



The Our American States podcast—produced by the National Conference of State Legislatures—is where you hear compelling conversations that tell the story of America’s state legislatures, the people in them, and the policies, process and politics that shape them.

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The ADA at 30: A Conversation with Former Senator Tom Harkin | July 16, 2020 | OAS Episode 101

Hello and welcome to “Our American States,” a podcast from the National Conference of State Legislatures. This podcast is all about legislatures: the people in them, the policies, process and politics that shape them. I’m your host, Ed Smith.

(Senator Tom Harkin) “I think the legacy is that more and more, the old attitudes are falling by the wayside. More and more, people are seeing a person may have a disability in one area, but they have a lot of abilities in another area.”

That’s former Iowa Senator, Tom Harkin, our guest today on “Our American States.” Senator Harkin, who spent 30 years in the U.S. Senate, was the author and chief sponsor of the Americans with Disabilities Act. The ADA turns 30 years old on July 26th.

I asked Senator Harkin to share the history of the ADA and how he came to play such a pivotal role. We also talked about his brother, Frank, who helped inspire his work in the ADA; the political effort it took to pass the legislation; and the still unfinished business of ensuring that people with disabilities have the chance for a full life in American society.

Senator Harkin, welcome to “Our American States.”

Sen H: Nice to be with you, Ed.

Time Marker (TM): 01:24

Ed: Senator, thanks so much for taking the time to talk about the ADA as the 30th anniversary approaches. As I understand it, about 20% of people in the U.S. report having a disability that affects major activities in their lives.

Both you and former President George H.W. Bush, who was a strong supporter of the legislation, have family members with disabilities. Can you talk a little bit about how you got involved in the disability rights movement and came to be the author of the bill?

Sen H: Well, I grew up with an older brother who was deaf and he became deaf at about age five, between five and six, because of meningitis, and he was taken from his home from our small community, sent halfway across the state to the school for the deaf and dumb, as it was known in those days.

You can imagine how terrifying that would be. First of all, you can't hear, and then they take you away from your family and your community, send you to a school someplace. I remember once my brother said to me: I may be deaf, but I'm not dumb. But that's how they referred to it at those times.

So, I just grew up seeing how he was discriminated against. For example, when he graduated from that school, high school, they told him he could be one of three things: he could be a baker, a shoe cobbler or a printer's assistant. And they asked him which one he wanted to do.

Well, my brother said: I don't want to do any of those things. So, they said: Okay, you're a baker. So, they made him a baker. Those were his options. His horizons were limited. They were just limited because he was deaf.

I saw this periodically through my life and through the way he was discriminated against and I just thought to myself: if I can ever do something about that, I was going to do something about it. So, later I was able to.

TM: 03:17

Ed: Well, I was a newspaper editor and reporter for many years and worked with quite a number of people who were deaf in the printing trade. I'm old enough to remember linotype machines and that, I guess, was part of the reason because of the incredibly loud noise that came from that.

Sen H: Right. As a matter of fact, I have another story. I don't know if you want this but, speaking of noises... So, my brother was a baker. He didn't like it, but he was pretty good at it. He worked in this small bake shop, Tom's Bake Shop, by the way, in West Des Moines, Iowa. A man who was well-dressed came in the morning sometimes and would get a coffee and a roll or something like that and different things.

One time he tried to strike up a conversation with my brother who had come out of the back room. My brother, Frank, wrote down on the thing: I'm deaf. Can't hear. So, just write it out. So, they started an exchange like that, and this went on for a few months. Finally, this man wrote down: How do you like being a baker? And my brother said: I hate it. So, he said: Well, what would you like to do? And my brother said: Well, I'm good at machines; I know how to run machines and things like that, mechanic stuff; I think I'm good at that.

Well, this man said: Well, that's my business. I own a business and we make jet engine nozzles. It was called Delavan, Delavan Manufacturing Company. It started in World War II. And so, he asked my brother if he'd like to come work for him and my brother said sure. So, my brother went to work for him and the owner, Mr. Delavan, told his foreman: just basically see what Harkin can do. Give him a job in something.

Some weeks went by and Mr. Delavan came back out on the shop floor... there were about 250 people who worked there... came back on the shop floor, asked his foreman: How's Harkin? And the guy said: Oh my god, this guy is fantastic. I put him on a drill press where they have to drill these very finely engineered holes in jet engine nozzles. Gosh, he never makes a mistake. He gets more parts per hour than anyone else. Never makes a mistake. He's just incredible.

Well, Mr. Delavan said: Well, he wanted to find out why. So, they were observing him and this was a noisy place, a lot of bells clanging and drills going and a lot of noise; didn't bother my brother a bit.

Ed: He was able to focus, in a way that others couldn't.

