

1998


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Recommended Citation

35 *Droit et Culture* 43 (1998)

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I. Introduction

In this essay, we ask how law becomes active in everyday life. More specifically, we ask to what extent individuals' life experiences are shaped by a consciousness of their rights and of themselves. We explore these questions in a particular legal and social context: in 1991, the United States Congress passed a major civil rights act for persons with disabilities. One part of the Americans with Disabilities Act (ADA) prohibits discrimination in employment and requires employers to provide "reasonable accommodations" for persons with disabilities who are "otherwise qualified" to perform a particular job.¹ Our study of law, consciousness, and everyday life draws upon fieldwork interviews with 60 individuals with disabilities about their lives and work. In these interviews we attempt to discern the relationship between legal rights mandated by the ADA and the experiences, perceptions, recollections, and aspirations of potential rights-holders.

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1 Americans with Disabilities Act of 1990, 42 U.S.C. §§12101-12213 (Supp. IV 1992), at §102(b).

Our research has persuaded us that the study of identity is central to the topic of "legal consciousness." We began our research by attempting to learn how individuals understand their own place in society and in the world of employment, since we assumed that their sense of a status to which they are entitled must necessarily precede a sense that employers have unfairly – or illegally – deprived them of the opportunity to achieve that status. Our investigation, however, quickly led us to a recognition that the self-concepts of people with disabilities, and probably of many other people as well, have roots in childhood and in the early family and school experiences through which identity is shaped. In our interviews, therefore, we attempt to elicit life stories rather than simply asking about current attitudes or recent experiences. From these detailed narratives extending over a broad sweep of time, we can glean insights into the relationship between identity and the role of law in everyday life.

We also suggest that, for adults in our society, identity and work are closely related. Jobs, of course, create an identity in an immediate and direct way. When one becomes an accountant, a journalist, a taxi driver, or a short-order cook, one's social identity is influenced by daily interactions connected with one's work and also by societal images and expectations connected with the job itself. But identity and work are connected in another, more fundamental, sense. In our culture, the fact of being employed in itself confers moral and political citizenship. The reverse is also true: those who do not or cannot work are typically viewed as persons who are not entitled to a status as adults or as citizens but instead are seen as marginal and dependent on others. For persons with disabilities, therefore, attaining employment is a crucial step in the quest to achieve recognition as independent and worthy participants in society.

We have chosen to study legal consciousness in the context of employment, where individual identity is profoundly shaped. We must underscore the potential significance of the ADA in this regard. The historic exclusion of persons with disabilities from mainstream jobs has been one of the main reasons that disability has been associated with dependence and social marginality. The purpose of the ADA is to reverse the process of exclusion and thereby to transform the identity of persons with disabilities in society generally. Since this particular civil rights act was intended to transform the identity of the rights-holders, it is especially important to ask whether those who are entitled to invoke the law tend to view it as relevant to their lives and their aspirations for the future. Much is at stake, therefore, in the question of whether and how law becomes active in the everyday lives of individuals with

disabilities after the enactment of the ADA. In this essay, we address this question by presenting and analyzing the life stories of three individuals: Sara Lane, Bill Cash, and Jim Vargas.

II. Life Stories

The three life stories we present in this section clearly illustrate the connection between employment and identity but they also suggest the complexity of drawing definitive conclusions about the role of law. All three interviewees are atypical simply because they *have* extensive employment experiences to discuss. Far more often, individuals with disabilities lack jobs and lack employment histories. Sara Lane, who has been an active journalist for many years, uses a wheelchair as a result of childhood polio (we have discussed her life story in a different context in Engel & Munger 1996). Bill Cash, an accountant, is also a wheelchair user and has worked for employers and for himself over a number of years. Jim Vargas, who is younger than Sara and Bill, has a severe learning disability that has affected his employment pattern and his frequent movement from one job to another. All three individuals have had to understand and manage the effects of disability on their employment and to reconcile self-concepts and stereotypes, career considerations and the need for accommodations, the quest for acceptance as an employee who is essentially the same as any other employee and the right to exceptional treatment mandated by the ADA. After presenting the three life stories, we will return to some of the differences in the way Sara, Bill, and Jim handle these competing considerations.

Sara Lane

Sara Lane's life story suggests that her resourcefulness in gaining accommodations for her disability throughout her career as a journalist has its origins in early childhood. Sara's childhood was notable for her parents' vigorous insistence that she take part in the same social and educational activities as her peers. She recalls that other children with similar physical disabilities tended to participate only in segregated activities and to attend schools for "handicapped" children. By contrast, Sara's parents insisted that she attend the same schools as the other children in her neighborhood. They made few concessions to her disability. She remembers crawling up the stairs to her second-floor bedroom and being urged by her parents and her doctor to walk

with crutches rather than use a wheelchair (an effort she eventually abandoned). Throughout her childhood, she recalls a strong expectation that she would educate herself to pursue a mainstream job and that her friendships and her place in society would be shaped by her abilities and interests rather than by her disability.

Upon graduation from high school, Sara attended a well-known university that was a leader in offering extensive accommodations for students with disabilities. Here, Sara discovered for the first time how modifications of her physical environment could allow ready access to classrooms, libraries, bathrooms, and transportation. In such a setting, it became possible to envision a career in which physical barriers would not preclude full participation. She matriculated in a prestigious undergraduate journalism program at a time when the disability rights movement was growing in strength, both nationally and among her college peers, and she remained optimistic about her career prospects even in the face of occasional discouraging comments from mentors who could not envision a reporter who used a wheelchair.

After receiving her college diploma in the early 1970s, Sara immediately found work with her hometown newspaper, the *Ruskin Gazette*. She recalls that the editor liked her because she was “homegrown” and the product of a nationally-recognized journalism program. She learned later that the editor’s decision to hire her was reinforced by the newspaper’s pro-affirmative action parent corporation, which “thought it was very cool” to hire an employee with a disability.

When she was first hired, Sara’s identity as an employee was delicately poised between being able to meet traditional qualifications and being evaluated according to affirmative action criteria. The *Gazette’s* cooperation in providing accommodations may have reflected either a conclusion that such accommodations were cost-effective in order to acquire a competent employee, or, in the alternative, a conclusion that it was worthwhile to create goodwill by investing in a local applicant who was also a “minority.” Subsequent treatment of Sara by the newspaper suggests that her competence was undervalued. As her journalism professors had predicted, she was initially assigned a dead end job at the copy desk and was not given opportunities commensurate with her educational qualifications.

Sara’s experience at the *Gazette* illustrates the importance and the complexity of identity. If she experienced difficulties, they arose because of assumptions about her identity and not because of the editor’s hostility or lack of goodwill. In the editor’s mind there was a blurring of Sara’s identity between a perception of her as an employee whose value was to be judged by her

performance and a perception of her as a person with a disability – someone presumed incapable of performing as other employees were expected to perform. The editor assumed, without ever discussing the matter with her, that her mobility impairment would prevent her from becoming a reporter. In spite of Sara’s academic credentials, which might have fully qualified another employee for training as a reporter, the editor saw no point in promoting Sara or advancing her career.

Sara overcame this limitation imposed on her career, but her advancement at the *Gazette* required resourcefulness on her part. She formed friendships with women in editorial positions, who gave her assignments that permitted her to demonstrate her ability to write and to be a reporter, too. She learned to adapt her reporting to her limited mobility and to manage her interviewees’ reactions to her disability.² She was able to maintain friendly relationships with the top management, as well as with the women who facilitated her early advancement, and she eventually rose to a middle-level editorial position at the *Gazette*. Sara was able to alter the newspaper’s perception of her by finding ways to demonstrate her ability. As an editor, her disability was no longer a threat to her identity, and it became the subject of open discussion and of friendly humor. A joke circulated about the savings she created because at one point the company ordered 60 new desks but only 59 chairs.

