



A conversation with Charlotte McClain-Nhlapo

Voiceover:

(Hip-Hop music plays)

Barry Whaley:

Hi everyone. On behalf of the Southeast ADA Center, the Burton Blatt Institute at Syracuse University, and the ADA National Network, I want to welcome you to “504 at 50.” I’m Barry Whaley. I’m the Project Director of the Southeast ADA Center. And the “504 at 50” series is a special interview series created in recognition of the 50th anniversary of the signing of the Rehabilitation Act of 1973. In our series, we speak with leaders of the disability rights movement who advanced the cause of equal rights through their tireless work. On today’s episode, we welcome Charlotte McClain-Nhlapo, a world-renowned human rights lawyer in disability and child rights. She’s actively supported the development of disability and inclusive policies at both national and international levels. During the negotiations of the United Nations Convention on the Rights of Persons with Disabilities, she played two important roles. First as advisor to the South African delegation, and later as the global representative of the National Human Rights Institution.

So we want to welcome today’s host for this interview, Jonathan Martinis. He is the Senior Director of Law and Policy at the Burton Blatt Institute. We’re pleased to have you both with us today, and Jonathan, I’ll turn it over to you.

Jonathan Martinis:

Thank you so much, Barry, and good morning mum, it’s absolutely an honor to speak with you. As we begin, can you give us a little bit of background on your personal history and especially how you became a disability rights advocate?

Charlotte McClain-Nhlapo:



Hi, Jonathan and Barry, thank you very much for the warm welcome. I'm so excited to be on your podcast to celebrate 504 at 50. So thank you very much for inviting me. So, you know, I think it's interesting how my career has evolved, and I think part of it has to do with the fact that I grew up during the apartheid years in South Africa. And my father's white, he's from the Midwest, he's from Indiana to be specific. And my mother's Black, and she was born in the Eastern Cape. Now, at the time of my birth, interracial marriages were prohibited in South Africa. There was, in fact, a law called the Immorality Act that specifically stated that people from different races were not able to marry. And if you think about it, that's quite similar to laws that were in place in the U.S. in at least 31 states. And then of course there were similar laws in Nazi Germany.

So my parents never lived in South Africa as husband and wife. And so our family was essentially exiled from South Africa. And so we lived in surrounding countries. So we lived in Zambia, we lived in Tanzania, we lived in Lesotho, we lived in Swaziland. And my parents were very involved in the anti-apartheid movement and more with the African National Congress. And so I grew up in Zambia and was at a very early age aware of the ills of apartheid and discrimination. And I knew from that time that I wanted to do something to address these injustices caused by discrimination. And I think it helped that my father was a law professor. And so the idea of law kind of came naturally to me. I went on to study law. At the time, my interest was very much around Law of the Sea, and so I focused on Law of the Sea. There was a new convention coming out and I was really interested in understanding the right seabed and territorial waters.

But increasingly, I started to think about how I could use law as a tool for social change, as a tool to begin to address injustices writ large. At the time, I wasn't thinking about disability, and at the time I wasn't a person with a disability. And so I pursued my career in the Law of the Sea and then went on to Cornell Law, where I focused on human rights. And then I went on to study and do research in the space of child rights. So gradually I was looking at excluded groups, but again, my focus wasn't on disability. I then was involved in a very serious car crash, which landed me in hospital and landed me with a broken spine and a disability. And as a result of that, I started to think about disability very seriously. However, what I was also conscious about at the time was that I didn't want to focus exclusively on disability. I felt like I still needed to do the work on child rights, do the work on social economic rights, and that's what I did.



In the meantime, I worked as a researcher. I worked for UNICEF as a child protection officer. I went on to work in the South African presidency at the time, Nelson Mandela, and led the work on developing a strategy for disability. I then went to the South African Human Rights Commission, where I focused on social and economic rights. But I had this niggling feeling that I needed to address the disability piece, and it just kept on coming back into my work. And I think that's where you really see how your personal experience influences choices that you make. And so I began to focus more on disability rights, and that took me to New York to work on the Convention on the Rights of Persons with Disabilities as mentioned by Barry in the introduction. I was an advisor to the South African delegation for the CRPD negotiations. I then led the National Human Rights Institutions and focused on that. And so it became quite apparent to me that this was the work that I wanted to do.

