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## Judy Heumann and the Disability Rights Movement

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### Abstract

The disability rights movement focuses on guaranteeing equal rights and opportunities to individuals with disabilities. Though people with disabilities advocated for improved conditions and government help as far back as the early 20<sup>th</sup> century, the movement really began in earnest in the 1970s following the lead of the civil rights revolution. Disability activists called for the explicit protection of individuals with disabilities through changes in public law. Their efforts helped foster the creation of federal laws (particularly the 1990 Americans with Disabilities Act- ADA) that specifically addressed discrimination on the basis of disability and required institutions to provide appropriate accommodations. Through understanding how ableism influenced medical, legal, and educational institutions, a greater understanding of life for citizens prior to the ADA can be formed. This paper focuses on how an individual court case was used to hold these institutions accountable for continued exclusion of people with disabilities and set the stage for the disability rights movement moving forward.

*Keywords:* Disability, Disability Rights, Self-Advocacy, Lawsuit, Ableism

### Introduction

The study of disability as a social category and framework for understanding culture and law is an emerging field in historical analysis. Prior to the passing of the Americans with Disabilities Act (ADA) in 1990, individuals with disabilities were not a protected class, and many historians argue that the collective organization of individuals with disabilities is what ultimately pushed for initiatives to be taken for the implementation of civil rights and legal protections for people with disabilities. Although no individual can be credited for the success of the disability rights movement, historians have largely ignored the lives of specific leaders of the movement in favor of discussing the collective action of members. Due to the adolescence of this field of study, little space is made to analyze the impact of civil lawsuits and other strategies outside of protests used by individuals with disabilities during the disability rights movement.

International disability rights advocate Judy Heumann serves as one of the best examples of an individual who directly impacted and shaped the course of the disability rights movement prior to the movement's official conception. Through her lawsuit against the New York City Board of Education, Heumann directly challenged medical, legal, and educational systems that

impacted her experiences of ableism. The first section of this paper aims to understand how ableism became an established normative social, political, and legal practice in American society and how the medical, legal, and educational system advanced in the perpetuation of ableism while the latter half of this paper will explore how Heumann's experiences of discrimination and subsequent lawsuit against the New York City Board of Education provide a tangible example into the personal impact of systematic ableism and the actions of one individual to challenge the legal standards that permitted discrimination on the basis of disability.

### **The Medical Model of Disability: Medical, Legal, and Educational**

As a result of the Age of Enlightenment, doctors and scientists emerged as the intellectual leaders of western society, and disability began to be predominately understood through what scholars label the "medical model" of disability (Haegele & Hodge, 2016). Under the medical model, individuals with disabilities are required to rely on the medical field's ability to define their impairment or illness with the ultimate goal of curing the individual's abnormality. By understanding disability as an issue requiring medical intervention, experts are able to place a value judgement on individuals' bodies and make distinctions between proper and abnormal. Based on professional opinion, general society understands disability in entirely negative terms and conclude that the bodies of individuals of disabilities are deficient to the accepted standard of abled-bodied individuals.

In the context of the United States and throughout the majority of western history, individuals with disabilities continue to be subject to the litigations of institutional systems including the medical, legal, and educational fields of society. Within the medical field, individuals with disabilities were not only defined by doctors and medical practitioner diagnosis but also subjected medical treatments deemed "appropriate" to their conditions. A major critique of the medical model includes the significant power that medical professionals have over the treatment of individuals with disabilities and abuses in the medical field remain a glaring issue (Haegle & Hodge, 2016). One of the most striking examples of medical authorities' intrusion into the bodies of individuals with disabilities include the implementation of the lobotomy as a treatment for intellectual and mental disabilities. Under the medical model of disability, the medical field serves as the leading institutional authority over the physical bodies of people with disabilities.

Operating under the medical model of disability, legal institutions serve as barriers between people with disabilities and general society through lawful statutes related to individual's autonomy and civil rights. One example tucked away from view in American history includes the establishment of asylums to house physically, intellectually, and mental handicapped individuals with the personal liberties of individuals with disabilities confined to medical institutions and subject to the will of medical professionals (Ruffalo, 2018). Dating back further, disability as a concept was used to justify legally established inequalities including voting rights and segregation in the United States as women and African Americans were understood as physically and intellectually inferior compared to able-bodied white men (Nielsen, 2012). Through the medical model, the legal system serves as an additional gatekeeper to individuals with disabilities and forms measures to legally limit their access to society and constitutional rights.

