

CENTER FOR DEMOCRACY & TECHNOLOGY

[Tech Talk: Reflecting on the Anniversary of the ADA — Talking Tech w/ Alex Givens & Ariana Aboulafia](#)

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[00:00:02.380] - Intro

Welcome to Tech Talk by CDT.

[00:00:15.240] - Jamal Magby

Welcome to CDT's Tech Talk, where we dish on tech and internet policy while also explaining what these policies mean to our daily lives. I'm Jamal Magby, and it's time to talk tech. July 26th marks the 33rd anniversary of the passage of the Americans with Disabilities Act, perhaps the most important piece of legislation in the history of the disability rights movement. Since the passage of the ADA, disabled people have achieved significant advances in equality, but the spread of technology brings new concerns and new questions to mind. Here to talk more about this is CDT President and CEO Alexandra Reeve Givens and Ariana Aboulafia, Policy Council for the Disability Rights in Technology Project. Thank you so much for being here today.

[00:00:59.780] - Alex Givens

Thanks for having us.

[00:01:00.990] - Ariana Aboulafia

Thank you so much.

[00:01:02.260] - Jamal

Of course. And Ariana, before we get into the thick of it, welcome to CDT. Would you mind telling our listeners a little bit about who you are and where you're coming from?

[00:01:11.170] - Ariana

Yeah, absolutely. And thank you for the warm welcome. I am a lawyer by licensure, and I went to law school really because I wanted to use my law degree to fight for the rights of people with disabilities. And that is an advocacy that was inherent to me my entire life as a person growing up with several disabilities. I've pretty much engaged in some form of disability advocacy my whole life on my high school campus, on my college campus, on my law school campus. When I graduated law school, I decided that I wanted to take maybe a bit of an unconventional route, and I became a public defender. I was a public defender in Miami Dade County for just under two years. I really do see public defense work as a disability rights

and disability justice position. There are quite a significant percentage of folks who are in the criminal legal system do experience disabilities. I was very privileged to be able to do that work for a couple of years. After that, I worked for Knight Foundation for about a little bit under a year, and I was largely doing funding in the First Amendment space.

[00:02:27.800] - Ariana

My tech background comes from the Cyber Civil Rights Initiative. And so with CDT, I get to bring it all together.

[00:02:34.540] - Jamal

Well, we're super excited to have you. So let's jump right into the issues at hand. Ariana, I'll start with you. Could you give us a little information about the ADA and the ways technology both creates new concerns and amplifies existing concerns for disabled people?

[00:02:49.780] - Ariana

Yeah, absolutely. So the ADA, the Americans with Disabilities Act, it's an extremely important piece of legislation. I would say that it marked a critical turning point in the disability rights movement when it was signed into law in 1990. It's important to note it's not the first piece of disability legislation. There was section 504 of the Rehabilitation Act, the IDEA (Individuals with Disabilities Education Act), but the ADA was unique in how comprehensive it was. The overall goal was really to minimize discrimination for people with disabilities, partially by enhancing accessibility and providing for the right to accessibility enshrined in federal statute. And at this point in time, technology has its own accessibility concerns. And we're really lucky, there are tons of disability rights and justice organizations that focus quite a bit on those accessibility concerns. But with CDT, some of the things that we focus on are ways in which disabled folks can experience discrimination in the digital or technological context that are outside of the context of accessibility. Things like data privacy, data governance, surveillance, algorithmic fairness. Those are some of the very high-level technological concerns that are amplified by technology, some of which are created by technology, and that by focusing on, we hope we can ameliorate those disproportionate impacts on disabled folks.

[00:04:17.710] - Jamal

And CDT has been engaged in this work for years. Alex, would you mind giving us a recap of some of the work CDT has historically done in this space?

[00:04:26.800] - Alex

Sure. So our specific focus on disability as a priority area really came out of work that I was doing about six years ago. Before I was at CDT, actually, I was based at Georgetown, doing an increasing amount of work on algorithmic fairness, how AI systems were being used in deciding who gets access to a job, who

gets access to housing, credit lending decisions, and other questions like that. And at the time, there was a really important movement to raise awareness about the risk of bias in these systems, and in particular, a very strong focus and academic grounding on racial bias and gender bias. And that work was hugely important. It was reshaping the entire field. We were seeing a big movement around algorithmic discrimination, algorithmic fairness that is actually playing out in the AI debates now of 2023. But it stood out to me very clearly that disability was not part of the mainstream conversation on these issues at all. And that felt like a glaring oversight. When we look at the statistics, one in five people in America are living with a disability. A lot of times people who are facing marginalization have a compounding of having racial marginalization and gender marginalization and are disabled.