I really wanted to focus on disability rights. I had the benefit of having a broader human rights background, but this is something that I was committed to do. And so that's kind of taken me forward, that's been my trajectory. And then in 2004, I joined the World Bank. At the time, Judith Heumann was the advisor for disability, and I was focused on the East Asia region working on how to advance disability inclusion in development. So that's kind of a long story to show you kind of my arc around how I went from thinking about discrimination broadly to focusing more specifically on disability and disability rights.

Jonathan Martinis:

You have such a diverse background both educationally and professionally. I'd like to discuss that if that's okay. You mentioned you're from South Africa, you got a law degree from the University of Warsaw in Poland. And then as you mentioned, your Master of Law's degree from Cornell University in New York. How did having such diverse educational opportunities and backgrounds impact the focus of your career and the work that you do?

Charlotte McClain-Nhlapo:

So that's a great question, Jonathan. And I think what that did was, well, first of all, it exposed me to different parts of the world. I mean, I went to grade school in Zambia, I went to high school in Swaziland. And then I went to Poland, and I had to learn Polish. So it exposed me to new cultures, it exposed me to different ways of being. And it really allowed me to think outside of the box and not just have a



straight degree in law, but learning Polish meant socializing in a different environment. I studied law, I focused on Law of the Sea, which was something I wouldn't have done had I gone to a typical law school in the U.S. And so I think bringing all of these diverse backgrounds has given me fuller perspective of the world, right? And seeing the world differently and learning the histories of the various places that I've lived and studied in.

And so for instance, I think understanding the history of Poland also gave me a very strong sense of the importance of sovereignty. It gave me a very strong sense of the struggles that the Polish nation had endured during the Second World War. And these things stay with you, and you carry them forward. And so I think I always advocate for people to get diversity in their education. And so if you can do a summer abroad or study somewhere that's different from where you live, really helps you broaden your perspective. And for me it has been hugely useful just in terms of being more globally inclined, but then maintaining some level of locality. So I know that, and I've always had a very strong focus on Africa, but I think about it more in terms of the geopolitics of the world. Right? And so I think that's an important benefit of having a diverse background. And apart from anything else, it was also just really fun.

Jonathan Martinis:

Two of the professional areas that you talked a little bit about that I'd love to get more detail about, were your work on the South African Human Rights Commission where you were appointed by President Mandela. And your work here in the U.S. on the U.S. Agency for International Development where you were appointed by President Obama. Can you tell us a little bit more about your work in those two areas?

Charlotte McClain-Nhlapo:

Absolutely. So the work in the South African Human Rights Commission was really fascinating work. I was the commissioner for Social and Economic Rights. And what that meant was that we monitored government on the implementation of the Constitution. So South Africa has, in its constitution embedded social and economic rights. Those include the right to food, the right to housing, the right to education, the right to healthcare and so forth. And so one of my tasks was to engage with government to see to what extent these rights were being delivered. And to do that, we developed a monitoring tool that was set up as by way of a protocol. And it was



set to governments every year for them to give us a readout essentially on what they were doing. So what they're doing in terms of enabling policy, in terms of service delivery, what were some of the constraints that they had? And we would review this and engage with government to see where they are. Some departments were doing better than others.

And so our role was really to call governments out when they weren't performing. We had the power of subpoenas. So when governments were not responding, we could actually subpoena government officials to the commission to explain to us why they're not fulfilling their duty to deliver on those rights. And because I was already interested in disability rights, I was able to infuse a disability angle or weave it into my questioning of the various rights that were being presented before us. And so that was the main function of my work. And then of course, another part of my work there was addressing complaints of violations that people in the country experienced in accessing their human rights. And in that regard, we increasingly began to see complaints from persons with disabilities that were being denied access to education, denied access to healthcare services, and I would work with the legal team within the commission to come up with some form of resolution solution. The commission reported to Parliament, and so we would then have our report outs to parliament ever so often.

While I was at the commission, I also led some interesting inquiries, and that was another power that the commission had that we could lead national inquiries. So I led a national inquiry that looked at sexual offenses against children, and that report was then presented before Parliament. I also led another very intense, very intense inquiry that looked at human rights abuses in farming communities. And that too was something that we presented in parliament. So my work at the commission was very focused on the social and economic rights. While my work at USAID was a bit more focused on looking at disability inclusive development. And in my role at USAID, my task was to work with policy planning unit and encourage people to think about how to include disability in various policy documents that USAID was developing, how to ensure that the programs that USAID was supporting were disability inclusive.