Through the perpetuation of the medical model of disability in the field of education, people with disabilities have also either been segregated or entirely excluded from the "general population" of students (Grant, 10). Under the medical model, some disabilities including deafness, Down syndrome, and cerebral palsy cannot be fully eliminated despite the interventions of education, and consequently, youth fail to achieve the desired normalcy (Burch, 2001). As a result, students with "uncurable" conditions were viewed by medical professionals, lawmakers, and teachers as beyond help during the formation of the public-education system. However, following the upsurge of American philanthropy in the early 19<sup>th</sup> century, educational institutions including schools for the "deaf, dumb, and blind" were created with the intention of serving students with disabilities. Although these schools offered an alternative to students with physical and intellectual disabilities actively excluded from the wider public-school system, youth with disabilities still faced the consequences of ableism within these schools as well as from external forces. With the rise of deaf schools in the 19<sup>th</sup> century, the use of sign language by students was banned threatening the extinction of Deaf culture (Burch, 2001). As a governmentally supported institution, the education system fostered the segregation of individuals with disabilities from public life and further perpetuated disability as abnormality. The historical consequences of this segregated school system remains an ongoing issue as modern lawmakers, school officials, and teachers grapple with the implementation of an inclusive education system (Grant, 9).

While medical professionals set the standard for understanding disability in American life, the interconnection of these institutional systems create and enforce the lived experiences of individuals with disabilities across centuries. Ableism is a term used to describe this broad system of discrimination of people with disabilities (Ostiguy-Finneran & Peters, 2018). For the purposes of this paper, ableism will be defined as a set of social beliefs or practices that discriminate against people with physical, intellectual, and mental disabilities in favor of able-bodied people. This definition is standard for many disability scholars and social justice educators and captures the various forms of discrimination and prejudice experienced by people with disabilities. While each individual institution – medical, legal, and educational – has a unique history, they are all interconnected and share the underlying assumption that individuals with disabilities should be altered, managed, or omitted from the general public. The continual systematic discrimination and exclusion of people with disabilities within these systems and from public life formed the central issue individual advocates and community activist attempted to address during the latter-half of the 20<sup>th</sup> century.

Perpetuated among individuals, institutions, and within the dominate culture, ableism forms advantages to able-bodied people while disadvantaging individuals with disabilities. As a result of overarching cultural opinions concerning people with disabilities, individuals lacked employment opportunities and were significantly less likely to be employed compared to able-bodied job candidates (Maroto & Pettinicchio, 2015). Employment discrimination became one of the central issues individuals with disabilities attempted to address in their personal lives. Prior to the enactment of the Americans with Disabilities Act (ADA), individuals with disabilities were not granted legal protection against discrimination on the basis of disability. When seeking job applicants, potential employers were lawfully allowed to not hire someone because they had a disability, and individuals with disabilities were not protected against what would now be considered unlawful and inappropriate hiring practices. As a result, the responsibility to challenge these discriminatory hiring practices fell on individuals to become self-advocates.

Although people with disabilities advocated for improved conditions and government protections as far back as the early 20<sup>th</sup> century, the disability rights movement began in earnest in the 1970s. Following the initiative of the civil rights revolution, disability activists began to criticize legislation and target government bodies as authorities responsible for the continued discrimination of people with disabilities. In the following section, I will focus on the impact of

self-advocacy through the method of civil litigation during the beginning phases of the disability rights movement. Although I have provided a few historical examples concerning the perpetuation of ableism through the medical system, legislation, and educational institutions, these do little to shed a light on the individual's experience of systematic discrimination. Heumann's case against the New York City Board of Education offers a case study into how larger medical, legal, and educational institutions converge into active discrimination against individuals with disabilities.

### **Heumann v. Board of Education of the City of New York.**

In May of 1970, Judith E. (Judy) Heumann filed a suit against the New York City Board of Education, the Board of Examiners, and acting Superintendent Irving Anker on the basis of discrimination due to her disability after being denied her teaching license (*Heumann v. Board of Education of the City of New York*, 1970). After graduating from Long Island University with a minor in Education, Heumann proceeded complete the required examination to become a licensed teacher. At the time, the examination consisted of three parts. Following an oral and written exam, candidates for certification were also required to complete a medical examination to assess their physical and mental well-being. Any individuals who could not successfully complete all three portions of the examination would be denied their teaching license. Heumann successfully completed both her oral and written exams; however, she failed her medical examination.

