category “people with disabilities” as White and connected them to White middle-class norms and values.⁷⁶

⁷³ Bagenstos, “*Law and the Contradictions of the Disability Rights Movement*,” 954-956.

⁷⁴ Frye, “Crippling the ‘Crack Baby’ Epidemic,” 81.

⁷⁵ Nancy Fraser and Linda Gordon, “A Genealogy of Dependency: Tracing a Keyword of the US Welfare State,” *Signs: Journal of Women in Culture and Society* 19, no. 2 (1994): 309-336.

⁷⁶ Ange-Marie Hancock, “Contemporary Welfare Reform and the Public Identity of the ‘Welfare Queen,’” *Race, Gender, and Class* 10, no. 1: (2003): 31-59; Jonathan M. Metz, *Dying of Whiteness: How the Politics of Racial Resentment is Killing America’s Heartland*, New York: Basic Books, 2019.

Tracing the discourse of the ADA allows us to see the ways in which the political gravity of civil rights shifted out of the Leadership Conference and toward political actors more closely aligned with Republicans. The “dependency” frame emerged from the National Council on Disability, the federal agency that released the first draft bill of the ADA. Upon assuming office, Reagan replaced 14 of the 15 members of the Council with his own appointees, among whom included parent advocate Sandra Swift Parrino, a mother of a disabled child, a parent advocate, and a Republican party activist, as well as Justin Dart, a disability rights leader and son of a prominent Republican donor.⁷⁷ The recast NCD played a pivotal role in advancing the ADA, not only making the case for a comprehensive civil rights law in its 1986 report *Toward Independence* but also by releasing a draft bill to kickstart congressional debate.

It would be a mistake, though, to view the appeal to independence as solely the work of Republicans. Robert Burgdorf, lead attorney for DREDF, a member organization of the Leadership Conference, collaborated closely with Republicans on the NCD to draft what became the ADA. The disability Left drew from its own discursive rejection of “dependency,” which was central to the politicized identity of the empowered and highly capable disabled person. To be sure, their understanding of independence was more closely aligned with self-determination – that is, the ability of people with disabilities to make meaningful choices and decide the course

⁷⁷ One strategy Reagan used to thwart civil rights was to assert control over executive agencies charged with reviewing and making recommendations for improving civil rights laws, rules, and regulations. Early in his term, he engaged in a highly visible fight to remake the U.S. Civil Rights Commission, and he made a similar move with the NCD. On the USCRC, see Berry, “Ronald Reagan and the Leadership Conference on Civil Rights,” 82-120. Congress had created the NCD in 1978, and charged it with reviewing the nation’s rehabilitation programs, research, and services and making recommendations. Among Carter’s 15 appointments to the new agency were parent advocate Elizabeth Boggs, rehabilitation pioneer Dr. Howard Rusk, and activist leader Judy Heumann. They did not serve long. For more on Parrino, Dart, and the other members of Reagan’s NCD, see Robert Burgdorf, “To the National Council: The National Council’s Origin, and Prior Personnel and Activities,” Burgdorf on Disability Rights: ADA Chronicles, <https://adachronicles.org/making-the-americans-with-disabilities-act/to-the-national-council-part-3/>; Robert Burgdorf, “To the National Council: President Reagan’s Council, Key Members, and the National Policy for Persons with Disabilities,” Burgdorf on Disability Rights: ADA Chronicles, <https://adachronicles.org/making-the-americans-with-disabilities-act/to-the-national-council-part-4/>.

of their lives. They sought liberation, not just from government programs, but also from their families and helping professionals, who however well-meaning acted toward the disabled with pity and paternalism.⁷⁸ That rejection of pity and paternalism further led activists on the Left to critique dependency on social welfare programs. Much of their antagonism was directed at Supplemental Security Income (SSI) and Medicaid. Although vital sources of support, because of the income limits in SSI and Medicaid, working people with disabilities were constrained in their ability to advance to higher paying jobs or to save toward long-term goals. Although activists wanted to make SSI's payments and income limits more generous, not less, their criticisms of the "dependency" induced by the "perverse incentives" in public benefits induced echoed a growing chorus of conservatives.⁷⁹

The NCD built on these antagonisms. One of the first reports the reconstituted Reagan agency issued was the *National Policy for Persons with Disabilities*, which declared that people with disabilities "have the principal responsibility to solve their own problems and fulfill their potential."⁸⁰ The NCD continued the theme throughout *Toward Independence*.⁸¹ In its rejection of social welfare programs, the NCD made clear that when it exhorted the disabled to "independence," it was speaking specifically about independence gained through productivity in a capitalist labor market. Nor was the celebration of market citizenship confined to the Republican members of the NCD. Assisting with the drafting of *Toward Independence*, Burgdorf

⁷⁸ Gerben Dejong, "Independent Living: From Social Movement to Analytic Paradigm," *Archives of Physical Medicine and Rehabilitation* 60, no. 10 (1979): 435-436; Bagenstos, *Law and the Contradictions of the Disability Rights Movement*, 22-33.