So I worked a lot with country teams, with mission directors. I traveled to a number of missions to work with colleagues there to ensure that disability was gaining traction in the work that we do. And I think we see the benefit of having policy. USAID was the first agency to have a policy on disability, and that was important because we had something to base our thinking on. And I think the two



experiences, while quite different, really advanced this notion of inclusive development.

Jonathan Martinis:

You used a great term, monetary tool when talking about your work on the Human Rights Commission. Now you're a global disability advisor for the World Bank. Can you tell us first, what you're doing specifically with the World Bank? But also I think particularly interesting to this podcast, are there monetary tools the World Bank can use to advance human and civil rights for people with disabilities throughout the world?

Charlotte McClain-Nhlapo:

So let me start with what I do at the bank. And so what I do at the bank is, in my role as the Global Disability Advisor is I provide ~~advice, and~~ advice and drive three pillars mainly. One is to build the analytical base around disability inclusive development. And I have to say that that has grown considerably since I started at the bank in 2004. There was the seminal report that came out in 2011, which was the World Disability Report. And it kind of gave us an overview of disability globally. But since then we've seen a lot more analytics and work around disability inclusion in low income ~~low-income~~ countries and what this means for development. So that's a substantial piece of my work. And in doing that, my team and I have put out guidance notes on disability inclusive development. We've looked at sectorial notes that look at inclusive health and disability. We've got notes that look at education, notes that look at ICT and then more recent notes on accessibility.

And the idea behind these analytics is not analytics for analytics sake, but it's to provide people who work in the development sector, some ideas and some hooks on what disability inclusive development really looks like, right? And so these guidance notes have been very, very helpful. So we've had a really successful note that looked at disability in water operations. And what this note does is it gives you the rationale for why you should be doing this. It explains how disability inclusion is linked to the two twin goals of the World Bank, which reducing poverty and boosting shared prosperity. But then it trickles down really quickly and starts to give you very pragmatic and practical information on what you need to do to ensure that your project is disability inclusive. So if you're working on a water project and you're providing water to a community, the note tells you maybe don't



have a flight of stairs. The note tells you this is how you design a water station that is accessible to persons with disabilities.

The note tells you the importance of ensuring that persons with disabilities are part of water communities and committees that exist in the countries in which we work. And so, they're very practical and they provide guidance to World Bank staff and to our clients on what this means in practical terms. We have the CRPD, which is the Convention on the Rights of Persons with Disabilities, but we needed to break it down and explain what this means in development terms. So that's a very big part of my work. The second part of my work is working with bank teams to advance the disability agenda. And that's really the mainstreaming part of that. And what that looks like is we do a lot of training within the institution on disability inclusion, the various sectors. I provide a lot of advice on documents that have been developed and peer review a lot of reports to ensure that the disability angle is included. And I visit a number of the World Bank projects and teams to work with them and with the client, to ensure that disability is part of the project.

That then is kind of the second bucket or second pillar. And then the third pillar, and one that I'm deeply committed to is partnership. I think it's very important when you work in this space to recognize that you don't have the monopoly on all the answers. And that there are many organizations and entities that are doing this work and are specialized in disability inclusion. And it's important for us to work with those groups. So we work with various universities, but very importantly, we also work with organizations of persons with disabilities. And I think I personally always try to hold true to the mantra of nothing about us without us. And so I'm off to Zambia in a couple of hours. One of the things that I will do when I arrive in Lusaka is to meet with organizations or persons with disabilities in the country to get a sense from them what are some of the main issues. Both positive and perhaps not so positive.

It's really important to have those check-ins and to understand what is happening at a local level. So I would say those are the kind of three buckets of my work and to advancing the disability agenda within the institution is the overarching push.

Jonathan Martinis:

Thank you so much. As you know, this interview series is celebrating the upcoming 50th anniversary of the Rehabilitation Act. I often say that before the Rehabilitation Act and before the Americans with Disabilities Act, people with disabilities in America weren't in a legal sense people. Because they didn't have the same basic



rights that people without disabilities take for granted to work, to live, to access community resources. So as we come to a close in this interview, would you first tell us in your long and really spectacular career, what is the greatest advance that you have seen for the rights, people with disabilities?

