



DISABLED IMMIGRANTS: LIVING ON THE EDGE OF BARBED WIRE

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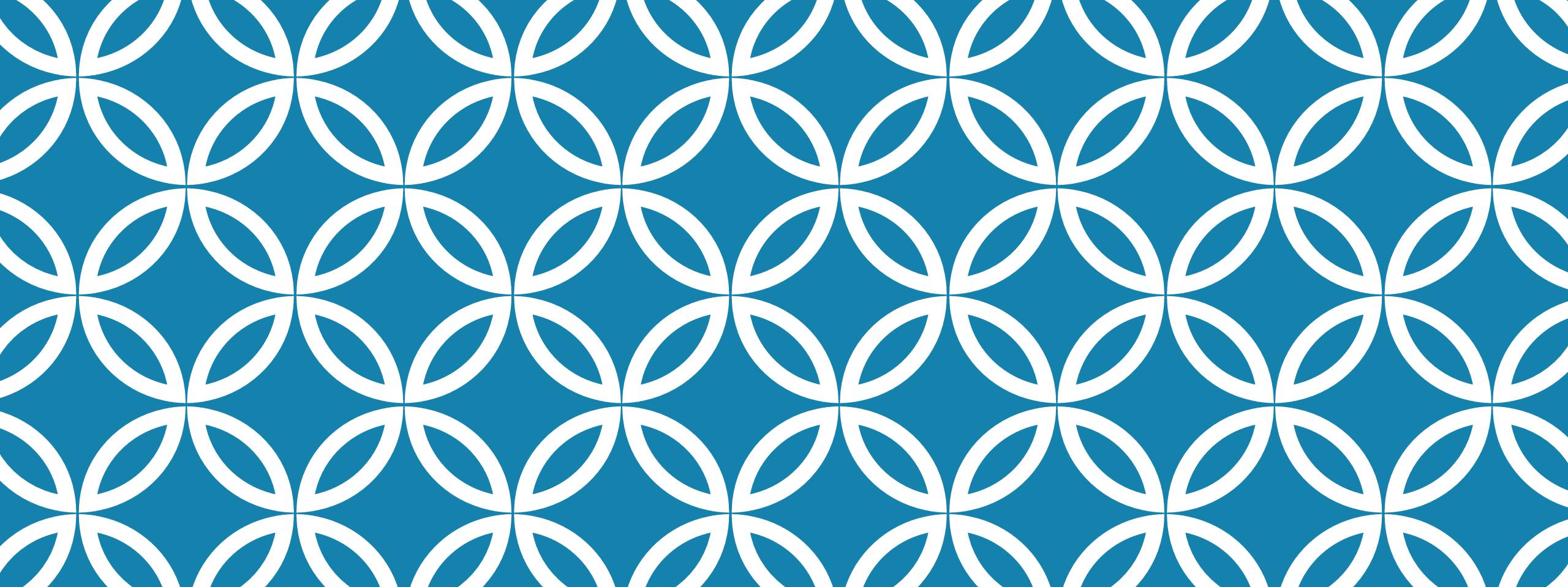
GLORIA ANZALDUA



1,950 mile-long open wound
dividing a *pueblo*, a culture
running down the length of my body,
staking fence rods in my flesh,
splits me splits me
me raja *me raja*
This is my home
this thin edge of
barbwire.

OVERVIEW

- Disability concepts can inform our understanding of the US immigration system
- Ableism was historically, and continues to be, rooted in the substance of our immigration laws
- The immigration process is built around a medical model of disability, also perpetuating ableism at all levels
- Philanthropy has a role to play in dismantling these ableist structures and processes



KEY DISABILITY CONCEPTS

ABLEISM

- Ashley Eisenmenger of the Chicago Center for Independent Living defines ableism as “the discrimination of and social prejudice against people with disabilities based on the belief that typical abilities are superior.”

<https://www.accessliving.org/newsroom/blog/ableism-101/>

MODELS OF DISABILITY

- Medical model: Focuses on the physical/mental impairment of the individual
- Social model: Views disability as a social construct—a categorical tool used to discriminate, where the solution for access and inclusion lies with society to redesign systems, structures, and policies to create access and inclusion

DISABILITY RIGHTS

- A framework of laws and regulations established to define the category of people with disabilities in order to protect this group against discrimination in public accommodations, employment, education, and other aspects of public and private life, as well as civic participation



DISABILITY JUSTICE



- All bodies are unique and essential
- All bodies have strengths and needs that must be met
- We are powerful, not despite the complexities of our bodies, but because of them
- All bodies are confined by ability, race, gender, sexuality, class, nation state, religion, and more, and we cannot separate them