The official reasoning cited by the board for Heumann's refusal was "paralysis of both lower limbs, sequelae of poliomyelitis" and examiners believed her wheelchair would be a fire hazard and ultimately a threat to students' safety (Malcom, 1970). Years later, when discussing the medical examination that led to Heumann being denied her teaching license, she said, "My medical exam was something completely different. One of the first questions the doctor asked me was, could I please show her how I went to the bathroom... So I said to her, is it a requirement that teachers show their students how to go to the bathroom? If it is, I can do that. So no surprise, I was failed because I didn't pass the medical" (Heumann, 2016). In her experience, Heumann highlights how invasive hiring practices were used to penalize her in respect to her disability.

With overarching influence of the medical model both directly and indirectly impacting experiences of discrimination for people with disabilities, self-advocates and members of the disability community began looking outward and publicly calling to attention the failure of structures to accommodate for all individuals. In addition to Heumann's wheelchair being cited as an obstruction to potential students safety, Heumann's oral, written, and medical exams were distributed in fully inaccessible buildings requiring her friends to assist in carrying her up the stairs in her wheelchair to access the building (Heumann, 2016). The dominate opinion of the medical model of disability not only impacts individual views on disability but inherently shapes the physical structure of institutions (Haegele & Hodge, 2016). The responsibility to navigate these structures and issues related to mobility ultimately falls on the individual, and the accessibility of these inheritably ableist structures and systems perpetuated the exclusion of individuals with disabilities.

Although the continued general perception of disability relied on the medical model of disability as something to be cured in order to achieve normalcy, during this period, Heumann's case represents a new development in the American public's perception of disability. Heumann's story was shared in a series of articles written by Andrew H. Malcolm of *The New York Times* that advocated in her favor against the New York City Board of Education's hiring practices. In her first interview, Heumann is quoted saying "everybody tells you to work hard to overcome your disability, but when you're ready for a job, they just can't be bothered" (Malcom, 1970). When compared to the experiences of other individuals with disabilities seeking employment, Heumann's case against the Board of Education was not an isolated incident. Other states saw similar cases regarding employment and housing discrimination on the basis of disability.

Heumann's case and others like it offer valuable insight into the individual experiences of people with disabilities during this time period where little information is available. It should be noted that it is increasingly problematic to find comprehensive and accurate information related to individuals with disabilities and employment prior to the enactment of the ADA. Based on information from the National Health Interview Survey (NHIS) conducted through the Census Bureau for the National Center for Health Statistics, "Work Disability" data only began to be collected after 1983 and measured individuals' limitations to work as a result of chronic illness or impairment (Kay, LaPlante, Carlson, & Wenger, 1996). Guided by the medical model, disability as a social identity was not fully integrated into data collection methods for the United

States Census or the Bureau of Labor Statistics. Methods for data collection continue to change; however, information related to the time of Heumann's lawsuit fail to reflect the true size and scope of individuals with disabilities living in the United States and employment. Consequently, the number of individuals with disabilities impacted by disability discrimination remains unknown and potentially unknowable, and individual cases must be used to reflect part of this larger issue.

In the 1970s, overall public opinion supported Heumann's case against the board, and social standards concerning disability were beginning to progressively change. While in earlier decades incidents similar to Heumann's could be overlooked, major news publications including *The New York Times* published Heumann's case and brought the issue into the public sphere. With Heumann's case gaining traction, she hired Roy Lucas, Elias Schwarzbart, and several other lawyers to help defend her case. In a follow up article, Malcolm reports, "Her lawyers said the case was the first such civil rights suit ever filed in a Federal court [regarding discrimination on the basis of a physical handicap]. They hope to make it a test case for a series of suits across the country guaranteeing equal job and education rights for the physically handicapped..." (Malcom, 1970). Heumann's case would set a legal precedent for similar suits related to employment discrimination and have the potential to reform school board licensing and hiring policies. Without an established federal law, by setting a precedence with the Board of Education, Heumann and her lawyers hoped to influence employment in other states and districts.