Sen H: He kept focused on his job. So, Mr. Delavan years later told me, after I'd been elected to Congress and I met him finally, he told me: You know, I hired your brother out of the goodness of my heart, but after we found out what a good worker he was, I went out and hired more deaf people because they turned out to be my best workers.

TM: 06:08

Ed: Less disability and more ability that was not recognized up until then?

Sen H: That's right. Like I said, if you were deaf, you just couldn't do things. And that was true of almost all people with disabilities.

TM: 06:20

Ed: From a legal perspective, what was it like for a person with a disability before ADA passed, and did that situation serve as an impetus for passing this?

Sen H: Well, that's true. From time immemorial, people with disabilities were treated as defective. They were pitied. In other words, they had to be fixed. We had policies adopted here and everywhere else that resulted in exclusion and segregation and isolation. Young kids were sent to separate schools like my brother. They were isolated. They were not given any opportunities and their horizons were limited. Their expectations were low.

If you were a person with disabilities, you weren't expected to do much; just maybe sit at home or do some kind of make work. There was a lot of ignorance and fear about people with disabilities. That was the kind of life that they lived prior to ADA. They had no rights whatsoever; they just didn't have any rights.

TM: 07:22

Ed: Well, given that our audience is legislators and other policymakers, I'm of course interested in talking to you about the political aspect of this. Can you talk about what kind of conversations you were having on the Hill as the bill was being drafted? Take us inside a little bit about what was happening around the Capitol.

Sen H: Well, you have to remember, a little bit in the background, when the 1964 Civil Rights Act was passed, it didn't include people with disabilities. And so, there began a national movement in the late '60s, early 70s for a civil rights bill to include persons with disabilities.

We had a couple of laws passed: Section 504 of the Rehabilitation Act, that prohibited discrimination on disability in federal, only in federal employment, and people getting federal policies. We had the Education of all Handicapped Children's Act, which later became IDEA, the Individuals with Disabilities Education Act. So, we had a couple of minor things, but nothing comprehensive.

And so, in the 80s there began this nationwide movement. A lot of people with disabilities would go out and lie underneath the buses, like Greyhound buses. They would just lie down behind the wheels so they couldn't move to illustrate that they couldn't ride the bus. Or they would chain themselves to buildings to show that they couldn't get in the buildings.

And so, conversations started taking place about this and we had a good bipartisan group. Probably the best bullet we had in our holster, for example, was President George H.W. Bush. He spoke about this before he became president. He spoke about it after he became president. And he became a real supporter. And he never wavered; he never backed down from this.

And so, with that backing at the White House, and we had a Democratic Congress with a Republican in the White House, with that, it became better to get bipartisan. For example, Lowell Wicker, a Republican from Connecticut, actually was the first person to introduce the Americans with Disabilities Act, and that was a Republican. But he lost the election, so then it came to me to pick it up. And Tony Coelho and Major Owens in the House.

But then we got people like Dave Durenberger from Minnesota, a Republican, Orrin Hatch, a Republican, Bob Dole – my goodness – Bob Dole became a big supporter. In fact, I always tell people: go to Bob Dole, Google it, and look at his first speech he gave on the Senate floor when he was sworn in in 1969. His first speech was about discrimination against persons with disabilities. Imagine that. So, he was quite a ways ahead of his time.

TM: 10:16

Ed: Senator Dole had suffered a grievous injury in the Italian campaign in World War II, so I know that he has spent his life with a disability.

Sen H: That's right. And so, he was just very key in helping us get Republicans onboard and working with different entities. For example, the National Federation of Independent Businesses – they represent a lot of business interests – never supported the bill. However, we got the United States Chamber of Commerce to support it.

Again, Senator Dole and Senator McCain... John McCain was a big supporter. God love him – he supported every disability bill we ever brought up. But they were helpful in getting the U.S. Chamber of Commerce onboard. That sort of gave the business community the green light, even though the NFIB had opposed it.

TM: 11:11

Ed: What was the opposition to it? What was the most-stated reason why people didn't want to support ADA?

Sen H: I think basically the scope of public accommodations provisions, standards for making existing buildings accessible. We had put in a clause about reasonable accommodations that businesses would have to make to make it possible for people with disabilities to work there.

We made a lot of compromises also to reach an agreement. But the big sticking point was basically that... and we had one other sticking point that came up. Senator Helms, Jesse Helms, a very conservative Republican from North Carolina, had raised the specter of HIV AIDS and that it shouldn't cover anyone with HIV even though they were considered to be disabled. And that bogged us down for quite a while, but we overcame it and we moved ahead.

TM: 12:15

Ed: So, Senator, the ADA passed 91/6 in the Senate, 377/28 in the House. This was an overwhelmingly bipartisan support for a piece of legislation that's essentially social justice legislation. It's hard to imagine that happening now. Why did it happen in 1990?