Once she became a valued employee, Sara found that there were new and unexpected limits on her ability to seek accommodations. Committed to the paper, just as it seemed committed to her, she could entertain no thought of confrontation, much less of litigation, when for reasons of cost the newspaper refused to renovate a dangerous freight elevator to create safer access for her. Indeed, Sara has never confronted her employers with demands to accommodate her disability. Instead, her greatest resource in managing barriers encountered in employment has been Sara’s network of friends, who have served her at critical moments in her career.

Sara values her identity as a journalist. She is painfully aware that she cannot render her disability invisible, and some of the indignities such as stares and comments that she and other persons with physical disabilities bear in public also occur when she is among her coworkers. Her answer to this problem has been to become a respected journalist and a good friend, establishing mutually supportive relationships with many colleagues. Maintaining her identity as a journalist has been of critical importance to her relationships with

2 The concept of “managing” an identity marked by social difference is developed in the classic study by Goffman (1963), which has influenced our understanding of Sara’s story.

her employers. She does not want her disability to become a factor in these relationships. She has, at times, foregone her legal right to simple accommodations, such as an accessible bathroom, which was not provided by her current employer, the *Midwest Tribune*, until her coworkers united on her behalf to demand it. Her coworkers' advocacy on her behalf resolved the double bind created by Sara's identity by making it clear that they considered such a simple accommodation to be consistent with Sara's status as an employee and not a special benefit that undermined her status. On another occasion, Sara's double bind was resolved by management itself. Her supervisors eventually became aware that the ADA required them to consider accommodations for their employees, and they approached Sara about her needs.

Sara refuses to confront employers about accommodations because she believes that such requests undermine her professional identity and could label her "a whiner," causing the perception of her at the newspaper to change. She has not felt secure enough professionally to bring the requirements of the ADA into play. When we first spoke to her she had resolved not to approach the newspaper for permission to work at home. As her medical needs increased during the year following our first interview, she began rethinking her decision and has since relied heavily on management's willingness to grant medical leave and to consider flexible working conditions while she recovers from carpal tunnel surgery. Yet, for both Sara and the newspaper, her identity as a journalist hangs in the balance just as it did at her first job. She has been reluctant to push the newspaper for accommodations because she has feared crossing the boundary between what the newspaper considers it appropriate to do for an employee and what it considers a nuisance or, even worse, unprofessional. Her own perceptions of her identity are also at issue when she considers such requests. Sara's identity as an employee and her needs for accommodations are in conflict. As her body suffers the wear and tear caused by use of a wheelchair, she reevaluates the balance she has struck in the past and seriously considers asking for the accommodations advised by her doctors which deviate conspicuously from the working conditions of other employees, placing both her self-perception as journalist and her identity at the newspaper at risk.

Bill Cash

Bill Cash, like Sara, is a career professional, a CPA. Like Sara, Bill Cash has used a wheelchair for many years (since a sporting accident in high school), but his employment experience differs from hers in striking ways. Bill found

employment in several New York City accounting firms unsatisfying, and at mid-career he is a self-employed CPA in his rural home town. Bill lives with his father in the house in which he grew up. He takes an active interest in local politics and has played a supporting role in the political campaigns of candidates for local office. Although he still thinks about working for a larger, more upwardly mobile business, memories of difficulties living in New York City and discrimination by his former employers make him reluctant to seek another job.

Bill Cash wastes little time reflecting on the trauma of recovery or the life he might have had if he had not been injured. Similarly, he has no patience for those who have underestimated his ability by attributing to him an identity based on his use of a wheelchair. His parents and most of his teachers continued to assume that he would attend college and graduate school. Of the few teachers who thought he might have to lower his career aspirations Bill said, with characteristic sarcasm: "There [were] always a few that said, 'Well maybe get a job at Goodwill or whatever, because that's what crippled people do.' And so, the teachers and I would have a meaningful exchange of views and that would be, sort of, the end our correspondence!"

Bill Cash's excellent high school performance opened up a broad range of possibilities for college, but what made the greatest difference to him, he says, were positive responses from admissions officers concerning accommodation of his disability. Bill rejected the university that Sara attended because he thought its approach to integration of students with disabilities was "mechanical" and the university conveyed little interest in him. Instead, he chose to attend a top Ivy League college that had no established program for students with disabilities but promised to break new ground to accommodate Bill by building ramps where he needed them. Although Bill recalls his difficulties moving about the relatively inaccessible campus and the problems that New England winters created for his wheelchair, his memories of college are warm and enthusiastic. He enjoyed the intimate relationships with faculty made possible by small classes, and, despite the physical barriers imposed by the campus, he experienced camaraderie and inclusion. After graduating from college in the liberal arts, Bill enrolled in a graduate business program. "I saw graduate school as a trade school," Bill recalls, "something to get through as fast as possible, and pick up as much education as I could and do whatever had to be done to get through it." His goal at this point was to "go out and start making some money." He completed business school in just over a year and went on the job market as an accountant.

Many of the accounting firms that interviewed Bill Cash quite openly stated that they did not believe he could meet the physical requirements of on-site audits. One company, for example, told him that some member of the audit team had to check inventory by climbing an oil tank to measure its contents. Since Bill could not perform this task, they implied, he did not meet their requirements for employment. Further, audit teams were sent on short notice to other cities, and, while planes and car rentals could easily accommodate persons with mobility impairments, Bill acknowledges that "you couldn't do it on a moment's notice. A lot of these guys would be told, tomorrow morning you're going to be in Knoxville. Here are your tickets, here's your hotel, good luck, go home and pack. And that was just the nature of the job. So that part of it just was precluded...." Bill believes, however, that he could have done this work if the employers had been willing: "I really had no doubt that I could do it. In terms of the employer's accepting...it was very often a different matter."

His job search resulted in employment with a small accounting firm. Bill was attracted to the job both because the firm was smaller and more personable and because it, like Sara's first employer, was very casual about offering accommodations to make him comfortable. He remained with the firm for a year doing tax work, but members of the firm's tax department then made it clear that he would need an advanced degree if he wanted to stay in the tax field. Bill's search for a job that would not have a ceiling imposed by the lack of an advanced degree took him to consulting firms, where he learned about another kind of prejudice that accompanied his use of a wheelchair. Bill believed he was rejected as a potential employee by many consulting firms because of thinly disguised discomfort with his disability. He believes that the firms assumed that his disability might make some employees uncomfortable and also might repel clients. After searching for a period of time without success, he took a job with a large insurance company. This position was soon eliminated during a general downsizing of the company, however, and Bill left New York to return to his home town.

Since arriving home as a self-employed certified public accountant in the early 1980s, Bill Cash has never left. Although he sometimes lived on his own, for most of these years he has lived with his father because of the difficulty he has getting around in snow during the long winters of western New York state. He still debates in his mind the advantages of a more temperate climate, but so far he has been unwilling to give up the freedom of his own private practice. At the beginning of the interview, he had described his community as a place where many people put down roots – a place where "people just move into a house, and forty or fifty years later they are carried out feet first." Bill's comfort

with his current living and working arrangements make him a likely candidate to fulfill his own description.