[00:05:41.880] - Alex

So we have to think about the intersectional lens here. And so it mattered to me as an advocate to ensure that we were thinking about those issues too. I'll say some of this is personal for me. I grew up with my father, when I was young, had a very high-level spinal cord injury. And so we grew up with disability being part of our daily lives, very closely involved in the movement for disability rights and to improve the quality of life of people living with paralysis. And so there was a personal element to it, but also it just felt like such a huge area of oversight that we mobilized and got good support, thankfully, from funders. The Ford Foundation in particular, have been huge supporters of this work at CDT to begin putting this lens into the work that we were doing. And what's happened over the past few years is number one, yes, in the AI conversations, we really have been pushing hard to make sure that the disability discrimination gets worked in there too. But when I came over to CDT, I realized there was this beautiful opportunity to make sure that we were thinking about disability justice across all of our teams and all of the ways in which CDT thinks about tech policy.

[00:06:47.390] - Alex

And through smart hires like Ariana, through allyships with other disability rights organizations, and a number of other things, it's become a real mainstream aspect of the way that we think about equity and inclusion across our policy areas.

[00:07:03.680] - Jamal

So how do you view the project now and where do you see it going in the future?

[00:07:08.060] - Alex

Well, one of the things that has been incredibly gratifying is the increasing frequency with which disability is part of these tech policy conversations. To share just a couple of examples, the White House in late 2022 put out their blueprint for an AI Bill of Rights, which is this big statement document about the administration's values, how consumers are impacted by AI in our daily lives, and what are the types of harms we need to think about. They weren't just doing the really important work on race and gender equality. Disability was centered throughout that multiple touch points and examples of how algorithmic

systems are discriminating against disabled people. So that type of recognition and just naming the problem is really important. We're seeing more of this. We're seeing mainstream academics begin to surface this type to work in their advocacy, too. So that's been wonderful. And I think one of the highlights for us actually was just this past year when the Justice Department and the Equal Employment Opportunity Commission really led amongst all federal agencies in the US by putting out guidance on how AI systems could discriminate against people when they're used in the hiring context.

[00:08:21.010] - Alex

And the topic that they led with their first piece of guidance was that these tools may well violate the Americans with Disabilities Act. So again, that's an advocate's victory. And it's nice to see them calling attention to these issues. Now, of course, it's one thing to describe the problem. It's another to actually address and fully solve the problem. And so that is the ongoing work of CDT and so many of our allies across the board. So one big piece is really thinking through, what does it mean to center disability rights in tech policy? How do we make sure that these aren't just rights on paper, but they're rights that can actually be vindicated in real life? And the use of AI in hiring is one example of that, because you can have the best legal protections written in statute in the world, but if you don't actually know how a system is making a decision about who gets a job offer and who doesn't, it's really hard to even think about whether you have a lawsuit, could you bring a claim? What would the evidence for that claim be? There's a lot of work actually making the promises of the Americans with Disabilities Act real in the 21st century.

[00:09:23.200] - Alexa

That's a big ongoing piece for us, as well as deepening the field of collaborators and others that look at this particular intersection.

[00:09:29.920] - Jamal

So, Ariana, I want to turn back to you really quickly. I would love to hear, what are your thoughts on the scope of this project?

[00:09:35.880] - Ariana

I think that jumping off of what Alex is saying, it is so incredibly important to center and to address disability rates within the field of tech policy as a whole. I think it's quite difficult when you think about case studies to isolate one issue of tech policy, such as algorithmic bias, and say this is exactly how this is impacting people with disabilities without also addressing other concerns. And so I think something like electronic visit verification, which is required by law, folks who receive in-home care that is funded by Medicaid, those care workers need to verify via some electronic device and typically a third party app that they are actually doing the care that they say they are. This issue is one that encompasses data privacy. It's one that encompasses surveillance. It's one that encompasses personal privacy, and it's one that disproportionately impacts people with disabilities because disabled folks are typically the ones who are receiving Medicaid-funded care. And requiring those folks and their caregivers to, as an example, take

photographs or be subjected to turning over their geolocation data. That is the thing that has really widespread impacts. And it is an example of the ways in which one single issue in policy and in tech policy can affect all of these different subject matters. Particularly on the electronic visit verification front, myself and Henry Claypool, we have a piece coming out in Slate that tackles this and uses it as an example, not only of what I said before, meaning the ways in which these various parts of tech policy come all bundled together in issues, but also of the importance of thinking about disability discrimination in a digital world as something that needs to be addressed beyond thinking of accessibility and thinking of these precise issues that CDT tackles.

