The Ethics of Special Needs: It's a Matter of Fairness

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The American Disabilities Act (ADA) of 1990 cites 43 million Americans as having disabilities. Despite the progress the ADA represents in improving equality of opportunity for those with disabilities, much remains to be done—as evidenced by the fact that only 27.8% of working-age people with work disabilities have jobs, compared to 76.8% of those without disabilities. The statistics are even bleaker for minorities. The STC Special Needs Committee was formed in May 1999 to help members with special needs achieve their potential by making available to them information about products, services, and literature that can assist them in their career activities. Three of STC's six guiding ethical principles have high relevance to special needs: legality, professionalism, and—above all—fairness.

"Mommy! Daddy fell off the ladder. I think he's hurt!"

Actually, Daddy was extremely lucky that day. After taking a 2 1/2-twist, double-somersault dive from the roof (degree of difficulty 3.3), ricocheting off the hood of the family truck, and making an inelegant four-point landing (left wrist, right wrist, right knee, and head) on the concrete driveway, Daddy escaped with a pair of badly sprained wrists, a bruised knee, and a gash on his forehead which exactly matched the pattern on his wedding band. Obviously, the hand got there first…somehow.

Three inches either way, and he might not be writing this article.

And all while trying to hang Christmas lights. I guess that's why they call such events accidents—they *never* make sense, do they?

So as I sit here typing this article, I am taped up on both wrists, looking very much as if I had double Carpal Tunnel Syndrome. And, yes, it hurts—though not all that much. And yes, I've lost a couple words a minute. But all in all, considering the things that *could* have happened, I am not complaining. No, that's an understatement…I am, in fact, deeply thankful to be sitting here typing with sore wrists.

You see, the wrists will heal. In all likelihood, the pain and the inconvenience will turn out the same way my previous encounters with disability have—temporary.

Not everyone is that fortunate.

As a matter of fact, according to a survey by the National Institute on Disability and Rehabilitation Research (NIDRR)[1], more than 32 million Americans of working age (that's 18.7% of the population from 15 to 64) have a disability, using the definition in the American Disabilities Act:

> A person with a disability is one with a physical or mental impairment that substantially limits one or more of the major life activities of such individual…[These include] caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, working, and participating in community activities.[2]

> Physical impairments include any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting the major body systems of the human organism.[3]

> Mental impairments include any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.[4]

Under these definitions, the ADA legislation cited 43 million Americans as having disabilities.[5]

That's pretty sobering, if you ask me.

Speaking of sobering statistics, try this one on for size: only 27.8% of working-age people with work disabilities have jobs, compared to 76.8% of those without disabilities.[6]

And the picture gets even bleaker for minorities. Asserts Jesse Jackson:

> People with disabilities have always been excluded from the bounty of our nation's resources. Minorities with disabilities, in particular, have been the most disenfranchised of the disenfranchised. It is time that we bring them into the fold as full, first-class participants in our society.[7]

In 1995, Supreme Court Justice Thurgood Marshall wrote that the plight of the people with disabilities reflected nothing less than a "regime of state-mandated segregation…that in its virulence and bigotry rivaled, and indeed paralleled, the worst excesses of Jim Crow"—City of Cleburne v. Cleburne Living Center.[8]

Why have we failed for so long, as a society, to correct this injustice?

Because it costs money. It costs more to equip public buses with wheelchair lifts; to retrofit public restrooms

with accessible facilities; to purchase speech recognition software or Braille keyboards; to install telephone devices for the deaf.

The American Disabilities Act (1990) was born out of a sense of our collective social responsibility to open up opportunities to those with special needs.

When he signed the ADA into law, President Bush said:

> ADA is powerful in its simplicity. It will ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard. Independence, freedom of choice, control of their lives, and the opportunity to blend fully and equally into the right mosaic of the American mainstream.[9]

Well, what would you expect the President to say, I hear the cynics in the crowd cry. But even the fiercely independent American Civil Liberties Union hailed the ADA as "the most comprehensive civil rights law in a generation."[10]

ADA was, and is, a good step in the right direction. But the still-lagging employment statistics for those with disabilities, for example, indicate that those who are abled, as a group, have a long way yet to go before re-enfranchising a large segment of the population with equal opportunity to contribute to and enjoy the bounties that Reverend Jackson refers to.