Constance Baker Motley served as the Judge for Heumann's case and brought with her over three decades of legal experiences as a staff attorney for the Legal Defense Fund of the National Association for the Advancement of Colored People (NAACP). Judge Motley wrote the first legal brief for the case *Brown v. Board of Education* and successfully represented a number of cases under the black freedom struggle including the Little Rock Nine and the Freedom Riders (Piascik, 2017). Reflecting on the case almost two decades later, Heumann notes, "now sometimes I say that the stars were aligned around this court case, because we had an amazing judge: the first African American female federal judge – Constance Baker Motley. And she knew discrimination when she saw it" (Heumann, 2016). This connection also represents a growing trend as people with disabilities began to view themselves as a minority group with civil rights to be protected similar to African Americans during the civil rights movement of the 1950s and 60s.

By the end of June, Heumann successfully defended and won her case against the school board. As Heumann's lawyers had previously stated, this outcome not only set a legal precedence of discrimination on the basis of disability but also provided Heumann with a platform to continue advocating for disability rights. Throughout the 1970s, Heumann helped to form coalitions of people with disabilities in order to pass a national law regarding the legal protection of people with disabilities. As a recognized representative, Heumann could continue the work she started in 1970 as a self-advocate concerning employment discrimination and expand further on issues concerning public transportation, education, and other inequalities experienced by individuals with disabilities.

### **Self-Advocacy to Disability Community**

Heumann v. Board of Education of The City of New York offers a microcosm into understanding the interconnection of medical, legal, and educational institutions that impact the lived experiences of individuals with disabilities through the perpetuation of ableism and discrimination on the basis of disability. Considering this case in relation to the medical model of disability, Heumann's medical examination determined that she would be unfit to serve as a teacher in New York City's school district. Through legally sanctioned Board evaluation and hiring practices, Heumann was denied her teaching license because of her disability, and one of the major reasons cited for this denial included Heumann's inability to physically access educational institutions. With the accumulated authority of these medical, legal, and educational institutions, Heumann's individual experience of employment discrimination reflects a symptom of a larger pattern of systematic discrimination and oppression.

Subsequently, larger interventions would be required to address this systematic issue. By bringing Heumann's case to a federal court, these medical, legal, and education systems would also need to be reevaluated by medical, legal, and educational authorities as well as the general American public. During this time period, across the nation, people with disabilities continued to seek an end to employment and housing discrimination with other notable civil cases taking place in the state of New York, Colorado, and Ohio (Nielson, 2012). Progressively through civil litigations, new standards concerning disability housing and hiring practices were being created nationwide. Medical, legal, and educational institutions' authority and ability to gatekeep against



individuals with disabilities from society would continue to be challenged during the latter half of the 20<sup>th</sup> century.

The actions of individuals as self-advocates like Heumann gained an increasing presence in American discourse about disability. Individual lawsuits set a legal precedence concerning the status of disability discrimination in American society and discussion of ableism into the public sphere. During the next several years, a new community-based approach to disability activism would take shape into the disability rights movement. Individuals with disabilities formed communities under a shared identity and shared experiences of discrimination and exclusion from American society. Similar to civil lawsuits, public activism began to take previously private issues into the public sphere as people with disabilities increasingly pushed for legal protections and input to the policies that directly impacted them. However, without an overarching federal law, individual court cases still held a number of restrictions for individuals with disabilities, and only the enactment of federal law could have a national impact into the legal protection for individuals with disabilities.

Now, communities of individuals with disabilities and allies would form the disability rights movement in order to hold governmental authorities to a higher standard regarding the authorized actions of medical, legal, and educational institutions. Passed in 1990 under President George H.W. Bush, the ADA became the leading federal law to prohibit any form of discrimination against individuals with disabilities including employment, education, and transportation (Americans with Disabilities Act of 1990). Based on the Civil Rights Act of 1964, the ADA aimed to eliminate discrimination against people with disabilities; however, significant changes to infrastructure would be required to truly improve the daily living conditions of individuals with disabilities. As the plaintiff in her case against the New York City Board of Education, Heumann challenged licensing practices for public school teachers and helped to influence the status and treatment of people with disabilities in the United States prior to the enactment of the ADA. The 1970s was a significant decade where public opinion concerning disability and the state of disability rights legislation made significant advances. Within the disability rights movement, key individuals like Heumann recognized their potential to create systematic change by challenging long upheld practices of ableism faced individually and opening public discussions to a new future prohibiting the discrimination of any individual on

the basis of race, color, religion, sex, national origin, *or disability* (Americans with Disabilities Act of 1990).

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