Bill Cash narrates a compelling story of inclusion and exclusion. One side of his identity is strongly drawn to collegiality and a group ethos comparable to West Point, which as a child he had aspired to attend, and to the camaraderie of his college years. The other side of his identity enjoys the privacy and independence represented by self-employment and living with his father. These two aspects of his identity, together with his educational and work experiences, became associated with a "legal consciousness" that places great emphasis on self-reliance and independence. It is possible that Bill Cash, even if he had been treated as a fully qualified professional by an employer, would still have found self-employment more attractive. Yet elements of his life story also suggest that he might have been a loyal company man and a high achiever in a competitive environment, if employers had been more willing to integrate him into their work settings.

Unspoken throughout his story is the assumption that he has ability and that recognition of his ability alone should have been the key to his advancement. While Sara's approach to seeking accommodations has been more pragmatic, balancing her requests for accommodations against the cost to her professional identity, Bill's primary concern is self-respect. Yet, while it is clear that his disability has contributed at times to his sense of alienation, with or without a disability Bill might have discovered that compromise with the practices of the employment domain is inevitable, and he might have chosen self-employment in the end. Personal disposition as well as disability and life experience have all shaped Bill Cash's consciousness concerning employment and the right to inclusion.

Jim Vargas

Jim Vargas is a licensed physical therapist with a learning disability. Jim's learning disability was diagnosed in elementary school, and he still has great difficulty with both reading and writing. His parents and teachers did not push him to achieve academically, and he drifted toward courses in manual arts in high school until a biology teacher captured his imagination and transformed his career plans. Jim was accepted by a number of colleges with programs in physical therapy, and he eventually received his degree and passed the state examination on his second attempt. He has confidence in his ability as a physical therapist and believes that his "hands on" skills give him a significant advantage in his work.

Jim likes his work, but he has discovered that the work environment offers him less flexibility than college did to accommodate his working style.

My specific disability, I have a missed connection, between, my mind is going too fast, as I'm trying to speak fast. As fast as my mind is going, I can't write as fast as everything is going....So I used to use tapes, word processors, I've, you know, done the things like that. But now in the working world it's, it's a little bit different. I am put under pressure of time restraint, so I'm being very frustrated, because my patients need the time; they need me to work with them. But, I've got all the extraneous factors around, such as the written mode. Or the reading aspect of being a professional, so I'm finding that I'm dealing with it, but maybe in the back of my mind I'm not dealing with it, because I'm jumping around. I haven't figured that out yet.

Jim is a professional with a graduate degree in a "hot" field, where there is plenty of work and the pay is good. Yet, Jim has already left three jobs of his own accord. Another interviewee, Jane, asked Jim whether his job-hopping might be related to his learning disability. At first, Jim seemed to deny any connection.

No, no I don't leave because, I, I try to think that I'm not leaving because of my learning disability, and I really think that I'm not, because I have a lot of other things going on in my life as far as I like to travel. And photography, I'm trying to get into that. So, I think that that's part of it. But I do find that I get burnt, very quick.

Jim's deeply ambivalent answer suggests to us that his learning disability creates continuing uncertainty in his mind about his identity. On one hand, he is aware that his disability affects his work. On the other hand, he is reluctant to see his work as anything but the product of his own ability, a view that blurs the boundary between self and disability.

Jim describes the increasing work load that he and other physical therapists carry, seeing up to twenty patients a day in half hour time blocks. All procedures must be carefully documented. Because he cannot keep up with the paper work, he is willing to work through his lunch hour and to stay late. But his inability to keep up with the record-keeping requirements has begun to affect the quality of his work. He finds himself cutting treatment time short in order to work on his notes, and thus he is unable to give his patients 100% of the treatment he is capable of giving. He reluctantly acknowledges that his frustration with his work, and frequent job changes, may be caused by his inability to perform at the high level of which he knows he is capable.

Jim's reluctance to tell his employers about his learning disability is only partly grounded in his belief that an employer would not spend money on costly conveniences – such as stenographers and transcribing equipment – which, in the employer's perception, do not contribute to the bottom line. Jim believes, with good reason, that employers are likely to be skeptical of an employee's claim that a learning disability exists at all. An employer will be more inclined

to help an employee who has already proven to be valuable, but this means – paradoxically – that to win accommodations the employee must prove himself first without accommodations.

Further, Jim does not think that a civil rights law, like the ADA, will benefit learning disabled employees. A stigma would attach to any employee with a learning disability hired under a civil rights law. While employers are beginning to understand and accept accommodations for persons with physical disabilities, they do not fully understand the nature of learning disabilities or the kinds of accommodations that may be appropriate. He concludes that "society is changing for them [i.e. persons with physical disabilities], but for us, it's going to take them a while, and legislation isn't going to cut it right away for the job world."

Thus, Jim says, when he is being interviewed for a job he does not tell them about his learning disability until he has convinced the prospective employer that he is qualified. "And then I say, 'Well, by the way....'" The fact that Jim takes care at that point to mention his learning disability to a prospective employer (given his misgivings about employers' perceptions of learning disabilities and his reluctance to ask for accommodations) suggests that he fears that it might affect his job performance and jeopardize his employment if he did not disclose and explain his disability to his employer. Jim's attitudes toward accommodation are thus deeply ambivalent. He acknowledges the desirability of civil rights for the learning disabled in the workplace, and he believes in his ability, yet he seems committed to accepting the burden of making accommodations on his own. In part, this is because he assumes that his employer will resist accommodations for an employee with a learning disability. Equally important, however, is the fact that Jim's concept of self and disability are not distinct in his own mind. He lacks Sara and Bill's sense of identity based on a completely capable Self who happens to have a disability. Instead, identity and disability blur in ways that call into question Jim's *own* view of his qualification for employment and thus his legal right to accommodations.

III. Life Stories and Consciousness of Rights

The life stories of Sara Lane, Bill Cash, and Jim Vargas interpret disability, employment, and rights in terms of experiences that range far beyond the employment setting. Their interpretations of work are woven into the very fabric of their lives and their understandings of themselves. Sara's deliberations about whether to invoke the ADA to obtain medical benefits from her current employer, Bill's categorical rejection of civil rights and affirmative action for

persons with disabilities, and Jim's reluctance to confront his employer about accommodations – all resonate with self-description and with description of experiences extending over a lifetime. As a first step toward understanding what these life stories may tell us about consciousness of rights in the workplace, we consider the meaning of “legal consciousness” and the lifelong process that creates an identity and shapes consciousness of rights.

As others before us have suggested (Yngvesson 1988, 1993; Harrington and Yngvesson 1990), the legal system and particular cultural settings are bound together through a two-way process. Law is one of the elements that constitute the categories and routines of everyday life; and, in turn, these very categories and routines – and the individuals who participate in them – give form and meaning to the law.³ Consciousness of law, justice, conflict and fairness emerge from a continual interplay of law and individual experience arising through interactions with others.⁴ Life stories add another dimension to studies of the process by which consciousness of rights and law arise. They emphasize the emergence of identity and orientation toward law over the entire lifespan of the individuals we interview. We have learned that such consciousness has roots in experiences reaching back to earliest childhood and adolescence and continuing through the beginning of employment and into adulthood. Jerome Bruner's (1990) “cultural psychology” has helped us understand the importance of identity in the two-way process that gives meaning to law in everyday life. Bruner and his associates have found that the personal narratives of individuals and their families present a Self that emerges from experiences in particular cultural contexts and is “distributed” among persons with whom the individual interacts in those contexts. Social and cultural interactions produce a negotiated understanding of identity that is dependent both on the social environment and on the thoughts and actions of the individual. In this process of negotiating identity, Bruner cites the importance of religious and historical traditions, economic, social and linguistic factors – and the law (ibid.:117).