The 1997-98 progress report on national disability policy concluded:

> …the rate of progress is slower and less steady than many in the community had hoped when ADA was enacted into law.[11]

> For people with disabilities truly to accomplish the vision of ADA, it is critical that the Administration work with leaders in Congress to forge a disability agenda that brings children and adults with disabilities into the mainstream of American life.[12]

Yes, there has been progress, but much remains to be done.

Now let's do the math and make the segue into technical communication. There are approximately 23,000 members in the Society for Technical Communication, and though STC is the largest single organization for the profession, it represents only about a quarter of the practitioners in this country.

Applying the 18.7% statistic cited above, that means roughly 4,300 STC members and nearly 20,000 technical communicators overall are practicing their craft with one or more of the specific disabilities outlined above.

It was with this realization that the Society formed a new committee in May 1999 called the Special Needs Committee. Its immediate charter is to help members with special needs achieve their potential by making available to them information about products, services, and literature that can assist them in their career activities. Its larger mission is to blaze a trail that we hope will inspire other professional organizations to create similar support groups for their practitioners who have disabilities.

My focus on the committee is ethics. One of our committee's functions will be to help managers and instructors not only by providing resources to help those with special needs, but to make them aware of the legal and ethical principles which govern this area of interest.

Let's look, briefly, at the STC's *Ethical Guidelines for Technical Communicators*, which may be found at the front of the STC membership directory. The six major areas are as follows: (1) legality, (2) honesty, (3) confidentiality, (4) quality, (5) fairness, and (6) professionalism.[13]

All six areas can be tied in to special needs, but the three areas with greatest relevance are legality, professionalism, and fairness—probably in increasing order of importance.

Let's start with legality. The heart of the law for special needs is, of course, the American Disabilities Act. It specifies that employers must "reasonably accommodate" employees with disabilities.

But what governs reasonableness?

Say, for example, a small software development house with a staff of two documentation specialists has a job opening for a third. One of the applicants has a severe disability that would require a fairly significant capital investment in equipment to accommodate the special need and allow productive work. [Most disabilities, by the way, do *not* require a large investment to accommodate, and many require little if any.] In all other respects, this applicant's qualifications are comparable to those of others seeking the position, but the others would not require special facilitation.

What's the legal thing to do? And what's the ethical thing to do?

As I'm sure Rosa Parks would tell you, those two things are not always one and the same.

Under the ADA guidelines, if the software house could show that the extent of the investment for special accommodation would pose an unreasonable economic hardship based on the size of the company that would cover them legally against a lawsuit based on discrimination.

But would that also cover them ethically? That's a tough one. As is so often the case, ethical dilemmas carry us into gray areas. In this case, there is almost certainly a level of investment that would simply be unachievable; after all, the company can hardly be expected to go bankrupt in order to extend an employment opportunity to one person with a disability, thereby consigning 28 other people to the ranks of the unemployed.

On the other hand, could the company "cook the books" a little to make the economics of accommodation appear worse than they really were in order to escape the situation? Of course it could. And would that be right? Of course not.

But where, exactly, *is* that line? I would like to find it somewhere on the ledger, but I suspect it lives closer to the heart.

One area where STC could contribute would be to offer informed feedback to guide decisions in cases like this, researching precedent in similar cases and urging the decision-makers to be guided both by the law and by their conscience.

Next, let's consider special needs from the standpoint of professionalism. Our ethical guidelines specify that we "advance the technical communication profession through our integrity, standards, and performance."[14]

So it is our professional *duty* to help those with special needs…is that the point? No. While I don't discourage a sense of responsibility as an initial motive for extending a helping hand, my brief tenure on the Special Needs Committee has made me realize that *duty* is not the right word. It is an *opportunity* to help those with special needs.