TEN PRINCIPLES OF DISABILITY JUSTICE

- Intersectionality
- Leadership by those most impacted
- Anti-capitalism
- Commitment to cross-movement organizing
- Recognizing wholeness
- Sustainability
- Commitment to cross-disability solidarity
- Interdependence
- Collective access
- Collective liberation

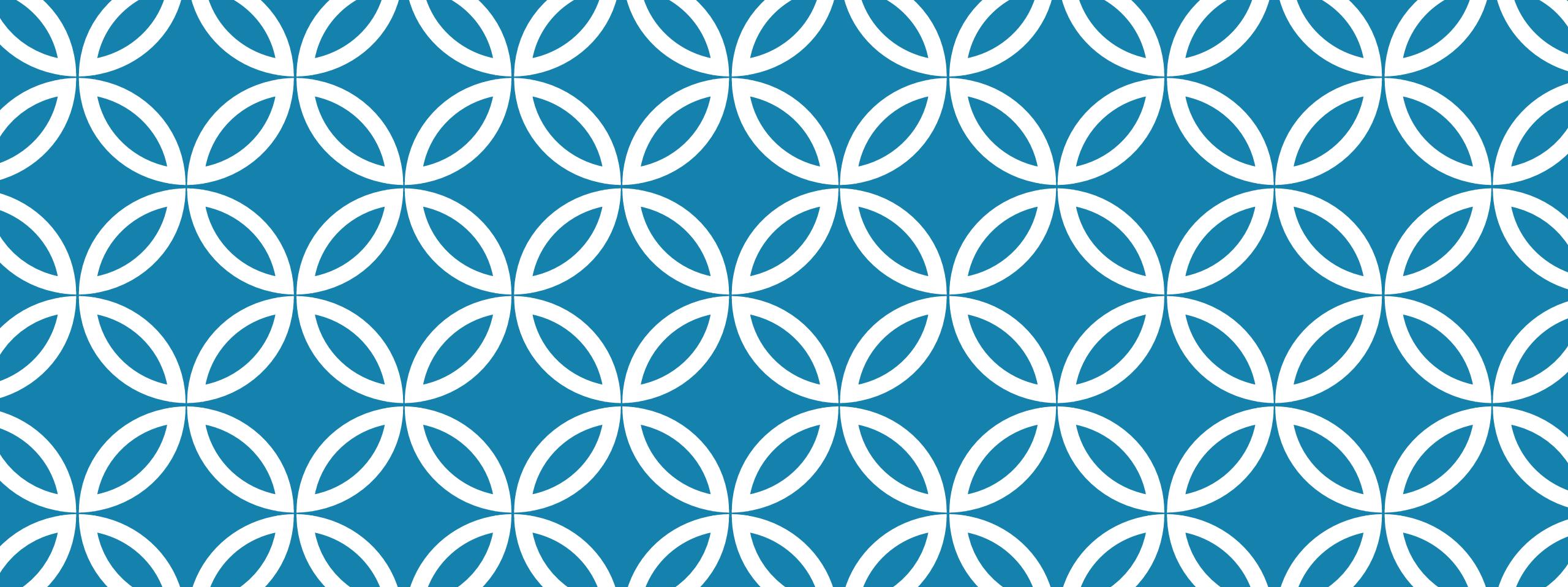
INTERSECTIONALITY

“Problems of exclusion cannot be solved simply by including Black women within an already established analytical structure. Because the intersectional experience is greater than the sum of racism and sexism.”

- Kimberlé Crenshaw, in
Demarginalizing the Intersection of
Race and Sex

<https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1052&context=uclf>





DISABILITY CIVIL RIGHTS

SECTION 504, REHABILITATION ACT OF 1973

- Prohibits discrimination against people with disabilities in any programs that receive federal financial assistance