We find particularly compelling Bruner's conclusion that the “distributed” Self plays a central role in social experience, rendering the

3 We acknowledge the influence of Pierre Bourdieu, among others described later, in describing the role of the Self. Bourdieu's (1977) concept of the *habitus* becomes even more meaningful when considered as a confluence of factors shaping the Self as well as a repository of practices and rules guiding the “practical consciousness” of unselfconscious social routines or explicitly referenced in discursive reflection or discussion of social interaction.

4 Ewick and Silbey (1992:741) describe consciousness of the law “as part of a reciprocal process in which the meanings given by individuals to their world, and law and legal institutions as part of that world, become repeated, patterned and stabilized, and those institutionalized structures become part of the meaning systems employed by individuals.”

everyday actions of an individual meaningful to others and to the individual himself or herself when making present choices or deliberating the future. The life stories we have summarized seem to confirm Bruner's insight that identity and the relationship of the Self to fundamental categories and routines of everyday experience, such as disability, capability, job, and rights, are the products of many factors, some under the individual's control and others not – experience and disposition, family and social context, individual choice and happenstance. As these elements change over time, the Self described in each life story also changes and develops, incorporating new experience and attempting to retain some sense of continuity stretching back to the earlier years. Rosenwald (1992: 272-3), who combines psychoanalytic insights with narrative theory, views the evolution of self-understanding in terms of a “dialectic of telling and living life.” The stories people tell themselves and others about who they are alternate with “new living action” – with experiences in the world that people enact at least in part because of their self-understanding. Narratives of the Self thus follow and explain past experiences, but they also *precede* new experiences in which individuals attempt to act out the selves they have narrated and the desires and aspirations associated with those selves.⁵ Our analysis of life stories considers the process by which an identity evolves, giving meaning to experience, shaping social interactions, and connecting disability, employment and rights.

Others have tended to treat legal consciousness in more categorical terms – as potentially comprised of a number of fixed orientations, one of which is predominant (e.g., Ewick & Silbey 1992). We question such a categorical approach. Our emphasis on the ongoing interactions between experience and identity creates a more fluid understanding of consciousness that depends on variable recollections of the past, on the present context, on the discourse that frames identity at a particular time and place (and can vary within a single context), and on creativity or happenstance. Although there may be a specific range of orientations, discourses, and practices that influence the creation and expression of identity (i.e. the *habitus* postulated by Bourdieu (1977), or repertoires postulated by Ewick and Silbey (1992)) our life story perspective suggests that experience exposes the individual to the possibilities within the culture in a wide variety of sequences or patterns, leaving traces that may be unique to the particular individual. Our focus, then, is not on a particular set of conceptual categories but on the *process* through which the Self continually re-creates itself and redefines the relevance or irrelevance of law. In the next part

5 “New living action follows a new story partly as a way of catching the life up to the account of the life and partly to express what is missing from the story” (Rosenwald 1992:274).

of our essay we explore “legal consciousness” by examining relationships between the distributed Self, the processes by which the Self evolves through action and interpretation, and the consciousness of rights that we have discovered in the autobiographical narratives of Sara Lane, Bill Cash, and Jim Vargas.

IV. Interpretations: Disability, Identity, and Rights in the Workplace

By listening to the life stories of persons with disabilities, we have learned much that confirms our initial intuition that identity plays an important part in shaping the employment experience and the role that rights might play. The stories we have selected each describe the dilemma created by the culture of employment for persons with disabilities – the perceived difference between identity as a person with a disability and the identity of the typical employee. We are not surprised that each story brings us back to the importance of identity, yet we are interested in the complexity of the process by which identity and consciousness of rights take form.

In this section, our interpretation of these stories focusses on three aspects of the role of identity in shaping consciousness of rights. First, in the subsection on “Disability,” we consider how identity, or self-concept, affects the beliefs of each of our protagonists about the influence of disability on their employability. While each has sought and obtained employment, each has had a quite different employment experience. Their experiences with disability and work, we will argue, interact in subtle ways with their identities, revealing differences in self-perceptions of their abilities and in their responses to the culture of employment. We conclude that one of the salient differences among the life stories of Sara, Bill, and Jim is their use of somewhat different discourses, constructed from experience, and from these differing discourses flow consequences for linking disability and consciousness of rights. Next, in the subsection on “Identity,” we discuss the unique path toward the development of identity which each narrator describes. Implicit in the stories is the struggle to reconcile conflicting interpretations that comprise a “distributed” identity, and we highlight the nuances of language and humor in the life stories which provide evidence of such conflicts and their effects on rights consciousness. Finally, in the subsection entitled “How Rights Become Active in the Workplace,” we identify two general frames of reference through which individuals link disability, identity, and consciousness of rights in the life stories they tell. We find that these frames of reference have different implications for

the ways in which employees with disabilities might give effect to the rights granted by the ADA. We conclude by considering the development of these differing frames of reference in the relationships between the individual and others – the individual’s distributed identity – which affect an individual’s perception of rights and the likelihood that rights will become active in the workplace.

Disability

The life stories of Sara, Bill and Jim revolve around the dilemmas of identity and employment for persons with disabilities. Throughout their employment experiences, Sara, Bill and Jim confronted a disparity between the assumptions employers make about the identities of persons with disabilities on one hand and about the identity of the “normal” employee suitable for the job on the other. Her first editor considered Sara incapable of becoming a reporter because she could not walk and presumably could not gather information as a reporter should. Bill faced discrimination because his use of a wheelchair did not fit the employee profile of exclusive New York accounting firms. Jim’s employment as a physical therapist required handwritten or typed reports of his work, a task which his learning disability made extremely difficult. Such expectations by employers not only create an initial barrier to employment, but place the employee who considers a request for accommodations in a double bind. An employee who uses a wheelchair, for example, may know that certain accommodations for her disability will allow her to perform a job well. At the same time she may believe that to ask for even minimal accommodations would vary the norms of the workplace, and thus would be taken as evidence of her inability to perform the work. The deeper problem for the employee with a disability is the importance of maintaining her identity *as an employee*. Even quite late in her career, after establishing her competence as an editor, Sara feared that requesting too many medical accommodations might undermine her professional identity. She may have feared such perceptions would also affect her informal relationships with coworkers, which were a source of satisfaction in themselves and were essential for continuing and successful employment. Accommodations could devalue not only her professional contributions but, because some of her work practices would differ from her colleagues’, her professional self-concept as well. Ultimately, Sara’s self-esteem as well as her identity among her colleagues was on the line.

Each of our three protagonists describes employment experiences that follow a different path. In recounting memories of disability and employment,

each describes not only the practices of the workplace, but the Self who became employed, who interpreted and responded to employers' and coworkers' treatment, and who decided whether and how to seek accommodations or to leave the job to seek other work.

