

# **IN SEARCH OF FREEDOM**

## ABOUT THE AUTHOR

**Willie V. Bryan** is Professor Emeritus of the University of Oklahoma Health Sciences Center. He served as Vice Provost and Professor at the Health Sciences Center for thirty-two years. He was a faculty member in the Health Promotion Sciences Department where he taught courses on disability and cultural diversity. In 1985 Dr. Bryan received the President's Committee on the Employment of the Handicapped Book Award for *Psychosocial Aspects of Disability*, which he coauthored. Before his thirty-two years of service at the University of Oklahoma Health Sciences Center, he served as a Vocational Rehabilitation Counselor for the State of Oklahoma, and Director of Rehabilitation and Personnel for Goodwill Industries of Oklahoma City. Dr. Bryan's academic degrees include a bachelor's degree in education, a master's degree in psychology, another master's degree in counseling and a doctorate degree in counseling. Dr. Bryan currently teaches courses such as: helping relationships, cultural diversity, family counseling, psychosocial aspects of disabilities, and quality initiatives in organization for the College of Liberal Studies and Advanced Programs, University of Oklahoma, Norman Campus.

Second Edition

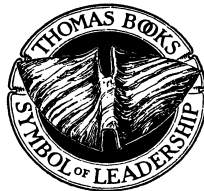
# IN SEARCH OF FREEDOM

**How Persons with Disabilities Have Been  
Disenfranchised from the Mainstream of  
American Society and How the Search  
for Freedom Continues**

*By*

**WILLIE V. BRYAN, Ed.D.**

*Professor Emeritus  
Health Promotions Sciences  
University of Oklahoma Health Sciences Center  
Oklahoma City, Oklahoma*



**CHARLES C THOMAS • PUBLISHER, LTD.**  
*Springfield • Illinois • U.S.A.*

*Published and Distributed Throughout the World by*

CHARLES C THOMAS • PUBLISHER, LTD.  
2600 South First Street  
Springfield, Illinois 62704

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ISBN 0-398-07622-7 (hard)  
ISBN 0-398-07623-5 (paper)

Library of Congress Catalog Card Number: 2005052893

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*Printed in the United States of America  
UB-R-3*

**Library of Congress Cataloging-in-Publication Data**

Bryan, Willie V.

In search of freedom : how persons with disabilities have been disenfranchised from the mainstream of American society and how the search for freedom continues / by Willie V. Bryan.--2nd ed.

p. cm.

Includes bibliographical references and index.

ISBN 0-398-07622-7 -- ISBN 0-398-07623-5 (paper)

1. People with disabilities -- Civil rights -- United States 2. Discrimination against people with disabilities -- United States. 3. Sociology of disability -- United States. I. Title.

HV1553.B79 2005  
323.3--dc22

2005052893

**This book is dedicated to the memory of my parents  
Albert Ernest Bryan and Creamer Anne Bryan  
and my grandparents  
William Henry Lowe and Minerva Brannon Lowe  
And  
James Bryan and Sarah Bryan.**



## PREFACE

Over the past half-century significant progress in the human relationship of persons with disabilities has been made. Laws have been enacted which have had the effect of opening doors of opportunities for persons with disabilities. The 1973 Rehabilitation Act, as well as the 1990 Americans with Disabilities Act (ADA) has made possible increased employment opportunities. Additionally, the ADA through its access provisions has created an atmosphere for more inclusion of persons with disabilities in American's societal activities. The Individuals with Disabilities Education Act (IDEA) has increased contact between nondisabled students and students with disabilities. Also this act has, when compliance occurs, helped insure that students with disabilities have the same quality education as their nondisabled counterparts. The amendments that brought forth section eight of the Rehabilitation Act provides opportunities for persons with disabilities to compete in the age of information technology. And finally, the Ticket-to-Work and Work Incentive Improvement Act offers some freedom of choice with regard to some persons with disabilities choosing the type of services they need to help make themselves more self-sufficient.

Although significant progress has been made, the previously mentioned laws as well as other unmentioned laws can only do so much with regard to helping persons with disabilities gain their freedom. Some laws to a major degree serve as blueprints or perhaps as a motivating force for positive human action and behavioral change. However, the most effective positive human behavioral change occurs when each individual recognizes a need for change and is willing to put forth the effort to institute such change. In the case of human relationship between persons with disabilities and nondisabled persons, the recognition and initiation of change is not a one-way street. Nondisabled persons must increase their understanding of what it means to be a person with a disability. Similarly persons with disabilities must continue to improve their self esteem.

W.V.B.