⁷⁹ Erkulwater, "How the Nation's Largest Minority Became White," 375.

⁸⁰ Quoted in Robert L. Burgdorf, Jr., "President Reagan's Council, Key Members, and the National Policy for Persons with Disabilities," *The Making of the ADA, To the National Council – Part 4*, online at <https://adachronicles.org/making-the-americans-with-disabilities-act/to-the-national-council-part-4/>. National Council on the Handicapped, *National Policy for Persons with Disabilities*, 1984, online document at <https://ncd.gov/progressreport-publications/2020/national-disability-policy-progress-report-january-1984>.

⁸¹ Thomas F. Burke and Jeb Barnes, "Layering, Kludgeocracy and Disability Rights: The Limited Influence of the Social Model in American Disability Policy," *Social Policy and Society* 17, no. 1 (2018): 101-116.

rewrote the section entitled “Effective and Comprehensive Civil Rights” to read “Equal Opportunity Laws.” He later admitted that equal opportunity “coincided with independence and self-reliance” while civil rights “smacked of affirmative action.”⁸²

Circulated widely in activist circles, critiques of dependency became a cornerstone of disabled identity during congressional consideration of the ADA. Both Sandra Swift Parrino and Justin Dart were prominent spokespersons for the NCD, and Parrino’s advocacy on behalf of the ADA imbued congressional debate with the anti-dependency theme. During her testimony, Parrino likened the position of (White) people with disabilities to that of enslaved African Americans, as she promised lawmakers that the ADA would “break the chains that bind many of the millions of persons with disabilities into a bondage of unjust, unwanted dependency on families, charity, and social welfare.”⁸³ In his capacity as a member of the NCD and the co-chair of the congressionally appointed Task Force on Employment of Persons with Disabilities, Dart crisscrossed the nation in a “Road to Freedom” tour gathering stories of people who had experienced discrimination. By some estimates, his forums were attended by 30,000 people altogether.⁸⁴ Dart shared Parrino’s disdain for “dependency,” having co-authored a manifesto for the independent living and disability rights movements, which castigated public spending on “the support of non-productive, often counter-productive dependence.”⁸⁵

⁸² Wright, *Equality of Opportunity*, 55.

⁸³ U.S. House of Representatives, *Americans with Disabilities Act of 1989*, Hearing on H.R. 2273 before the Subcommittee on Select Education of the House Committee on Education and Labor, 101st Congress, 1st session, 1989, 28, 70. See also U.S. House of Representatives, *Americans with Disabilities Act of 1988*, Joint Hearing on S. 2345 before the Subcommittee on the Handicapped of the Senate Committee on Labor and Human Resources and the Subcommittee on Select Education of the House Committee on Education and Labor, 100th Congress, 1988, 27-28.

⁸⁴ Fred Fay and Fred Pelka, “Justin Dart Obituary,” *Ability Magazine*, June 22, 2002, <https://abilitymagazine.com/justin-dart-remembered-humanitarian-leader-and-friend/>.

⁸⁵ Peg Nosek, Yayoi Narita, Yoshiko Dart, and Justin Dart, “A Philosophical Foundation for the Independent Living and Disability Rights Movements,” Houston, TX: Independent Living Research Utilization Project, 1982, 7.