Although they have similar disabilities, Bill Cash and Sara Lane describe the development of different identities that ultimately resulted in sharply divergent responses to employment and to the need for accommodations. Both Bill and Sara had to manage the conflicts between their implicit sense of an able Self and the physical or social organization of employment. Typically, the culture of employment contributes to the development of expectations and career choices by young persons approaching adulthood, and both Sara Lane and Bill Cash expected to be employable because of their positive view of their own capabilities. They considered their disabilities marginal to their identities. Each acquired a belief in self-sufficiency, and neither expected employers to change the nature of work for them. Indeed, too much attention to their disabilities threatened the identity each wanted to maintain as an employee and an able professional. Identity as an "able" employee, for which they had been prepared from childhood, included conformity to the expectations of the work domain. Challenging the rules of the domain in order to gain full access to work opportunities would not only have involved confronting the employer's and fellow employees' expectations, but would also have undermined their self-concepts.

Given these similarities of orientation toward disability and work, each responded to the dilemmas created by their identities within the employment setting in a different way – Sara by adapting and slowly building a new image as a professional which she treated as "capital" to help her achieve accommodations and Bill by withdrawing to avoid dependence on the expectations of an employer or coworkers. Significantly, both Bill Cash's and Sara Lane's first jobs involved back-office employment with little prospect for advancement. Sara was able to maneuver within her job to form friendship networks, gain experience, and eventually rise to a position of much greater responsibility. Bill was not able to create similar opportunities for advancement. Although his first employer suggested he might advance by completing a Ph.D. program in tax, Bill chose not to do that because he did not like being in school. Although we do not know what would have happened had Bill Cash used his opportunities differently, Bill does not have Sara's skills in the strategies of maneuver or compromise. While Sara's approach to seeking accommodations has been more pragmatic, balancing her requests for accommodations against the cost to her professional identity, Bill has a more heightened – even an

exclusive – concern with self-respect. It is difficult to imagine Bill suffering the humiliation experienced by Sara while working at the *Midwest Tribune* without an accessible bathroom, or quietly maneuvering at the *Gazette* to increase the range of his assignments.

Bill Cash was interviewed by employers who viewed employment in cost-benefit terms. Employers in his field, unlike Gannett, Inc. which owned the paper that gave Sara her first job, were not inclined to view affirmative action for a person with a physical disability as a desirable goal. Perhaps more surprisingly, Bill himself asserts that a firm should not have to hire him, or pay for his accommodations, if the cost is more than he is worth in income to the firm. He does not quarrel with the potential employer's assumption that accommodations for him might have involved some extra costs, but he thinks employers greatly overestimated these costs. Therefore, Bill believes he would have been a net benefit to an employer, not a liability. He is disappointed that employers placed greater value on hiring someone "fitting their little mold" than someone with his ability.

By referring to costs and benefits of the employment decision, Bill does not simply adopt an employer's perspective but describes a perspective that is much more distinctly his own. In general, he opposes special rights for persons with disabilities. He acknowledges that curb cuts are probably justifiable, because so many people find them useful (bikers, elderly, and persons who use wheelchairs). But he is skeptical about putting himself, as a person who uses a wheelchair, in a different category from the person who, for example, merely finds it difficult to get around for lack of stamina. Bill particularly resents the presumption underlying the Americans with Disabilities Act that persons with disabilities require special rights in order to be fully included as citizens. In contrast, Bill attaches more importance to his identity as a person capable of full inclusion without special rights.

Jim Vargas also faces a dilemma in seeking employment and requesting accommodations. Employment raises special problems for persons with a learning disability. Because learning disabilities are invisible, the disability is usually not "in play," even though it may affect the performance of the employee, unless the employee chooses to reveal his disability. Jim describes his personal strategy for handling employment interviews, in which he waits until the conclusion of the interview to mention his learning disability. Is it preferable to reveal or conceal the learning disability? Choosing to *reveal* that one has a learning disability may prevent employers and colleagues from misinterpreting the effects of the disability on work performance, because symptoms of a learning disability may be perceived by others as evidence of

laziness, lack of discipline, ineptitude or stupidity. Yet if Jim does reveal his disability to an employer, he knows that it will be far more difficult to explain its nature and effects and accommodations needed than is the case for many people with physical disabilities. If, on the other hand, Jim *conceals* his disability, he will have no access to legally entitled accommodations that may enable him to perform work successfully. He must assume the entire burden of making adjustments in work performance, must obtain assistance without the employer's knowledge or help, and must risk misinterpretation of the disability's effects.

Jim's description of his approach to employment makes it clear that he expects no assistance from an employer even if he should request accommodations. By telling his employer about his learning disability, he does bring a potential problem to the employer's attention, but he assumes that the benefits to be obtained from the revelation will be minimal or, at best, inadequate. Jim knows that he is entitled to accommodations. He received accommodations at the university he attended; but universities and other educational institutions are among the leaders in adapting, however imperfectly, to the needs of persons with disabilities, and therefore constitute quite a different environment for requesting accommodations. At the university, a special office existed to accept and manage Jim's identity as person with a learning disability; ideally, his learning disability would have been perceived as distinct from and marginal to his basic intellectual, cognitive, emotional and other personal qualities, i.e. as distinct from his Self. By contrast, his employers had little knowledge of learning disabilities, and the practice in his employment settings provided no leeway for their effects. Jim may have decided, therefore, that requesting accommodations would have been counterproductive. Indeed, he believes that adaptation of work to the needs of persons with learning disabilities is an idea whose time has not yet come.

But Jim's reluctance to press the issue of his learning disability once he obtains employment seems rooted in a more basic dilemma – identity formation. Life stories have suggested that the nature of a learning disability often leads to misperception and misunderstanding of its symptoms, not only by others, including those who enjoy an intimate and caring relationship with the person, but by the person. The legacy of such misperceptions can be a "blurred" identity, in which disability and the Self remain entangled. In our interviews, it was not unusual for a person with a learning disability to attribute his or her own failures in school or employment to personal laziness. Such a self-conception may undermine the person's belief that accommodations in employment are appropriate, because it suggests that the effects of the disability

are actually the result of personal choice – a moral failure rather than a neurological idiosyncrasy. Jim's story seems to fit this pattern at critical moments. At times, Jim displays uncertainty about the relationship between his disability and his identity. In response to a query by another focus group participant, he first attributes his job-hopping to his spirit of adventure, but then reconsiders. His second thoughts suggest that he also views leaving each job as avoidance of the effects his disability has on his capacity to perform the job without accommodations. Thus, Jim at times perceives the effects of his learning disability as Self, as characteristics that he claims are intrinsic elements of his personality – e.g., he claimed that he leaves his jobs because his spirit of adventure makes him restless – and at other times he acknowledges that these effects of his disability are distinct from his concept of Self. His ambivalence helps us understand why he struggles to adapt to the requirements of his job through self-help accommodations, such as putting in more time and why he experiences frustration when these efforts do not succeed. His frustration arises, in part, from his belief that he *should* be able to perform the job as constructed by his employer and that the failure to do so is *his* failure.

Jim's own uncertainty about his identity undoubtedly affects his judgment about the responses he anticipates from employers if he were to request accommodations and his emphasis on finding ways of making accommodations without help from his employer. On one hand his uncertainty reflects his belief that even if his disability were correctly understood, his employer would maintain that the expense of accommodations is too great. On the other hand, Jim tends to view his ability in terms of his job as it is pre-defined by his employer and to consider his disability a frustrating limitation on his ability to perform. In a focus group discussion, another interviewee observed that Jim's job is not essentially about writing or paperwork and might be defined differently so as to allow Jim – and his coworkers – to dictate their reports into a tape recorder. It is clear that this possible redefinition of the job never occurred to Jim. But this observation highlights yet another complication that ultimately underscores Jim's perception that the time for routine accommodations for persons with learning disabilities has not yet come. The nature of the accommodations for a learning disability sets the circumstances of people with learning disabilities apart from those with physical disabilities. An employee who uses a wheelchair may request ramps, accessible parking and toilets, or a special desk – accommodations that are not usually desired by coworkers.⁶ By contrast, the accommodations most likely to be requested by an

⁶ The accommodations for the person with a physical disability often set that person apart as an employee because the alterations in the work environment are not perceived as useful to other

employee with a learning disability include additional time to complete tasks, special assistance with written tasks, a personal computer, and the like, all of which might be highly valued by other employees who are not entitled to them under the ADA. Thus, the typical accommodations for an employee with a learning disability may appear to be unfair to coworkers, creating a dilemma that is not typically faced by the employee who uses a wheelchair.