## INTRODUCTION

In 1996 when the first edition of *In Search of Freedom* was published, the Americans with Disabilities Act (ADA) was barely a half-decade old. Many of the hopes and dreams for a more equal American society for persons with disabilities were being placed on this landmark civil rights legislation for persons with disabilities. Other significant legislation such as the 1973 Rehabilitation Act and the Individual with Disabilities Act (IDEA) as well as other significant events such as the disability rights movement had opened doors of opportunity for persons with disabilities. Despite these and other events persons with disabilities continue to lag behind their nondisabled counterparts in some areas such as education, income, employment and involvement in their community's social life.

Unfortunately, much of the zest and zeal that made the disability rights movement a success seem to no longer be present to carry on the fight for freedom for persons with disabilities. There have been a number of legal challenges to some of the rights initially made available through the ADA; some have been successful and other have not. However, there do not seem to be any strong voices or efforts coming from any direction that would make persons with disabilities take notice that their rights and freedoms are being challenged; therefore, persons with disabilities are **not free at last**.

The second edition of *In Search of Freedom* gives credit for many of the advances made with regard to human and civil rights of persons with disabilities. Although there may be some that will say the United States Congress has not done enough for persons with disabilities, the fact is Congress has passed numerous pieces of legislation that provide opportunities for persons with disabilities. Another reality is that most legislative bodies, whether they are local, state or federal, tend to react to situations rather than be innovative. This is not a criticism, but a fact of reality. Given this reality, it is imperative that persons with disabilities make the American public aware of the inequities that exist. The search for freedom must continue and the search should be inspired and led by persons with disabilities. Therefore, the second edition deals with both the needs of persons with disabilities and things that they must do to attain their freedoms.



# CONTENTS

	<i>Page</i>
<i>Preface</i> .....	vii
<i>Chapter</i>	
1. FREEDOM FROM DISCRIMINATION .....	3
2. FREEDOM OF ACCESS .....	19
3. STRUGGLES FOR FREEDOM: DISABILITY RIGHTS MOVEMENT .....	31
4. POLITICS OF FREEDOM .....	53
5. INTERNAL FREEDOM (SELF ESTEEM) PART 1 .....	81
6. INTERNAL FREEDOM (ATTITUDES) PART 2 .....	102
7. FREEDOM OF CHOICE .....	123
8. INTERVENTION: ASSISTING PERSONS WITH DISABILITIES AND FAMILY ATTAIN FREEDOM – PART 1 .....	133
9. INTERVENTION: ASSISTING PERSONS WITH DISABILITIES AND FAMILY ATTAIN FREEDOM – PART 2 .....	162
10. THE SEARCH CONTINUES .....	181
<i>Name Index</i> .....	187
<i>Subject Index</i> .....	193



# **IN SEARCH OF FREEDOM**



## Chapter 1

# FREEDOM FROM DISCRIMINATION

### Purpose

The purposes of this chapter are to discuss: (a) how biases toward persons with disabilities are deeply rooted in the history of humankind; (b) some of the treatments persons with disabilities have experienced; (c) what it means to have a disability; (d) how disabilities are currently perceived; and (e) why we feel the way we do about disabilities.

### Introduction

To live free from unreasonable restrictions, to have opportunities to advance one's life to its maximum potential, and to have access to goods and services which make life rewarding are only a few of the freedoms persons living in an open democratic society expect. If these and other freedoms are available to its citizens then it is logical to expect them to have a reasonable degree of control of their successes and failures in life. One may correctly argue that luck or providence with regard to being in the right place at the right time can contribute to one's successes. Conversely, being in the wrong place or being a victim of circumstances beyond one's control can be a contributing factor to some of life's failures. Despite the fact that these life anomalies do exist and occasionally impact one's life, the real measure of one's opportunities for success comes from more predictable events such as quality education and training, having a chance at securing gainful employment, and having appropriate social outlets to interact with friends and acquaintances.

The denial of opportunities resulting from poor education, lack of equal opportunities for meaningful employment and being excluded from a broad range of social interaction may sound like claims of dis-

crimination made by some ethnic and racial minority groups of the fifties and sixties. However, these minority groups are not the only ones who have experienced this type of discrimination. Persons with disabilities have for centuries been the receiver of discrimination, which has created disenfranchisement from the mainstream of society.

To better understand this discrimination one must look at the evolution of discrimination of persons with disabilities. This chapter will explore some of the events which have occurred that have contributed to the current disenfranchisement of persons with disabilities.

### **In the Beginning**

Ever since humans left the Garden of Eden, undoubtedly disabilities have been part of human existence. One might quip that Adam had a disability given the fact he was minus one rib. Albrecht et al. (2001) in the following statement provide proof that disabilities have been part of the social order of humans for many years, “in a tomb dating to 300 B.C.E., a skeleton was found with an artificial lower right leg” (p. 16). Undoubtedly this was not the first and only person of ancient times to have a disability.