Beyond their aversion toward “dependency,” activists harkened to other civic roles associated with Whiteness during congressional testimony; those of “worker,” “consumer,” and “taxpayer.” For instance, in testimony to the U.S. House Judiciary Committee, Laura Cooper proudly declared that she was fortunate to work because her job “allowed me to become a self-supporting, tax paying member of society”⁸⁶ Similarly, Janna Shishler told lawmakers on the U.S. House Committee on Education and Labor that she took pride in being “a productive, taxpaying citizen and consumer.”⁸⁷ Majority whip Rep. Tony Coelho (D-Calif.) echoed these sentiments when he introduced the ADA in the House of Representatives, claiming, “People with disabilities want to work...to be productive, self-supporting and tax paying participants in society.”⁸⁸

Evoking consumerism and taxpaying asserted a historical though unspoken White identity. Racial discrimination against African American workers and consumers, including consumers of rehabilitation services, set the Black experience with the capitalist market apart from that of the White experience.⁸⁹ White activists encouraged people with disabilities to think of themselves as “consumers” of services rather “clients” so that they might shed the “sick role” and demand their rights, but Black people with disabilities had difficulty receiving services in the first place. While White activists talked about shared experiences of oppression, race profoundly

⁸⁶ Laura Cooper, in U.S. House of Representatives, *The Americans with Disabilities Act of 1989*, Hearing on H.R. 2273 before the Subcommittee on the Judiciary of the House Judiciary Committee, 101st Congress, 1st session, 1989, 153-154.

⁸⁷ Janna Shishler, in U.S. House of Representatives, *Americans with Disabilities Act of 1989*, Hearing on H.R. 2273 before the Subcommittee on Select Education of the House Committee on Education and Labor, 101st Congress, 1st session, 1989, 38.

⁸⁸ Tony Coelho, “News from the House Majority Whip,” April 29, 1988, Doel Archives, online at https://dolearchivecollections.ku.edu/collections/ada/files/s-leg_751_002_all.pdf.

⁸⁹ B. J. Atkins, G. N. Wright, R. Humphreys, E. Provitt, B. Bolton, and P. Cooper, “Three Views: Vocational Rehabilitation of Blacks: The Statement, the Response, the Comment,” *Journal of Rehabilitation* 46, no. 2 (April-June 1980): 40-49.

shaped that experience.⁹⁰ Especially problematic were assertions of taxpayer identity. White citizens have long politicized their identity as taxpayers to mobilize against racial desegregation and public assistance. As recently as 1978, (White) taxpayers had organized to enact California's anti-tax Proposition 13.⁹¹ When ADA spokespersons identified as "taxpayers," they tapped into a discourse that aligned the ostensibly race-neutral political identity of the disabled with White opposition to redistribution and desegregation.

The antithesis of the worker, consumer, and taxpayer was the welfare recipient. The welfare recipient was the poster child for dependency, the individual whose presence brought into sharp relief the independence that disabled activists demanded. Where the employed disabled person was empowered, the welfare recipient was enervated. Amy Dimsdale, for example, recounted during congressional debate what it was like to lose her job and turn to Social Security Disability Insurance. Assigning the weakness and passivity typically applied to people with disabilities to poor people reliant on the state, she confessed to lawmakers the shame she felt when she could not earn a paycheck: "I feel useless, powerless, and demeaned...It is enough to make someone give up and accept a lifelong dependency on benefits instead of productive work."⁹² But Congress had the chance to save people like Dimsdale. Evan Kemp, the

⁹⁰ Dejong, "Independent Living," 435-436.

⁹¹ Thomas Byrne Edsall and Mary D. Edsall, *Chain Reaction: The Impact of Race Rights and Taxes on American Politics*, New York: WW Norton & Company, 1992; Susan Stein-Roggenbuck, "Resisting a Right to Relief: States, Responsible Relative Laws, and Old Age Assistance," *Journal of Policy History* 30, no. 3 (2018): 400-428; Camille Walsh, *Racial Taxation: Schools, Segregation, and Taxpayer Citizenship, 1869-1973*, Chapel Hill, NC: University of North Carolina Press, 2018; J. Allen Douglas, "The 'Most Valuable Sort of Property': Constructing White Identity in American Law, 1880-1940," *San Diego Law Review* 40 (2003): 881-946; Aaron Rosenthal, "Submerged for Some? Government Visibility, Race, and American Political Trust," *Perspectives on Politics* 19, no. 4 (2021): 1098-1114; Kasey Henricks and Louise Seamster, "Mechanisms of the Racial Tax State," *Critical Sociology* 43, no. 2 (2017): 169-179. The rise of the Tea Party in 2010 and Mitt Romney's juxtaposition of the "makers" and the "takers" during his presidential campaign in 2002 are contemporary efforts at taxpayer mobilization. On a similar dynamic in Canada, see Kyle Willmott, "Taxes, Taxpayers, and Settler Colonialism: Toward a Critical Fiscal Sociology of Tax as White Property," *Law and Society Review* 56 (March 2022): 6-27.