Finally, we may understand some of the differences between the descriptions of disability and employment by Sara, Bill and Jim, by noting that each draws on somewhat different discourses about the Self and emphasizes a different concept of the Self. Sara's discourse about her Self is the most pragmatic, the least concerned with the moral consequences of her own success or failure, and the least critical of employers. Her self-concept is rooted firmly in her identity as an able, self-sufficient person, independent of her need for, indeed her entitlement to, accommodations. Her strong identity as a person of ability suggests the importance of life experience which establishes the sense of Self before one ever begins to work as well as the continual molding of identity throughout adult life. As we have described, her employment experiences differed from Bill's and Jim's, but these experiences were in part of her own making. Because of the strength of her identity as "able," employers' responses to her identity and the dilemma of accommodations have had an unusually limited impact on her self-concept.

Jim's identity, in contrast to Sara's, is shaped far more by the context of employment, and thus he has a greater tendency to evaluate his own performance in terms of his employer's concept of the job. He is more critical of employers, who are insensitive to his needs and make decisions beyond his control. Yet he is also more deferential to them than Sara, and he criticizes himself for not meeting the requirements of the job through his own efforts. His identity is much more entangled in the conventional culture of employment than Sara's, and accordingly the distinction between Self and disability is more blurred.

Bill links his identity not to ability alone or to the concept of a job but to his concept of citizenship, which requires autonomy independent of special accommodations. Bill, like Jim, believes that an employer's cost-benefit calculation is a legitimate basis for including or excluding him from the workplace. Unlike Jim, however, Bill believes that inaccurate perceptions of his identity as a person of ability, adaptability, and capacity to work with others

employees, even though this assumption is likely to be incorrect. For example, any employee may experience a mobility impairment, as temporary as a sprained ankle or as long term as a spinal injury; and even employees without disabilities may benefit from handrails, grab bars, and ramps.

have skewed such calculations by his potential employers. In contrast to Sara or Jim, he eventually became reluctant to continue seeking employment, and he has chosen self-employment rather than tolerate, or attempt to change, the "disabled" identity that employers attempt to impose. The decision to exclude himself, rather than be excluded, from the workplace seems closely related to the relationship between Self and disability on which he bases his self-respect. Unlike Sara, whose self-concept as an able person is generally unaffected by her struggle for accommodations, and unlike Jim, whose self-concept is strongly influenced by the employer's concept of a job, Bill Cash now takes a negative view of accommodations because they would undermine his identity as an independent and autonomous individual. Thus, Bill's perception of the dilemma of identity created by employment exemplifies the fundamental tension in our culture between citizenship and dependency. Bill's rejection of dependency is strong, and his concept of identity is not linked to ability alone or to job but to the value he attaches to full citizenship.

Identity

We have come to understand the interdependence of identity and employment in terms of the layers of meaning associated with a disability as an individual's identity is shaped and evolves with experience. At play are the meanings attributed to a disability by an employer, by coworkers, and by the person with a disability, as well as pre-employment experience. Identity, and thus the meaning of a disability, can be shaped and understood in terms of one or more of the multiple contexts, discourses or categories relevant to everyday life. The possibilities for different meanings and nuanced interpretations are great, but not, perhaps, without limit. We have, for example, noted a different emphasis in the life stories of Sara, Bill and Jim – Sara's drawing on a strong pre-employment self-concept of her ability, Jim's entangled with the culture and concept of a job, and Bill's rooted in his concept of citizenship. The fact that there are many contexts in which the Self may be placed and perceived further reinforces our view that identity, in any of these contexts, is not a categorical concept, but rather a system of self-perceptions and understandings that are subject to continual change and reinterpretation.

The evolution of identity and its multi-layered nature is illustrated by the life stories we have described, and in turn has a direct bearing on consciousness of rights. Rosenberg's (1992) concept of "alternation" emphasizes the interplay between "new living action" and discourse about the Self. Our most direct and dramatic example of alternation is Jim Vargas's description of his pattern of

accepting and leaving a series of jobs. Jim stumbled as he answered a challenge from another focus group participant to explain why he leaves jobs so frequently. In the act of creating a narrative about his life he began to reinterpret his own behavior before our eyes. This reinterpretation was provisional, and he struggled with an inner conflict about the nature of his identity throughout the interview.⁷ Of course, recognizing a pattern that is inconsistent with some aspects of self-concept does not mean that the conflict will be immediately resolved.

Sara's identity as an employee also evolved through interaction and experience. At her first job, her efforts to obtain reporting assignments through the back door resulted in altered perceptions of her identity. Her employer, who had at first presumed that use of a wheelchair meant she could not be a reporter, learned that he was wrong and Sara's use of a wheelchair was not an impediment to her development of competence as an able reporter. Her identity changed, and as a result she was perceived to be an employee on an upward career track and one who had earned the commitment of the newspaper. She was thereafter given accommodations as a matter of course. Sara, on the other hand, learned that her identity as an employee placed limits on what she could ask for. If the cost of accommodations was too high, she would not receive them. More importantly, she understood that the interests of her employer and her interests as an employee were identical in this regard and not in opposition. Thus, as an insider, her requests for accommodations were self-limiting. Later in her career, at the *Midwest Tribune*, her experience caused yet another change in her perspective on her identity. She explained her initial reluctance to ask for expensive or exceptional accommodation, such as working at home as her doctors recommended, by claiming that it conflicted with her self-concept as a professional. By the time we reinterviewed Sara, however, her need for surgery and other benefits to enable her to continue working had become more urgent, and her position had therefore changed somewhat. She noted that she had reluctantly altered her view and become more accepting of the need to ask her employer for expensive and exceptional accommodations.

7 In Vargas' hesitation we are likely to hear echoes of a discourse from other, possibly earlier, experiences in his life. The discursive consciousness found in life stories is often cast in language that seems to demonstrate the force of terms or concepts used by others to describe the Self. When teachers or classmates label a child "stupid," or when a parent says a child must walk, there are serious and lasting consequences for the child's identity and expectation for adult autonomy and self-sufficiency. But such discourse is not the only source of identity. While the discourse represents the child or adult to herself, only the individual being represented knows what she has experienced. Life experience, in contrast to discourse, is unique. Hence, the possibility of giving different meanings to the terms used in a discourse and to the Self always remains. Learning about the Self from experience is the basis for alternation and the evolving narrative of the Self in therapy and in life

The identity Bill Cash portrays in his life story is likewise the product of the give and take of his employment experience. Although we have concluded that his withdrawal from employment by a firm is consistent with the value he places on autonomy, it is likely that his present concept of himself as a citizen was considerably strengthened by his employment experience. Here he encountered discrimination and rejection. Had Bill been offered a job by one of the accounting firms he interviewed, it is quite conceivable that he would have accepted it even if the job was limited in some respects by his employer's concern about Bill's disability. Bill invested many years in education and in job-hunting in New York City, including a period of employment at work he found quite boring. He confronted a culture of employment that made few concessions to his disability before he decided to reject such second class citizenship in favor of self-employment. Although in living with his father Bill is by no means independent of all assistance, self-employment embodies the kind of autonomy – employment without special considerations – most consistent with his values. But Bill may have learned to value this form of autonomy consciously and explicitly only after experiencing it for a number of years.