As one gives serious consideration to humankind’s existence during antiquity, perhaps only the uninformed would argue that disabilities are modern-day human conditions. To the contrary, primitive living conditions and lack of appropriate child delivery systems and hostile conflicts, as well as inability to control disabling diseases contributed greatly to persons of ancient times having disabilities. “Given high rates of diseases and war, there was likely a higher prevalence of disability in ancient communities” (Albrecht et al., 2001, p. 16). Therefore, the question isn’t whether humans in antiquity experienced disabilities, rather the question revolves around what did they do about those who had a disability? The answer to this question will help us better understand today’s attitudes toward disabilities and those who have a disability. Faried Haj (1970) reminds us that crude negative attitudes toward persons with disabilities, once deeply rooted in the superstitions and mythologies of the ancestors of modern human, have evolved into present day sophisticated bigotry.

### **Mixed Beliefs and Treatment**

Based in part on the need to survive, primitive societies were intolerant of the physically weak. According to Apton (1959), the individual did not count; the welfare of the group came before all other needs. Therefore,



anyone who was not physically strong enough to contribute to meeting group needs was expendable. This was certainly a period of the survival of the fittest. In primitive societies, persons with disabilities too frequently were considered economic, military and social liabilities that few groups could afford, or at least, thought they could not afford (Hinshaw, 1948).

**Beliefs:** Whenever people must struggle to extract their existence from the environment using speed, crude tools, and physical prowess, those who have significant disabilities run the risk of becoming an endangered group. Relatedly, most primitive people tried to eliminate those persons whom they believed did not contribute to the survival of the group by avoiding evil spirits thought to reside in the bodies of such individuals. Thus, persons with mental disabilities and/or significant physical disabilities were, generally speaking, viewed as being possessed by evil spirits. If after considerable coaxing, the spirits did not exist, this was believed to be indisputable evidence that the individual was being punished. It was a common practice, during that period of time, for nondisabled persons to consider persons with disabilities as being possessed with evil spirits and that these persons were to be avoided to eliminate any possibility of contamination.

Although we are relatively certain that in some ancient social orders the belief with regard to persons who appeared to be different from the accepted norm was to avoid, isolate and/or eliminate persons with significant disabilities; however, in all probability there existed some societies which had more favorable views of persons with disabilities. These views perhaps took the form of believing that persons with disabilities were “special people.” Special people who had mystical powers and could bring good or bad fortune for the group depending upon how the person with a disability was treated. This is a somewhat “backhanded” way of treating them “with respect.” Also quite plausible is the belief that some persons with disabilities were treated with some degree of respect, simply because they were a member of the group. If we look at current parental behavior, particularly the maternal behavior toward children, we see a tendency to protect their own. Some of this protective nature is societal imposed, but a great deal is instinctual. The instinctual part of parenting has been passed down for centuries. It is very difficult to imagine, although possible, that one’s ancient ancestors would not have empathy, sympathetic and warm loving feelings for their offspring, regardless of their conditions of birth.

The point being made is that in antiquity there probably was no single belief with regard to disabilities and persons who had disabilities, which is the case for today’s societies. Later in this chapter reasons why

we have such divergent beliefs are discussed.

**Treatment:** Similar to the fact there have been and continue to be a variety of beliefs with regard to disabilities and those that possess them, there also exist a number of different ways persons with disabilities have been treated. In reviewing historical records with regard to treatment of persons with disabilities, one observes the fact that the treatment falls within one of two categories – one, treated as evil, sinful and/or demonic, or two, treated as special people empowered, because of the disability, with powers to bring good fortune and/or possessing supernatural insight into life. The one way that very few persons with observable disabilities have been treated is as normal people. Stated another way, rarely are disabilities treated as natural events which happen to some people, nor are persons with disabilities treated as “normal persons.”

In France during the middle Ages, persons who were blind occupied a place of privilege (Henderson & Bryan, 1997). In some ancient societies children born with disabilities were used by the community to predict future events. According to Winzer (1993), laws were passed in ancient Rome which provided protection of the property rights of persons with disabilities.

Viewing disabilities from a less humane treatment standpoint, we find that in the Far East, infants with disabilities were abandoned to die in the wilderness. In India, they were drowned in the Ganges River. Roman fathers ritualistically displayed children who had disabilities and, after a sufficient number of “reasonably intelligent” adults concurred that the child would be of no benefit to society, killed them. In later times, Roman fathers were given the authority to make the decision without consultation. Infants of Sparta also suffered a similar fate. Infanticide was the method of choice used by the nobility to eliminate persons whose disability, they thought, might weaken their family’s bloodline. In early Athens, special clay pots were used as depositories for abandoned infants.