⁹² U.S. House of Representatives, *Americans with Disabilities Act of 1989*, Hearing on H.R. 2273 before the Subcommittee on Select Education of the House Committee on Education and Labor, 101st Congress, 1st session, 1989, 29-30.

longtime director of the Nadar-established Disability Rights Center, argued that people with disabilities wanted the “opportunity to be productive”; with the ADA, they would have their chance, transformed from “welfare recipients” into “consumers and taxpayers.”⁹³ To the extent that people with disabilities are themselves reliant on “welfare,” supporters of the ADA cast them as reluctant “welfare recipients,” driven into “dependency” by their lack of civil rights. For example, disability rights activist Judy Heumann appeared on C-SPAN in 1990, to make the case for the ADA. She explained that many people with disabilities have “faced extensive job discrimination and been forced on to welfare benefits” (emphasis added).⁹⁴ The unspoken follow up was that actual welfare recipients willingly chose their “dependent” status.

The anti-dependency thread of ADA discourse had a coordinative aspect, carrying with it an agenda of policy reform that set the civil rights of (White) people with disabilities against spending on social welfare programs for other people with disabilities, coded as Black for their lack of productivity.⁹⁵ According to the U.S. Task Force on the Rights and Empowerment of Americans with Disabilities, chaired by Justin Dart, “America cannot afford either the economic or the moral cost of maintaining ever increasing millions of its potentially productive citizens in

⁹³ Evan Kemp, “Stop Caring for the Disabled,” *Washington Post*, June 7, 1981, on-line document at https://www.washingtonpost.com/archive/opinions/1981/06/07/stop-caring-for-the-disabled/2ea92fe5-8b02-4e32-a5a2-077b87da782d/?utm_term=.6c8cab27bce6. See also Bagenstos “The Americans with Disabilities Act as Welfare Reform,” 921-1027.

⁹⁴ Ian Milden, “Examining the Opposition to the Americans with Disabilities Act of 1990: ‘Nothing More than Bad Quality Hogwash,’” *Journal of Policy History* 34, no. 4 (2022): 505-28, citing C-SPAN, “Americans with Disabilities Act,” May 21, 1990, at 0:35).

⁹⁵ Bagenstos, *Law and the Contradictions of the Disability Rights Movement*, 22-23, Erkulwater, “How the Nation’s Largest Minority Became White,” **page numbers**. In the early years of the independent living movement, liberal activists did not view social welfare programs as necessarily antithetical to independence. Benefits from SSDI, SSI, Medicare, Medicaid, and general assistance were often essential to allowing people with disabilities to pay for personal attendants and live outside of nursing homes. The politics of the ADA, however, broke with the ideas that animated the early independent living movement by redefining independence as economic self-sufficiency. Burke and Barnes, “Layering, Kludgeocracy and Disability Rights,” **page numbers**.

unjust, unwanted degrading dependency.”⁹⁶ With the enactment of the ADA, the NCD anticipated “future efficiencies in Federal spending” as political leaders “redirected [resources] from dependency-related approaches to programs that enhance independence and productivity.”⁹⁷

Tirades against “dependency-related approaches” were not simply a recitation of Reagan’s invectives against the “welfare queen.” They represented, instead, a policy agenda of retrenchment that was much more far-reaching. Activists asserted that the problem was not merely AFDC, but rather the more populous and more expensive programs that people with disabilities relied on, including cash assistance and health care, means-tested programs for low-income people as well as middle-class entitlements. SSI, Social Security Disability Insurance, Medicaid, and Medicare, the NCD argued, “encourage dependence and discourage gainful employment.”⁹⁸ The ADA, work incentives, and job training programs were preferable to income support because gave people with disabilities the chance to “becom[e] taxpayers rather than remaining dependent upon other taxpayers.” The ADA, in other words, was not meant as a stand-alone policy. For NCD officials, lawmakers, and disability rights activists, support for the ADA was directly tied to protecting the public purse from needy people. Activists took the discourse of “perverse incentives” that conservatives had leveled specifically against AFDC and

⁹⁶ U.S. Task Force on the Rights and Empowerment of Americans with Disabilities, “Findings and Recommendations,” January 18, 1989, 2, from Dole archives, https://dolearchivecollections.ku.edu/collections/ada/files/s-leg_761_006_all.pdf.