[00:11:37.110] - Alex

And there's one, you know, another interesting example of this is in the use of AI and benefit systems. So again, 2023, we're in this AI hype cycle. We have policymakers around the world all talking about algorithmic harms. At CDT, one of the areas that we focused on is the use of AI to determine who is eligible for public benefits and what the size of the allocation and the award is to someone when they're granted a budget for in-home care services, for example, under Medicaid. And what's interesting is that AI is nothing new in that universe. Algorithmic systems have been used for over a decade now with very significant real-world effects when those systems are poorly designed with minimal oversight. And so when you go back, you'll actually see lawsuits and litigation fighting over algorithmic design as early as 2010 and 2011, because people were being denied Medicaid benefits based on flawed designs in the system. For example, assuming that the costs in a particular city are actually representative of the costs in other cities around the country without actually having adaptation to that system to reflect what the real world cost would be in someone's particular jurisdiction.

[00:12:48.240] - Alex

And the reason I raise that is that legal aid lawyers and disability rights advocates were fighting those fights for over a decade and not framing it as a tech issue, not framing it as an AI policy issue, but it is the exact same types of questions that people having the AI debate right now talk about. How do you meaningfully audit an AI system? How do you have transparency and explainability? So we sometimes see these different movements, and there is so much to learn through cross pollination and crossover and just the very real lived experience of people who have been fighting these battles for a long time. I think the more that people in the digital rights or tech policy community can plug into those conversations and do this bridging work, it's going to benefit all of us.

[00:13:34.970] - Jamal

So we've talked a little bit about AI, but I'd like to switch gears and ask, how do disability issues feature in CDT's election work?

[00:13:43.990] - Ariana

I can start out setting the table on that. Yeah, elections have been under attack in recent years, particularly their security and validity. And CDT utilizes technology and tech policy to fight election disinformation and to work to enhance that security.

[00:14:01.850] - Alex

One particular area that's worth calling out here, too, is the partnership that we've had with the American Association of People with Disabilities, thinking about access to the ballot. So there are incredibly important steps that need to happen to make sure that everybody can exercise their right to vote and to make sure that voting is accessible. CDT for a long time has been a leader on election security issues, how to make sure that the actual mechanics of voting are secure and fair and people can trust those systems. It's incredibly important that we balance both security and accessibility and say that those two things can go together. It doesn't have to be a tradeoff between the two. One area that we've done this work is around ballot marking devices, which a number of people with disabilities use as their way of casting their vote. Historically, there have been substantial security concerns raised about it. So we're doing bridging work there to try and figure out how you mitigate the security concerns while still trying to promote the availability of this really important accessibility tool. And then another was our advocacy around mailing voting. So back when the beginning of the pandemic in 2020 was such a huge election year, and people were really worried about what the security of mailing voting was going to work, what that was going to look like. Well, mailing voting was useful for everybody during the pandemic, but post-pandemic and in people's daily lives, it's also incredibly useful and helpful as an accessibility device for disabled people, as well as for people who are working and busy and don't have time to go to a physical polling location. So making sure that those systems are secure and that people have confidence in mail-in voting as a system that can be secure and available and not create risks of fraud is another important intersection that CDT has been pursuing as well.

[00:15:47.680] - Ariana

And regarding Alex's point on insisting that you recognize that there may be security concerns, but that accessibility not be sacrificed. One of my CDT colleagues, Will Adler and I have a piece coming out quite soon that should be on the CDT website where we urge the US Election Assistance Commission, the EAC, to collect data on the availability of internet voting options to people with disabilities so that we can properly determine how useful internet voting has been for folks with disabilities, how helpful it has been as a means of accessibility to the vote, and then security concerns can be discussed with the proper data in hand.

[00:16:29.090] - Jamal

Thank you for that. One of CDT's core theories of change is partnering with groups representing communities impacted by technology who may not have the bandwidth for deep technical expertise on staff. Are there disability groups leading on these issues?

[00:16:43.290] - Alex

There are for sure. I mean, the bandwidth issues are huge. A lot of the groups out there are fighting so many fights right now on a bunch of fronts. So not just in the tech world, but also fighting against institutionalization, fighting to have medical benefits, actually be meaningful in something that can support somebody to have an independent life in the community where they want to live. So many other issues to under employment of disabled people. I mean, the list goes on and on. And the simple question of accessibility of websites and technical interfaces remains hugely important, too. There're huge amounts of leadership and movement building at that intersection. As Arianna was setting up, CDT has been less focused on that. We're hugely supportive of the tech accessibility efforts. We're trying to be additive to that by moving into other spaces around privacy and some of the other issues in tech policy. But despite the limited bandwidth, we are seeing an increasing number of disability focused organizations also expanding into these spaces too, and articulating concerns about privacy, about algorithmic bias, around content moderation, and some of the other topics we've touched on today. I mentioned already that we're very close partners with the American Association of People with Disabilities, the Bazelon Center, which focuses on mental health, has been very involved in law enforcement, surveillance, and policing, and how that intersects with technology.