Evidence of change (or contradiction) in identity as a result of experience is often suggested by quite subtle qualities in the life stories. Life stories are narrated in terms of language and ideas which, like identity itself, are drawn from prior experience, from the immediate context of the narration, from cognition that is influenced both by prior experience and by the context, and from a range of discourses with which the individual is familiar. Life stories are not fixed or singular; the individual may tell and retell them in different ways to different audiences and in different contexts. Similarly, the contested nature of identity may be signaled by speech patterns that should not escape our attention, including the use of humor to mask or defuse conflict. For example, Bill Cash has a dry sense of humor which he uses to show that his disability simply leads to a different perspective on life and not to a fundamental difference of material circumstance. He reports that a conversation with a high school teacher about his ability to work ended with "a meaningful exchange of views," and that was "the end of our correspondence!" He avoids discussing the substance of their views of his physical disability by making the disagreement seem to be merely rhetorical. Employing similarly preemptive understatement, he argues that civil rights laws granting special accommodations to those with disabilities are not appropriate because his mobility impairment is no different from lacking stamina. For example, he has observed that some people get tired doing their

grocery shopping. Again his humor “domesticates” the effects of his disability – it’s no big deal.

Sara’s identity is also the object of friendly humor. Yet, the joke which circulated about the savings she created when the company ordered 60 new desks and only 59 chairs reveals the layered meanings given to her disability after years of slow change. The talk about her disability revealed by the joke was openly part of her professional identity *as a reporter*, a status previously treated as incompatible with her identity as a person with a disability. That this information is conveyed in a joke reveals the lingering conflict between the former identity, as someone with less to offer, and the new, as someone who has performed notwithstanding her disability. The disability did not disappear, nor was it fully reinterpreted, but rather it was neutralized with respect to activities at which she had demonstrated her ability.

In conclusion, we have suggested that each of the three life stories emphasizes a different discourse of disability and rights consciousness. We have drawn these contrasts in clear-cut terms, but in this section on “Identity” we have also suggested that identity is a nuanced and complex concept that continually evolves and transforms itself over time. Furthermore, at any given time, there can be significant conflicts in identity, which sometimes become apparent through humor or the nuances of language and description. The relevance of this analysis to the law begins to become apparent: just as identity can be changeable, multiple, even contradictory, so can the consciousness of legal rights. We pursue the relationship between identity and rights-consciousness in the following section.

How Rights Become Active in the Workplace

Our interpretations of life stories have drawn attention to differences in identity that influence the way Sara, Bill and Jim each describe the role of rights in the workplace. Sara’s pragmatism, Bill’s emphasis on citizenship and autonomy, and Jim’s ambivalence about the relationship between his learning disability and his identity are linked to their distinct orientations to accommodations and rights. In this section we consider the implications of our findings for the ways in which law may become active in the workplace.⁸ We

⁸ Our interviewees’ life stories have suggested that law can become active in everyday life in many different ways, including, rarely, formal mobilization of law (see Engel & Munger 1996). For example, law enters life stories through its involvement in broad patterns of cultural change such as the disability rights movement, which influenced the receptivity of Sara’s first employer to hiring persons with disabilities. Law also appears in the life stories of each of our narrators through the changes in response to law made by their schools (e.g., Jim received accommodations throughout his schooling), employers

underscore the importance of the different interpretations of the Self as the subject of rights. Further, individuals’ differing identities may not be a fixed concept in their minds or the minds of others, but as we have shown, may take on somewhat different attributes in different situations. Identities may also evolve over time in response to others’ perceptions of the Self, as an interpretation of “new living actions,” or as a result of the spontaneous development of new meanings or understandings of the Self. These continually evolving patterns of self-perception and experience, we believe, may help to predict the changes that the ADA might bring about. Therefore, in this third section of interpretations we choose to focus on the way in which rights and the concept of the Self interact to trigger changes which make the work environment more enabling.

Sara Lane avoided seeking more costly accommodations at the *Ruskin Gazette* because they might be viewed as inconsistent with her role as a member of the editorial team, even though the newspaper’s support for the growing disability rights movement suggested that such a claim might have been successful. Later in her career, knowing about the ADA, she nevertheless avoided invoking the law because doing so would have depleted the “capital” she accumulated as a valued employee. Similarly, Jim Vargas assessed the likelihood of making a successful claim for accommodations partly in terms of his perceived identity as an employee. He assumed that his employer would deny him the accommodations he needed, because accommodations would reduce the employer’s bottom line and because the employer would not understand the nature of his disability or his need for accommodations. Sara’s and Jim’s interpretations of the value of legal rights within this first framework suggest that they would avoid invoking law, not because of lack of knowledge about the rights granted by the law or because they believe that the legally mandated changes in the workplace would not be beneficial, but because they believe the law lacks the power to alter the relationships that constitute the workplace. They believe that achieving the benefits mandated by law would disrupt the workplace and would diminish their status as employees. In the frame of reference created by the anticipated reactions of employers and employees, their rights as citizens of the larger society are not yet recognized as rights of “citizens” in the employment setting. Pragmatic and relational considerations lead persons with disabilities to understand the assertion of rights

(Sara’s current employer acknowledges its obligations under the ADA), or local governments (Bill discusses the value of curb cuts). Here we discuss ways in which law may become active through our narrators’ own consciousness and actions.

as an exchange – trading accommodations that make work possible in exchange for reduced status in the perception of employers and coworkers.

We may better understand Sara's approach to accommodations in light of her interpretation of the relationship between rights and her identity. While she was always reluctant to confront her employers over her rights to accommodations, she was quite effective in shifting her employers' perceptions of her so that receiving accommodations was consistent with her identity as a professional journalist. The exception that effectively proves the rule, and the only example of confrontation in her life story, is the claim made on her behalf for an accessible bathroom at the *Midwest Tribune*. The actions of her peers demonstrated to the employer that having this accommodation was consistent with Sara's identity as an employee. Quite possibly, the ADA and the great public awareness it produced may have made her peers more sensitive to her needs and more supportive of the expectation of receiving the accommodation.

Jim's reluctance to employ rights on his own behalf to obtain accommodations is not merely pragmatic, although he fully understands the practical costs of making such a request. Jim accepts the need for a civil rights law but has difficulty placing himself in its embrace, not only for the pragmatic reasons we have just described, but also because he believes that he is partly to "blame" and bears the moral and cultural burden of adapting to work.⁹ If Jim is perceived as a skilled therapist and a valued employee, then he has acquired capital that might be used to gain an employer's good will. He even recognizes that once an employee is "in," an employer's view of him may change and such requests may be accorded greater legitimacy. Yet Jim seems to lack the self-assurance required for such self-help, and we believe that his lack of self-assurance relates in part to his uncertain sense of Self and his ambivalent attitudes toward moral responsibility for the effects of his disability. Thus, Jim's self-concept prevents him from acting on his pragmatic assessment of workplace relationships as Sara is sometimes able to do. While Sara is able to engage, within limits, in opportunistic negotiations with her employer and is ready to take advantage of her employer's eventual acceptance of changes in the law, Jim's ambivalence about his identity makes such negotiations more difficult.