AMERICANS WITH DISABILITIES ACT

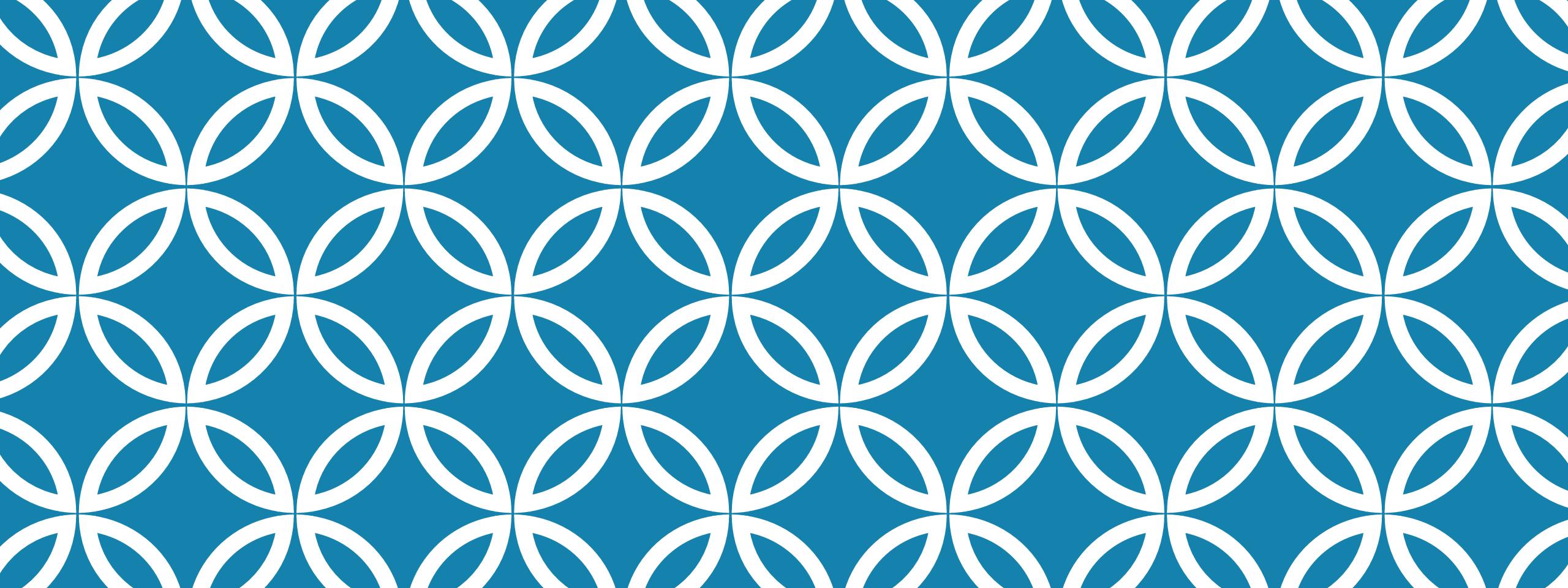
- Defines person with a disability as a “person with a physical or mental impairment that substantially limits a major life activity”
- Expands the protections of Section 504 to all public accommodations, communications, and programs funded by state and local governments
- But is an unfunded mandate



OLMSTEAD



- Held that unjustified segregation of people with disabilities constitutes discrimination under Title II of the ADA
- Public entities must provide community-based services to people with disabilities



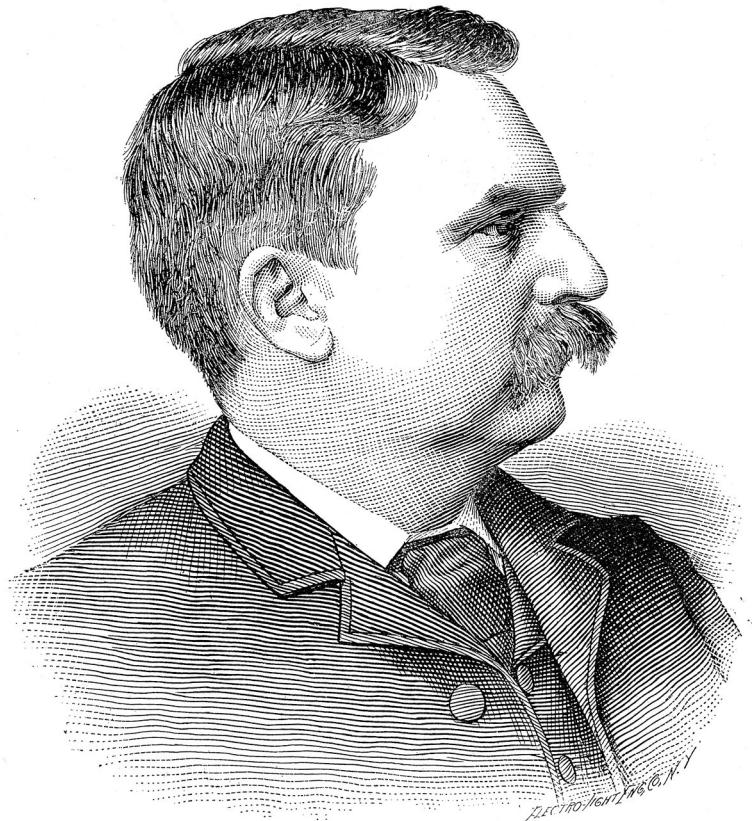
ABLEISM FORMS THE BACKBONE OF THE IMMIGRATION SYSTEM

IMMIGRATION ACT OF 1882

Excluded any “lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge.”



FRANK P. SARGENT



“The exclusion from this country of the morally, mentally, and physically deficient is the principal object to be accomplished by the immigration laws.”