The point is to focus not on disabilities, but on abilities. That's what we mean by "taking the *dis* out of *disabilities*." That's why our logo reads "Disabilities Don't Stop Development."[15]

I have functioned on many committees in my professional career, as I'm sure most of you have, but few have matched the energy, vision, commitment, and sheer productivity of this group. And, of the dozen members at the time this went to press, half of us have a specific disability of one kind or another: low vision, hearing, mobility, cognitive dysfunction.

The last thing I want to do, by the way, is to patronize my esteemed colleagues by implying that this is due to some kind of special courage—although that is a very tempting word to use in all sincerity, given the adversity many of them have overcome—but I have come to realize that professionals with special needs do not want any medals for bravery.

They simply want to recognized and respected as professionals.

That, indeed, is the whole point—technical communicators with special needs are professionals with an enormous amount to contribute. Employers should not hire people with disabilities as a form of charity. They shouldn't even hire them primarily as a result of social responsibility—although there is certainly nothing wrong with that motive.

They should hire them primarily because to do so is *good business*. In its comprehensive report *The Will to Work: An Employment -Related Service Needs Assessment for Persons with Disabilities in Metropolitan Toronto*, the Toronto Branch of the Human Resources Development Canada (HRDC) reported:

> Persons with disabilities comprise a largely untapped resource for employers…they tend to be highly motivated and therefore represent a real potential benefit to an employer.[16]

Collectively, the 32 million Americans with disabilities represent one of the largest, if not *the* largest, single pool of under-exploited talent available for the workforce.

And finally, there's the question of fairness.

Our ethical guidelines specify: "We respect cultural variety and other aspects of *diversity* in our clients, employers, development teams, and audiences."[17]

Diversity, of course, is the tie to special needs. I refer not to "diversity," the buzzword. I refer to the concept of enriching our workplace and our lives by sharing our differences and growing from then, instead of fearing those who are different and isolating ourselves with an invisible veil of prejudice.

Joan Bova, director of community resources for the Center for Independent Living in Winter Park, Florida, who herself has a mobility limitation, addressed this point at a professional workshop to improve awareness of disabilities in the workplace. Bova explained how for generations well-meaning parents, hoping to protect people with disabilities from embarrassment by rebuking their children from staring at them, pointing at them, or even talking to them, inadvertently sent the message that somebody who is a little different is something to be feared, to be ignored, to be isolated.[18] How ironic—a decent impulse led to precisely the wrong message!

And that message has, over the years, created a manifest injustice. Collectively, our society has parlayed our fear of those who are different into a paradigm of injustice that denies fellow humans equal opportunity as a result of something over which they have absolutely no control.

It's time to change that.

Another member of the Special Needs Committee and I were in attendance at a technical symposium where the speaker was railing against the inefficiencies inherent in reworking Web page designs to make sure they were readable on-screen for those with visual disabilities, in compliance with the ADA (which was *de rigueur* in this case, since the Web page in question was for a government-funded project).

"Accommodating this small fraction of the population means that we can't use tables, which are one of the key devices in designing Web pages."

My colleague and I bit our lips. Don't jump in, we thought—the affront is not intentional. It's simply a matter of awareness. Talk to the presenter later, offline.

But later, during the Q&A's, the presenter became even more vehement: "If we didn't have to deal with this darn ADA thing, we would have been a lot better off."

That pushed us over the edge.

"With all due respect, while we understand the difficulties achieving full text accessibility can present for the Web page designer, has the presenter considered the difficulties a visually impaired person might experience in trying to read a page that is *not* designed to be accessible?"

Yeah, we put the speaker on the spot. Maybe that wasn't very nice of us. But if it happens again, we'll speak up again.

We probably wouldn't have spoken up six months earlier, before our service on the Special Needs Committee opened our eyes to the gauntlet of unfair obstacles that confront so many of our fellow professionals—indeed, our fellow humans—in performing their basic responsibilities on the job, even the basic functions of life.

They don't want *special* treatment—other than in the sense that they may require a technological boost or a simple hand to help them overcome their disabilities and put their abilities to use.

They want *fair* treatment. Equal opportunity. Professional growth. Fulfillment. Respect.

Is that too much to ask? I think not.

It's more than a question of legality and professionalism.

It's a matter of fairness.

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