9 Other interviewees with learning disabilities expressed a similar reluctance to make a request for accommodations that would expose them to the risk of stigmatization, a fear often embedded in their memories of childhood experience. Ironically, in some cases the childhood experience arose in the context of special education programs. Schools are still the prime conveyors of the values of self-sufficiency, autonomy; and special education is often very poorly integrated into this academic and ideological framework, even though special education laws were intended to break down cultural concepts about what it means to be capable and autonomous.

Even Sara's reservations about confronting her employers over the issue of accommodations are only partly pragmatic. Sara does discuss accessible bathrooms or special parking in pragmatic terms – the cost of trading off the professional capital she has built up over the years as a reporter. But Sara discusses the possibility of seeking extraordinary accommodations in different terms, accommodations such as permission to work at home or lengthy medical leaves – accommodations to which she may be legally entitled but which would set her working conditions apart from those of other workers. She acknowledges that she would prefer such benefits to be conferred on all workers through demands made by the newspaper guild on behalf of all employees. Since the guild is unlikely to press such demands, however, she says that these accommodations would threaten even her *own* sense of professional identity quite apart from her employer's willingness to grant them. For this reason, she considers such requests with great reluctance.

Bill Cash rejects civil rights for persons with disabilities because they are inconsistent with his self-concept as a citizen. Having left employment by others for self-employment, he explains what matters to him in terms of his independence – i.e. he does not want to depend on the legal obligations of others to provide benefits or accommodations to him. Such normative considerations have become the basis for his hostility to the concept of civil rights and his emphasis on diminishing the significance of physical differences between himself and other citizens. Bill's hostility to civil rights appears to extend far beyond the employment setting, encompassing all civil rights laws that provide special benefits or protections linked to disability alone. For Bill, civil rights are irrelevant to employment, and in this interpretive framework it is doubtful whether more effective public enforcement, or even an increase in the receptivity of potential employers to accommodations under the law, would have any bearing on his unwillingness to invoke the ADA.

Sara, Jim, and Bill thus provide very different examples of the ways in which rights and rights-consciousness in the work place become a part of the evolving concept of Self. These differences have very powerful implications for the potential role of laws like the ADA. While Sara has been ready, at times, to seek changes by taking the initiative to educate her employers and to maneuver for greater acceptance of accommodations that are legally mandated but unfamiliar to her employers, Bill and Jim are unlikely ever to invoke the ADA. Bill has decided to remain self-employed; and, unless Jim's deep ambivalence about his identity changes, he is more likely to switch jobs than to seek change at his places of employment. For Jim, the law lacks the power to help him redefine his identity so that he might become a more active advocate for himself

in the workplace. Likewise, for Bill – and for Sara when she contemplates requesting extraordinary accommodations – self-concept is more important than pragmatic relational considerations in seeking accommodations in the workplace. This non-pragmatic consciousness of rights suggests that there are limits on the power of the law to facilitate change in the workplace, since it posits a potentially irreconcilable conflict between self-concept and the identity that results from invoking the law's protections or seeking the law's benefits. When an employee perceives rights primarily in this way, he or she will be reluctant to invoke the law unless changes accompanying implementation of the law not only counter the pragmatic costs associated with invoking the law but also counter the negative effects on the employee's self-concept.

What is the likelihood that law can help reconcile rights and self-concept? We suggest that the law is more likely to contribute to redefining the self-concept of the subject when there is strong social support for a distributed identity that is consistent with both entitlement to accommodations and self-respect as an able employee. Such social support may, of course, arise directly or indirectly from the law, or it may be influenced by factors unrelated to the law. Sara experienced this form of support for her identity as an able person with a disability at her university and at work through the network of colleagues and friends she has established during her career. Jim, however, lacks a network of colleagues and friends like Sara's to sustain his identity as a capable professional notwithstanding his disability. Lacking such support in the employment setting, Jim, like many employees who have disabilities, finds himself ambivalent about his identity and unable to confront his employers. Bill Cash's self-concept derives not only from work experiences in which the premises of the ADA appeared distant and irrelevant but also from his small town political conservatism. The community in which he grew up and now resides reinforces a set of values that emphasize self-reliance and the rejection of governmentally-imposed rights and obligations. In the context of his community, it is unlikely that the mandates of the ADA for workplace accommodations would receive strong support. The experiences of all three interviewees therefore suggest that the *distributed* identity of an employee affects whether he or she can maintain a concept of Self as an able and competent employee while seeking accommodations needed for work and, as a result, influences when rights become active.

V. Conclusion

In this essay, we have suggested that self-concept and the process of identity formation are powerful determinants of the ways in which law and legal rights become active in everyday life. We have illustrated our argument with examples taken from the life stories of three individuals – Sara Lane, Bill Cash, and Jim Vargas – who are the potential beneficiaries of the most significant American civil rights legislation of the 1990s. We contend that whether and how these new rights will actually affect individuals like Sara, Bill, and Jim depends largely on the way in which their identity emerges within the particular social settings in which they live their lives. We have traced the processes through which individuals and those with whom they interact help to construct a Self that may seem more or less compatible with the assertion of rights. The emergence and continual transformation of the Self is a complex and highly variable process that extends over a period of many years. We suggest that the study of life stories is a particularly useful research methodology for understanding the intersection of self-concept and legal rights.

We think the focus of the ADA on employment rights for persons with disabilities is highly significant. Traditionally, jobs have come “pre-packaged,” with their own implicit and explicit definitions of the personal qualities required for the employee who could fill each employment niche. In turn, these pre-definitions of the ideal worker, as articulated (or assumed) by employers, ripple back in society to affect assumptions of job-trainers and educators from primary school onwards. Even at the earliest stages of childhood, individuals are taught about the basic social skills and attributes they must acquire if they hope to fill one of the job niches made available by employers. Thus, individuals with disabilities form their identities in close proximity to the risks of “difference” – to the extent that they do not or cannot conform to the characteristics of the “normal” worker, they risk becoming social outsiders, unemployed and dependent.

The ADA is potentially revolutionary because it reverses the process of work pre-definition. Armed with a new set of civil rights, individuals with disabilities are entitled to question the employment routines and the employee attributes that employers have always assumed to be beyond challenge. The potential employee who looks and performs differently is now legally entitled to employment and on-the-job accommodations if he or she is “otherwise qualified” to do the work. As a result of the negotiation process mandated by the ADA, jobs are no longer “pre-packaged” nor are the identities of the workers who might fill them. A new ripple effect could be imagined, in which the more

flexible concepts of work and workers might in turn affect the identities of children and young adults with disabilities throughout the educational and social systems.

We remain hopeful that the ADA might eventually contribute to this sort of social transformation. Yet our research makes us cautious about predicting the future. Law becomes active in particular social contexts that may be more or less congenial to the re-imagining of individual identities; and much of the burden for activating these new rights rests initially with the individuals themselves. We have seen how difficult it will be for many people with disabilities to forge a self-concept consistent with the forceful assertion of civil rights in the workplace. Furthermore, many factors – social and cultural as well as economic – mitigate against such claims. Yet we should not underestimate the powerful symbolic effects of civil rights legislation and its potential to produce change. The ADA makes a strong statement about citizenship, inclusion, and the importance of the concrete changes necessary to achieve inclusion. We hope and believe that the resilient identities of many of our interviewees will show us the way to use the openings provided by the law to change the experience of employment for them and for others.

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