Issue

My dissertation is a study of disability politics in Germany and Japan. I chose these two countries as examples of recent transformations in international disability politics, which is the emergence of an international disability rights movement. This movement represents a shift from what disability theorists term the ‘medical model,’ which understands disability as physical or mental imperfection best addressed through medical cures and rehabilitation, to a ‘social model,’ which focuses on civil rights, discrimination and stigma. The rethinking of disability as a social construct has provided a powerful platform for political organizing. Especially the disability movement in the US very self-consciously points to its roots in and parallels to the Civil Rights movement. Disability theory is grappling with the binary opposition of the two models, and there is important work being done by feminist and post-structuralist scholars in the field, complicating the binary, and locating disability as an important new site in the discourses of the body, deviance, normalcy, and social control.

But binaries, however much they distort the face of the lived experience of disability, play an important role in the world of disability politics, both strategically, and epistemologically. With the passage of the 1990 Americans with Disabilities Act (ADA) the United States has become a model of a disability rights approach, which interprets disability as a civil rights issue and mandates anti-discrimination and equal opportunity. This model has spread to most other common law countries: Canada, New Zealand, Australia, and Great Britain. It stands in contrast to a more traditional model, called a quota or welfare model dominant in most European and industrialized Asian countries, that aims for equality of results through the use of employment quotas and emphasizes special needs over equal rights.

My dissertation locates itself at the intersection of these two models. It examines the impact of the rights model on two countries that are deeply embedded in the quota approach. In contrast to the equality-oriented ADA, German and Japanese disability policy is difference-oriented, based on separate and special treatment, rather than on equal rights and integration. For example, German and Japanese children with disabilities are educated in separate schools, and most
working adults work in sheltered workshops. There are extensive welfare and social security provisions, but no equal opportunity mandates. Disability activists in both countries are now working towards anti-discrimination legislation based on the American model. In the German case, this is in the process of being realized: just last year the German government began to draft language for Germany's first disability anti-discrimination law. This came after a long political struggle led by activists 'trained' in disability activism and legal mobilization in the United States during the 1980s.

In Japan, the struggle for a "JDA" (Japanese with Disabilities Act") is fought for on a smaller, decentralized scale, with movements to reform the more obviously paternalistic and discriminatory features of Japanese disability law, and workshops trying to sell notions of rights-consciousness to the Japanese. Interestingly, and perhaps not coincidentally, the leaders of the Japanese movement were also inspired and guided by U.S. activists. There are powerful personal networks of prominent U.S. disability leaders and their German and Japanese "apprentices".

In both countries, then, American disability law and activism, and to a lesser degree international UN doctrine, have inspired movements to frame disability as a universal civil rights issue using the language of rights talk. However, there are many aspects of American disability law – as well as the social model – that are problematic for the movements I am studying. For example, Western notions of independent living - one of the hallmarks of the U.S. disability movement - stand in direct conflict with the Japanese cultural emphasis on family cohesion, care giving, and interdependence. Yet Independent Living Centers have come to form the core of the Japanese movement, just as they did in the United States. Moreover, German activists are not happy with what they consider the "rugged individualism" of EEO doctrine. They are not willing, for example, to give up on employment quotas. And, on top of that, they insist on a special quota just for women with disabilities - all notions that will strike the reader as fairly un-American. But despite these points of contention and separation, rights talk is becoming increasingly powerful in these two movements, and serves important strategic and political functions. So, something happens when rights go on the road. And the question of what happens, why it happens, who makes it happen, and what happens next, lie at the heart of my dissertation.

Research Questions:
This new convergence of disability models creates a unique vantage point from which to study perennial questions in the Law and Society movement: what do rights do for (or to) social movements? How and why do rights lead to equality for subordinated groups? Specifically in the cases of Japan and Germany, this dissertation inquires the purpose and impact of rights talk and practices on the politics of disability movements as well as on the formation of disability law and policy. Can models of equal opportunity blend with those that mandate equal outcome? In other words, can we have both equal rights and quotas? Finally, what happens when rights travel to settings with different political and legal frameworks and assumptions about the law as a tool for social change? As disability rights go global and movements are forging international connections there is an increasing need to conceptualize disability rights comparatively.