⁹⁷ National Council on the Handicapped, *Toward Independence: An Assessment of Federal Laws and Programs Affecting Persons with Disabilities – With Legislative Recommendations*, February 1986, <https://www.ncd.gov/publications/1986/February1986>.

⁹⁸ National Council on the Handicapped, *Toward Independence*, <https://www.ncd.gov/publications/1986/February1986>: “most of the funds expended by the Federal Government on disability are for public assistance programs. The first six programs in order of expenditures, and ten of the first twelve, are public aid programs. Together, these ten large programs account for over 57 billion dollars in estimated FY 1986 outlays. Most of these programs are premised upon the dependency of the people who receive benefits, in the sense that they are not self-supporting. Eligibility is based upon inability to engage in substantial gainful activity, or significantly low income.”

amplified it to a large swath of America's social safety net, marking a clean break with the Leadership Conference's credo that civil rights are not just laws but the social and economic conditions that make those rights real.⁹⁹

The extent to which ADA supporters cast the poor as crippling or disabling the nation by draining its fiscal resources begs us to consider reading welfare through a disability lens.

Disability rights scholars have theorized about the ways in which ableist disgust toward disabled bodies is used to justify discrimination toward and the segregation of people with disabilities.¹⁰⁰

While ADA supporters claimed "productivity" as a way of asserting the capability and deservingness of people with disabilities, tellingly, the welfare reform debate a few years later featured a medicalized discourse that framed low-income women as weak and enervated, as "welfare dependency" became an illness in need of a cure.¹⁰¹ Although she does not adopt disability as a lens of analysis, Ange-Marie Hancock notes that conservative opponents of public assistance conjured a rhetoric of disgust against impoverished mothers to facilitate retrenchment of family assistance.¹⁰² Low-income women were even accused of infecting the body politics by using up scarce resources and turning the United States into a "sick society."¹⁰³ For example, in 1995, after assailants murdered a low-income mother and her children, Speaker of the House

⁹⁹ Bylaws, 1968, Part II: Box 1, Folder 2, LCCR.

¹⁰⁰ Schweik, *The Ugly Laws*; Robert Bogdan, *Freak Show: Presenting Human Oddities for Amusement and Profit*, Chicago, IL: University of Chicago Press, 1988; Robert Bogdan, "Race, Showmen, Disability, and the Freak Show," in eds. Nicolas Bancel, Thomas David, and Dominic Thomas, *The Invention of Race*, New York: Routledge, 2014, 195-208.

¹⁰¹ Sanford Schram, "In the Clinic: The Medicalization of Welfare," *Social Text*, 18, no. 1 (2000): 81-107. The medicalization of welfare discourse seems not to be of recent vintage: Nancy Fraser, "Women, Welfare and the Politics of Need Interpretation," *Hypatia*, 2, no. 1 (Winter 1987): 103-121; Sanford Schram, *Words of Welfare: The Poverty of Social Science and the Social Science of Poverty*, Minneapolis, MN: University of Minnesota Press, 1995, 7-9, 155, 179; Stephan Krayter and Nadine Reibling, "Medicalization and Psychologization of Poverty?: An Analysis of the Scientific Poverty Discourse from 1956 to 2017," *Journal of Poverty and Social Justice* 28, no. 3 (2020): 361-381.

¹⁰² Ange-Marie Hancock, *The Politics of Disgust: The Public Identity of the Welfare Queen*, New York: New York University Press, 2004.

¹⁰³ Frye, "Crippling the 'Crack Baby' Epidemic," 69-98.

Newt Gingrich (R-Geor.) blamed the actions of the murders (oddly) on the income support the mother and her children received, saying, “Let’s talk about what the welfare state has created. Let’s talk about the moral decay of the world the left is defending.” In other remarks, Gingrich blamed “a welfare system which subsidizes people for doing nothing” for “how sick society is getting.”¹⁰⁴