Charlotte McClain-Nhlapo:

So I really think we need to pay how much to both to 504 and to the Americans with Disabilities Act. Because in so many ways, they influenced the development of the Convention on the Rights of Persons with Disabilities, right? A lot of what was in those two acts became the bedrock of what's contained in the Convention on the Rights of Persons with Disabilities. And I think for me, the greatest trend has been to watch how the Convention on the Rights of Persons with Disabilities has really begun to gain traction. We have what, 184 countries that have ratified that. That's pretty sensational. And what I see is that not only are countries ratifying the convention, but they're beginning to domesticate it. And we're seeing countries requesting support and assistance to the bank and other organizations to help them think through what do we need to do to ensure that we meet the obligations within the treaty?

And so I think that's really the greatest trend to see how the treaty has influenced national policy. We've seen an uptick in the number of American with disabilities type acts across the world, right? We've seen an uptick in policies on disability inclusion. We've seen an uptick in the collection of data disability, disaggregated data that stems from the CRPD. And I think we've just generally seen more traction globally on the disability agenda. And I think that's evident when you look at the sustainable development goals that pick up some of the language from the Convention on the Rights of Persons with Disabilities. And we're seeing at a global level that disability inclusion is very much part of the discourse. Within the World Bank for instance, we had disability inclusion as a cross-cutting theme in our replenishment packages for low-income countries. That's huge. And I don't think we would've been able to get there had it not been for the Convention on the Rights of Persons with Disabilities.

And I think we're seeing that with most of the bilateral donors now have a policy or a strategy on disability inclusion and what they will support to advance this agenda. There's a disability strategy for the United Nations. And so I think we'll pass that stage, Jonathan, where that question marks about the legal basis of persons with disabilities. I think the challenge for us now is to kind of rile up the momentum and



make sure that we don't lose the traction and that we stay true to the convention, and that we continue to push to ensure that the rights of persons with disabilities are recognized everywhere. In the U.S., but way beyond the us. And just making sure that persons with disabilities can enjoy their rights, but also very importantly, participate in society and contribute to ensuring that our communities are more inclusive.

Jonathan Martinis:

Which takes me to my last question. I think that's a wonderful lead in because even though we've had such advances, there's still such a long way to go to ensure that people have the rights and opportunities you just mentioned, to be in the words of the Americans Disabilities Act, full and equal members of their communities. So my last question to you is, knowing the challenges ahead, if there was one continuing problem that you could solve with a wave of your hand, that would most further advance the disability agenda, what would it be?

Charlotte McClain-Nhlapo:

So that's a hard one. I think I would say given where we are today, ensuring that we don't claw back resources, financial and human resources that work in the space of disability inclusion. And I do worry about it a bit because as we see the cost of living increasing, as we see austerity measures taking shape in different parts of the world, I worry that disability is not the issue that gets dropped off of the agenda. I mean, I think it's really important to recognize that if we are serious about advancing disability inclusion, we have to ensure that there are resources to support that. The convention won't work itself into anything. It's words on the paper. You need systems in place to make sure that those obligations are met. And those systems require resources. So we need to have resources to ensure that inclusive education is in fact in place.

We need resources to ensure that accessibility features are built into cities, into towns. There is a cost to inclusion, and I think we should never forget that. And I do worry when there's so many competing interests for scarce resources that the disability piece gets sidelined. And so if I would say that's probably my greatest concern. I think the fact that the Convention has had so much traction and visibility, you've got organizations of persons with disabilities that will continue to drive that, which is great. But again, you need to have the resources to ensure that the system's in place and that the specific needs of persons with disabilities are



addressed. Reasonable accommodation and all the things that come with ensuring that persons with disabilities can prosper and be part of society.

Jonathan Martinis:

Thank you. Again, struck by what you said when you said there's a cost to inclusion. I just want to say thank you for all that you do, all that you've done to make sure that people know that the benefits far outweigh that cost and for making those benefits a reality. Thank you again for speaking with us today, Barry, turn it back to you.

Barry Whaley:

Charlotte, thank you so much for your generosity with your time today and offering your global perspective. It's just wonderful. So, thank you again. Listeners, you can access this interview and more interviews on the Section 504 at 50 website. That web address is section504at50.org. The 504 at 50 series is produced by the Southeast ADA Center, the Burton Blatt Institute at Syracuse University, and a collaboration with the Disability Inclusive Employment Policy, Rehabilitation, Research and Training Center. Again, thank you for listening and we look forward to seeing you at our next interview.

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