Chapters Outline
✓ Chapter Two: Legislatting Disability Rights: an International Comparison
The second chapter will set the stage for my two case studies. German and Japanese disability law and fall into one of the two basic approaches to disability law. They are part of what I call a quota model, which legislates disability primarily as a welfare, or rehabilitation issue, and uses quotas as the primary policy tool to combat disability unemployment. The alternative approach is the ADA-based rights model, which eschews quotas in favor of equal opportunity. The profound impact of this model as well as international disability doctrine on both German and Japanese disability activism is the subject of this dissertation and will be discussed in detail in future chapters. This chapter will provide the analytical framework for this borrowing of models by first providing an outline of the two models and then examining them at work in European, American, and international settings. I will conclude the chapter with a discussion of current European attempts to combine the two models.

Chapter Three: The ADA and the Limits of Equality

The third chapter blends an analysis of the ADA – its passage and its treatment in the courts – with a discussion of the theories of equality and difference. I apply the theoretical underpinnings of equality doctrines and rights models to other social movements. The disability rights movement in the U.S. very deliberately claims the Civil Rights Movement as both intellectual and political model and orients its legal organizing and consciousness raising accordingly. Thus, this chapter examines the theoretical and organizational debt disability movements owe to other, more established social movements. I argue that in important ways, disability rights claims, and especially disability claims for equal opportunity, are closer theoretically to the claims women have made for equal opportunities in the workplace. I therefore analyze women's EEO claims as an example of the workings of Minow's difference dilemma and then compare this process with the disability case studies.

Finding & Implication:

- Chapter Four: Disability Politics in Japan

Chapters five and six represent the bulk of my dissertation fieldwork. Both begin with a basic introduction to the history and development of postwar disability law and activism, since this is the first English language examination of the topic. The Japan chapter focuses on the impact of the 1981 UN International Year of Disabled People on Japanese disability policy. The UN mandate for “full participation and equality” had a powerful influence on the Japanese disability movement, but governmental reforms fell short of the promises of integration and equal opportunity. However, as a result of the UN decade, a new generation of activists emerged that looks to the United States disability movement as an example of disability pride and rights consciousness. This new generation wants to embrace equal rights and equal opportunity and move away from the traditional emphasis on special needs.

My Japanese case study focuses on the workings of five emerging disability rights organizations that are working to introduce ADA-style anti-discrimination legislation to Japan, as well as other American principles, such as Independent Living, advocacy, self-determination, and Disability Studies. These organizations grapple with a classic dilemma in the rights literature: rights can be empowering but also individualistic and alienating in a culture that values connection and group-based norms. Their desire for a culturally specific
engagement with rights points to both the power and the problematic of an American-based rights model. While notions of equal rights and integration might be foreign concepts to Japanese political culture, their increased significance provides challenges to our understanding of Japanese social movements. These new developments in Japanese disability activism will have substantial implications for the literature on Japanese new social movements and the politics of identity, neither of which has previously included disability rights. Moreover, they can point to new interpretations of notions of “equality” and “difference” for legal theory, as well as to our understanding of how these notions have been used by subordinated groups to protest their subordination through legal and political means.

✓ Chapter Five: Disability Politics in Germany

My German case study explores the impact of the 1994 amendment to the German Basic Law outlawing discrimination on the basis of disability. I argue that the constitutional amendment politicized the German disability movement and launched it on the path towards a new focus on rights and equality. The chapter describes the struggle surrounding the equality amendment and its impact on German politics. As a case study it analyzes an extensive media campaign, the "Operation Basic Law" organized by an unprecedented union of disability organizations during the fall of 1997. This campaign politicized and united the German disability rights movement and set the national agenda for a comprehensive anti-discrimination law. I outline the first proposals for an "Equalizing Law" reached by coalition meetings of government and movement representatives in January 2000, and discuss the ways it seeks to combine what are seen as mutually exclusive policies: anti-discrimination measures and employment quotas.

Here the “blending of approaches” envisioned by Japanese activists (combining the employment quota with ADA-style anti-discrimination legislation) is in the process of being realized. My study outlines the ways in which the German movement seeks to go beyond the mere anti-discrimination promise of the ADA by including affirmative action measures specifically for women with disabilities. Finally, the chapter discusses the newfound significance of rights talk in the German disability movement.

✓ Chapter Six: Conclusion: The Globalization of Disability Rights (TBA)