Sen H: First of all, we had the White House in back of us; don't forget that. President Bush put the weight of the White House in back of it. And we had good bipartisan people in both the House and the Senate. We had Steve Bartlett who was a congressman from Dallas, Texas, who later became Mayor of Dallas. And that's when in those days, we worked across the aisle and we got things done.

Plus, as I said, all of the disability groups came together. I must tell you, Ed, that one of the problems we had in the past in getting any kind of a comprehensive bill through was because the disability groups were all separated. Everybody had their little niche, and nobody wanted to rock the boat. Nobody wanted to have a comprehensive bill.

One of the biggest hurdles we had was just getting all the disability groups together, but we did. And we engaged the business community; we got them. State and local governors and state legislators came to the forefront, and many of them were persons like me that had a family member, a loved one, a brother, a sister, with a disability. And they recognized how much they were held back, not because of the disability, but because of the structures in place that would not allow them to exercise their abilities to the fullest potential.

So, all of that sort of came together and we got it passed. You're right; I don't know; I don't think that would probably happen today.

TM: 14:08

Ed: So, what do you say is the legacy of the ADA? How did it change people's lives who have a disability?

Sen H: I think we've rejected that old paradigm that treated people based on fear and ignorance and prejudice. I think we have, since the ADA we have what I call a new ADA generation of young

people that have grown up, they've gone to fully integrated schools, they know what their rights are. And of the four goals in the ADA – that is full participation, equal opportunity, independent living, economic self-sufficiency.

The first three of those we've done pretty well; we've come quite a ways. The last one, economic self-sufficiency, we still have a long way to go, and that's jobs – jobs for persons with disabilities in competitive, integrated employment. That means employment right alongside everybody else. Sort of what my brother was, Frank – when he was hired, he wasn't paid a different wage. He wasn't segregated out. He was paid just like everyone else, had the same retirement benefits, same health benefits, same vacation benefits as everyone else.

That's happening more and more since ADA has passed. I think the legacy is that more and more, the old attitudes are falling by the wayside. More and more people are seeing a person may have a disability in one area, but they have a lot of abilities in another area.

It's like my brother, Frank, said to me one time: I know the only thing I can't do is hear. Now what else I can't do I don't know until I try it. I just know I can't hear, but there may be a lot of other things I can do. And I think more and more people are recognizing that.

A disability may limit you in one area: walking, talking, hearing, whatever – but that doesn't mean it limits you in every single aspect of your human being, of your human nature.

So, I think that's the legacy is that more and more, the barriers come down. People with disabilities can pursue their dreams, they're not limited by the attitudinal barriers that used to be prevalent for generations, and we have higher expectations of persons with disabilities, of young people – we expect them to do more, to do better, to be involved. I think that's the legacy.

TM: 16:36

Ed: Well, let me ask you for a final question, and I think you've kind of partially answered this, but as we celebrate this 30-year anniversary, what do we have still to do? What's the future for the disability rights movement?

Sen H: I think what I touched on, Ed, is employment, jobs, and as we move ahead in the gig economy and as we move ahead towards more and more jobs centered on the Internet and Intranet, we have to make sure that as software and hardware are designed, that they are designed with input from the disability community, so that people with disabilities are not left out of this new economy. So, that's one.

The second is we have to ask questions about how people are being screened now for jobs. More and more, we're relying on AI, artificial intelligence, to do interviews that have to do with voice, facial expressions and all that. But this could result in gross discrimination against a person with a disability.

The third area – we're going to very soon have autonomous vehicles that will come pick you up at your home, take you to the store, take you here, take you there. You call up and it will take

you back home. This is coming. And we just have to make sure that they're, again, fully accessible.

But there's one other thing that needs to be done and I wish we had included it in the Americans with Disabilities Act, but we were unable to. We need to make personal attendant services, personal assistant services, part of reasonable accommodations for business and government, anyone that employs a person with a disability, so that a personal assistant service is part of reasonable accommodations.

For example, there may be a person who can do a fine job, but they need someone to help them go to the bathroom, for example; they may need someone to help them with their lunch break or different things like that. They may need not someone with them 24 hours a day, but with them periodically to do certain things. But with that, they could do their job well, maybe even better than others. That needs to be done and one thing I'm working on now is to get businesses to voluntarily adopt personal assistant services as part of their reasonable accommodations.

Ed: Well, Senator, thank you so much for taking the time to talk about this and the history of the ADA. Take care and stay safe.

Sen H: Well, thank you very much, Ed. Thanks for the opportunity and we're celebrating 30 years and looking ahead to the next.

Ed: And that concludes this edition of our podcast. We encourage you to review and rate our episodes on iTunes, Google Play or Spotify. You may also go to Google Play, iTunes or Spotify to have these episodes downloaded directly to your mobile device when a new episode is ready. For the National Conference of State Legislatures, this is Ed Smith. Thanks for listening and being part of "Our American States."

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