The discourse of empowerment carried over from the ADA to the reform of AFDC. By 1994, conservative lawmakers had cynically reframed welfare reform as emancipation from dependency on the state. Gingrich declared that, because the “welfare state reduces citizens to clients, subordinates them to bureaucrats,” its take-home message to people of low-income was: “Now you are less than a full person.” By scaling back family assistance, he argued, Republicans would “save” the “urban” poor from bureaucratic oppression.¹⁰⁵ First Lady Hillary Clinton, likewise, defended her husband’s decision to sign PRWORA by arguing that it transformed “deadbeats” into people who are “actually out there being productive.”¹⁰⁶ Welfare mothers were oppressed, sickened by a paternalistic state; cutting them loose from public support would save them. White policymakers would be their liberators. Without welfare reform, Clinton argued, many women would be unable to “to make the transition to work on their own.”¹⁰⁷ These racial assumptions emerge sharply in remarks Representative Clay made about Democrats. In 1995, as his committee marked up the bill that would become PRWORA, Representative Shaw, Republican of Florida, grew exasperated with liberal intransigence. He castigated Democrats for

¹⁰⁴ Alison Mitchell, “Gingrich’s Views on Slayings Draw Fire,” *New York Times*, November 23, 1995, B18.

¹⁰⁵ Dick Williams, *Newt! Leader of the Second American Revolution*, Atlanta, GA: Longstreet Press, 1995, 34.

¹⁰⁶ *Gettysburg Times*, April 12, 2002, cited in Christopher Massie, “Hillary Clinton Used to Talk About How the People on Welfare were ‘No Longer Deadbeats,’” *BuzzFeed News*, July 15, 2015, <https://www.buzzfeednews.com/article/christophermassie/hillary-clinton-used-to-talk-about-how-the-people-on-welfare>.

¹⁰⁷ Hillary Rodham Clinton, “Talking It Over,” Clinton White House, Archives, August 25, 1999, https://clintonwhitehouse4.archives.gov/textonly/WH/EOP/First_Lady/html/columns/hrc082599.html.

defending a “morally bankrupt system” and standing in the way of Republican efforts to free the poor from “the last plantation in the country.”¹⁰⁸ While (White) people with disabilities yearned for freedom through formal employment – and thereby proved they were deserving of liberation – and (Black) welfare mothers both “disabled” the larger body politic by their need and were so “disabled” that they could not free themselves without the discipline imposed by retrenchment.

Conclusion

I want to be clear that I am not arguing that White disability rights activists and supporters of the ADA were racist. I take activists at their word that they valued cross-racial coalitions and sought an inclusive movement of all people with disabilities. That is not saying that disability rights activists did not have racial aims, but rather an admonition to remember that those aims are carried out within the institutional context that shapes strategic and discursive choices. The activist juxtaposition of freedom and dependency, of civil rights and welfare rights, of White disability and Black debility, was “not simply...the outcome of rhetoric or political manipulation” but an example of the ways in which “political power act[s] on political subjects,” and thereby “constructs them in particular ways.”¹⁰⁹ As gender and disability studies scholar Lezlie Frye argues, the “crack baby” and “child with special needs,” the “welfare mother” and “person with a disability,” are often the same person framed in different ways for political purposes. One framing invokes anti-Black hostility and isolates African Americans, especially poor women, while another uses disability to claim acceptance and assimilation. In either case,

¹⁰⁸ E. Clay Shaw (R-FL), chair of the Subcommittee on Human Resources of the U.S. House Ways and Means Committee, February 16, 1995, cited in Congressional Quarterly, “Welfare Bill Clears Under Veto Threat,” *CQ Almanac*, 1995, 51st ed., Washington, DC: Congressional Quarterly Press, 1996, 7.35-7.52.

¹⁰⁹ Wendy Lerner, “Neo-Liberalism: Policy, Ideology, Governmentality,” 63, 1 (2000): 5-25, especially 19.

disability functions as a pivot for determining who is deserving – and not deserving – of rights. The disability rights movement might have been founded on the shoulders of the Black freedom struggle, but at its apogee, at the enactment of the ADA, political actors posed disability rights and Black equality as dueling binaries.