Children of Ancient Greece and Rome as well as other countries who were spared fatal parental judgment often were abandoned to roam the villages and countryside as gypsies and beggars. As an additional insult some were taken in by families and subjected to conditions of slavery, while others may have been forced into prostitution. It should be noted that undoubtedly some of those abandoned were taken in by some families and treated humanely.

**Elizabethan Poor Laws:** Fortunately, beliefs and treatments with regard to persons with disabilities began to change during the late fourteenth and early fifteenth century to, for those times, a more humanistic approach. Perhaps one of the best known examples is the Elizabethan

Poor Laws which were enacted between the years 1597 and 1601. While the Elizabethan Poor Laws were not specifically designed to aid and comfort persons with disabilities; however, some portions of the laws provided some protection for persons with disabilities, albeit by today's standards the protection would be considered degrading.

The Elizabethan Poor Laws were established to consolidate the previous English laws which had attempted to regulate relief for the poor. In earlier times in England poor relief was the responsibility of the churches and the Justice of the Peace, therefore, funding of poor relief came from tithe and some compulsory taxes that were under the jurisdiction of the Justice of the Peace. To a large degree, in addition to providing some relief to the poor, the church attempted to identify and keep track of those considered to be indigent; whereas, the Justices of the Peace being a public entity also provided poor relief and also managed many of the relief efforts by categorizing the poor into the following groups: those who would work but could not work; and those who could work but would not work, and those who because of illness, age and/or disability could not work.

Walter I. Trattner (1999) provides the following explanation of what led to the enactment of the 1601 Elizabethan Poor Laws:

Then a series of natural calamities – crop failure, famine, pestilences and especially the dreaded Black Death (Bubonic plague), which occurred in 1348–1349 and killed almost a third of England's population – produced further suffering and hardship for many. Finally, the growth of corruption and the general decay of the church in England and elsewhere ultimately led to the Protestant Reformation and in 1536 to the dissolution of the monasteries and other church property by Henry VIII; many of those who had lived or had been employed in ecclesiastical institutions were turned out and forced to join the ranks of poor wanderers. [p. 7]

During the Renaissance period the Elizabethan Poor Laws arguably were the most influential forces for, at that time, what could be considered more humane treatment of persons with disabilities. Judging the Poor laws by today's standards, one may question the humane aspects of the treatment; however, one must judge the intent of the law by the standards of the time, within this context the intent of the law should be judged to be compassionate.

Numerous statutes over several decades were passed with the primary intent of controlling vagrancy and its by-product, begging. Trattner (1999) with the following remarks summarized the intent of the Poor Laws as they related to the poor and persons with disabilities:

While still primarily a punitive and repressive measure designed to limit begging, by making a distinction between the able-bodied who refused to seek work

and the poor who could not work and those needing relief, and authorized the latter to beg and even setting aside areas where they might do so, the state took the first step toward administering an organized network of relief. [p. 8]

Therefore, begging was the English feudal system's effort at humanitarianism. There were strong beliefs that many of the vagrants, whose numbers were increasing as the society changed to more of a capitalist-based society, were engaging in begging to avoid being laborers. Additionally, some vagrants were suspected of faking injuries and/or illness to gain sympathy thus increasing their chances of receiving alms. Marjie Bloy reminds us that this belief gave rise to a popular nursery rhyme:

*Hark! Hark! The dogs do bark!  
The beggars are coming to town  
Some in rags, some in tags  
And one in a velvet gown.*

Among other relief efforts, England attempted, with the Poor Laws, to regulate who would be allowed to beg in the streets. Among those were the acutely ill, the physically and mentally disabled, the very young, as well as the very old. Hence, one of the groups that were allowed to beg was persons considered handicapped. It is interesting to note that as a result of being allowed to beg, some contend that the term handicap, or cap-in-hand, to a large extent became synonymous with beggars.

Even though the Elizabethan Poor Laws legitimized begging for certain groups including persons with disabilities the practice was nevertheless, generally speaking, despised by the public. In other areas of Europe such as Paris, France, begging in the streets was banned in 1657. Although accepted by some as a form of charity, the act of begging was generally considered an undesirable form of poor relief. Thus those that engaged in this act, whether legal or illegal, were frequently viewed with contempt, adding to the disenfranchisement of persons with disabilities.

Trattner (1999) summarized the Elizabethan Poor Laws in the following way:

The Elizabethan Poor Law of 1601, which was to stand with but minor revisions for almost 250 years, embodied the conflicting strain between the desire to reinforce the feudal structure and the increasing assumption by civil government of responsibility for the down trodden. Thus, it had some harsh, repressive features. Parents, insofar as they had the means, were legally liable for the support of their children and grandchildren. Likewise, children were responsible for the care of their needy parents and grandparents. More important, vagrants refusing work could be committed to a house of correction; whipped, branded, or put in pillories, and stoned; or even put to death.

On the other hand, the measure had many constructive features – especially its