[00:18:08.890] - Alex

I was lucky enough to attend a meeting with the Vice President last week on AI and how it impacts people in their daily lives. And the President of the Disability Rights Education Defense Fund, DREDF, was there representing the community and speaking loudly on those issues. And then there are other organizations like the ACLU's Disability Rights Project that have led on these cases for years and are the ones I was just mentioning, actually, a decade ago were litigating algorithmic systems back before we called it AI. They've been in the trenches fighting these fights for a long time. So the community is there and growing. For folks in the community who are looking for news you can use from this podcast, we're seeing more funders paying attention to this space and the crossover and wanting to support people really pushing forward in these under explored policy areas. So that's all been incredibly rewarding to see. And for CDT, our goal is to help grow that field in any way that we can to be supportive, to be good allies and make sure that we're really carrying on this work together.

[00:19:03.340] - Jamal

Speaking of carrying on this work together, Ariana, I'd love to hear what other projects you have coming up.

[00:19:08.630] - Ariana

I think just going off of what Alex was saying, the biggest thing that I am focused on right now is field work and coalition building. There are so many wonderful organizations, many of which Alex just mentioned by name, who have been fighting these fights for a very, very long time, but who may be focused particularly on certain other issues, whether that's Olmstead violations or a host of other issues that disabled people

face. And so a big part of what I am doing is hoping to really create or to expand a big tent and to serve as somewhat of a liaison for disability rights and justice orgs who want to get involved in tech policy and also for tech policy orgs that care about disability rights and disability justice. And I think that because of the leadership of Alex and the brilliance of my colleagues here at CDT, that is something that we can really do. I'm absolutely just in awe of our partners and those folks in the disability rights and disability justice movement. That is the big thing. In addition to that, my work here at CDT is inherently cross departmental, as Alex mentioned.

[00:20:21.980] - Ariana

One project might be working with the Security and Surveillance team. Another might be working with the Equity and Civic Tech team on the ways in which disability rights statutes apply to kids in schools with disabilities. There are all sorts of things that relate to this seemingly niche idea of disability rights or disability justice in tech policy. I'm very excited to continue doing that work.

[00:20:48.890] - Jamal

With the anniversary of the ADA coming up, what do you think is the best thing that disability rights and disability justice activists can do to advocate for equality in digital spaces?

[00:20:59.420] - Alex

Well, I think one thing I would add is that in addition to focusing on the substance of what we do, we're also spending a lot more time thinking about the accessibility of our work. That's everything from the accessibility of the CDT website to making sure that the PDF reports that CDT puts out are easily clickable and navigable by machine readers, to also in some cases for some of our reports, publishing them in plain language versions, which are tailored for people with intellectual disabilities in particular, to be able to review and understand and use materials that are focused on issues directly impacting their rights. We also think about this when we have events, for example, making sure that we're offering accommodations, having interpreters when we want them, when somebody needs them and we can make them available and those types of things as well. Now, we by no means have this town perfect. For sure, we're approaching this with humility, but it's an incredibly important part of what every organization should be doing, and we're trying to make sure that we make good on that too.

[00:21:57.830] - Ariana

On that point, we are so grateful for the guidance that we get, not only from our partners in the disability rights and justice space, but also from our colleagues and our disability advisory council here at CDT. They absolutely helped to guide a lot of that work. The thing that I would probably end on, just as I'm reflecting on the passage of the Americans with Disabilities Act, is that the community that I am a part of, we have come a very long way. I think that with the advent of technology, with the proliferation of technology, and with innovation that comes inherently alongside technology, that there is a lot of work left to do, and that I am extremely optimistic and that is maybe a bit unusual to hear in this point in time, but

I'm extremely optimistic knowing that there are so many wonderful people who are doing this work that we can really ensure that the ADA is able to fully reach its really noble ideals. And I think that that is something we will see in the short future.

[00:23:07.260] - Jamal

Alex and Ariana, as always, it has been a pleasure having you. Thank you so much for joining us here today.

[00:23:12.760] - Ariana

Thank you.

[00:23:14.000] - Alex

Thank you so much for having us.

[00:23:15.200] - Jamal

Of course. And to all our listeners, to keep up with all the work CDT's policy teams are doing, please visit us at cdt.org and follow us on Twitter, Facebook, Mastodon, and LinkedIn, [@CenDemTech](https://twitter.com/CenDemTech). I'm Jamal Magvy. Thank you for talking tech.