Before closing, I would like to reiterate that this paper is a work in progress, and there are still some aspects of the argument I would like to think further on. Two in particular are worth mentioning. The first is the relative quiescence of the Leadership Conference regarding the anti-dependency discourses that marked congressional and public debate over the ADA and PRWORA. The Leadership Conference did not repeat or endorse the argument that the ADA would free people with disabilities from their “unwanted dependency.” But neither did it challenge the dependency frame, either during the ADA or during debate over PRWORA.¹¹⁰ The silence is surprising. Throughout the 1980s, the Leadership Conference had maintained its historical commitment to economic security, even if those issues had not been at the forefront of its lobbying efforts.¹¹¹ During his 1982 keynote address to the LCCR annual meeting, John Jacobs of the National Urban League emphasized the connection between civil rights and economic security and criticized Reagan for “integrating” poverty.¹¹² Yet the Leadership Conference did little to rectify the situation. Neas announced in 1995 that he would step down from his post at the Conference. As PRWORA moved through Congress, the Conference lacked a permanent executive director and failed to appoint a task force to formulate a position and

¹¹⁰ The LCCR made a brief mention in an article in *The Civil Rights Monitor*, touting the need to end the “dependency” of the disabled, but its use of the term “dependency” was rare and not its main argument for the ADA, which it instead presented as a continuation of the civil rights movement, See *Civil Rights Monitor*, 3, no. 5 (February 1989): 1-13, Part III: Box 8, Folder 8, LCCR.

¹¹¹ Letter from Benjamin L. Hooks to Ralph Neas, December 6, 1989, letter transmitting article by Hooks, “The Future / The Next 40 Years” for use in the *Leadership Conference 40th Anniversary Souvenir Journal*, Part III: Box 35, Folder 3, LCCR.

¹¹² Leadership Conference on Civil Rights, Proceedings of the 32nd Annual Meeting, February 22, 1982, Keynote Address by John E. Jacob, National Urban League, 9, Part II: Box 2, Folder 8, LCCR.

strategy on welfare reform until months before Clinton signed the final bill. Welfare never rose high on the LCCR's agenda; in a list of legislative priorities between 1993-1996, it was always last in a list 20-30 items deep. Once Clinton signed PRWORA, executive committee members agreed that the whole situation had been a "disaster," but they did little other than to commit the Conference to monitoring the civil rights of former welfare recipients on their workfare assignments.¹¹³

Lastly, I am especially troubled by the antagonism between disability rights and SSI. This paper focused on the links between the ADA's discourse on welfare dependency, but that discourse was not limited to AFDC. When Republicans seized control of Congress in 1994, they made a broad attack on the social safety net, including the last resort program for people with disabilities. By 1992, conservative think tanks had moved on from AFDC and were attacking SSI, calling it "crazy checks" and "the black hole of the welfare state."¹¹⁴ Testifying before Congress, conservative policy analyst Carolyn Weaver with the American Enterprise Institute cautioned lawmakers, "While SSI does not present the problems in the forefront of the welfare reform debate – teen pregnancy, out-of-wedlock births, and the cycle of dependency...SSI discourages work and...tends to perpetuate the very conditions that preclude work and promote dependency."¹¹⁵ Likewise, nativists criticized SSI payments and Medicaid to legal immigrants – undocumented immigrants already could not claim benefits – arguing that they had not

¹¹³ Minutes of the Executive Committee Meeting, December 13, 1996, Part III: Box 11, Folder 2, LCCR. The LCCR was not the only organization that refrained from taking a stand on welfare. See Catherine M. Paden, *Civil Rights Advocacy on Behalf of the Poor*, Philadelphia, PA: University of Pennsylvania Press, 2011, 118-140.

¹¹⁴ Christopher Georges, "A Media Crusade Gone Haywire," *Forbes Media Critic* 3, no. 1 (September 1995): 66-71; Christopher Wright, "SSI: The Black Hole of the Welfare State," Cato Institute, Policy Analysis No. 224, April, 27, 1995, <https://www.cato.org/policy-analysis/ssi-black-hole-welfare-state>.

¹¹⁵ Carolyn L. Weaver, "SSI: The Other Piece of the Welfare Crisis," in U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Human Resources, *Contract with America – Welfare Reform*, 104th Congress, 1st Session, Part 1 of 2, January 13 20, 23, 27, 30, 1995, 416-417.

“contributed” enough to warrant public assistance.¹¹⁶ Half the immediate budget savings realized by PRWORA came, not from the retrenchment of AFDC, but from cuts made to SSI benefits to children with disabilities and aged and disabled legal immigrants. Neither the Leadership Conference nor disability rights groups came to the defense of SSI children’s benefits or SSI benefits for aged and disabled legal immigrants, as if the confluence of poverty, race, and immigration status rendered SSI outside the realm of disability.

¹¹⁶ Grace J. Yoo, “Immigrants and Welfare: Policy Constructions of Deservingness,” *Journal of Immigrant and Refugee Studies* 6, no. 4 (2008): 490-507.