SOPHIE FUKO

Arrived from Hungary in 1912. She traveled with her son to join two other children already living in the US.

Upon arrival, Sophie and her son were denied entry because she was “practically blind in one eye,” and her son was afflicted with “deaf mutism.”

Sophie provided evidence that demonstrated a history of self-support in Hungary. She also had two adult sons living in the US, with whom she wished to reunify, who expressed their willingness to support their mother.

Immigration officials ultimately denied Sophie’s request for admission, deeming her and her younger son as at risk of becoming public charges. Mother and son were ultimately deported back to Hungary.

THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)

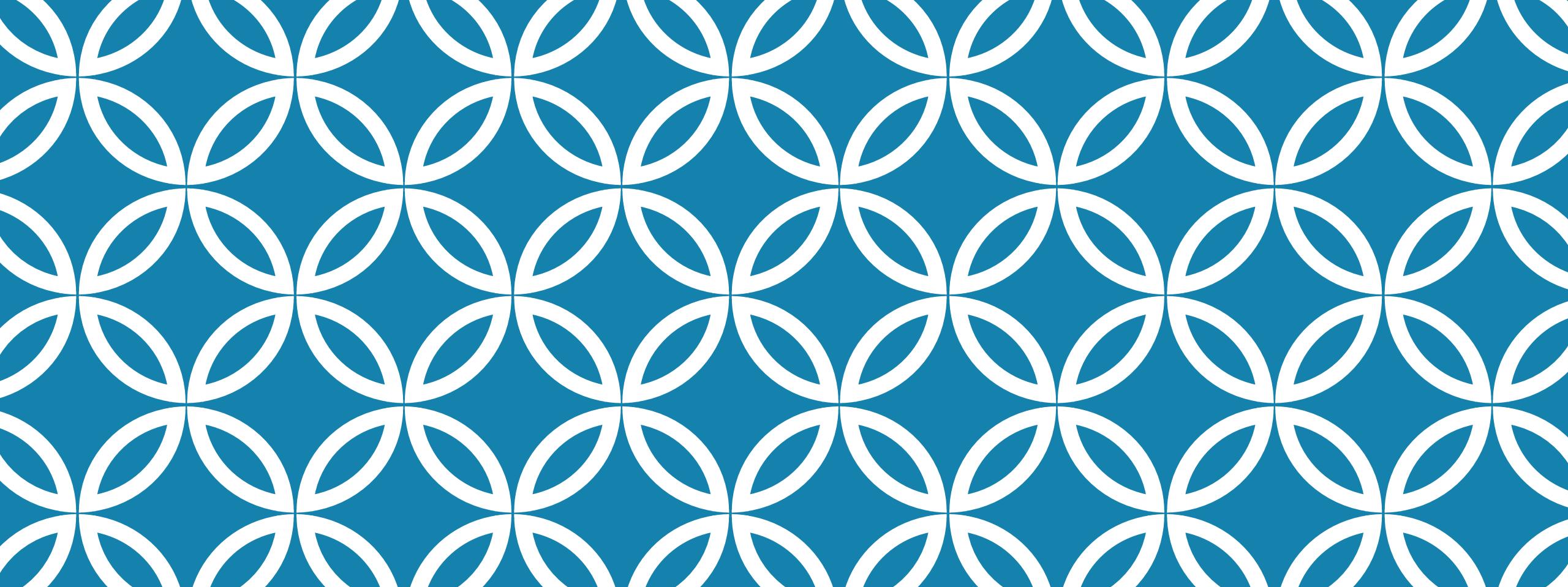
Path to citizenship for people with physical or mental disabilities if:

- Furthered family unity
- Achieved some humanitarian purpose
- Or if their admission was otherwise in the public interest

Also established that immigrants who qualified for SSI would not be automatically barred

IMMIGRATION ACT OF 1990

- Removed the disability-related grounds for inadmissibility
- Maintained an enumerated list of health-related inadmissibility grounds
- And the public charge ground of inadmissibility remained in place



ABLEISM IN THE IMMIGRATION PROCESS (EXAMPLES)

DETENTION

- Lack of clear, consistent policies and practices to identify detainees with disabilities
- Lack of a clear, transparent process for requesting, receiving, and monitoring
- Sub-standard access to adequate healthcare
- Custody criteria that do not comport with Section 504 and the spirit of the Olmstead ruling



IMMIGRATION COURT



- Lack of clear, transparent processes for identifying respondents with disabilities
- Lack of clear policies and standards to ensure that the court process is fully accessible to respondents with physical disabilities
- Lack of data collection and reporting on outcomes for disabled immigrants in removal proceedings
- Lack of adequate training for immigration judges conducting hearings involving respondents with physical and/or mental disabilities

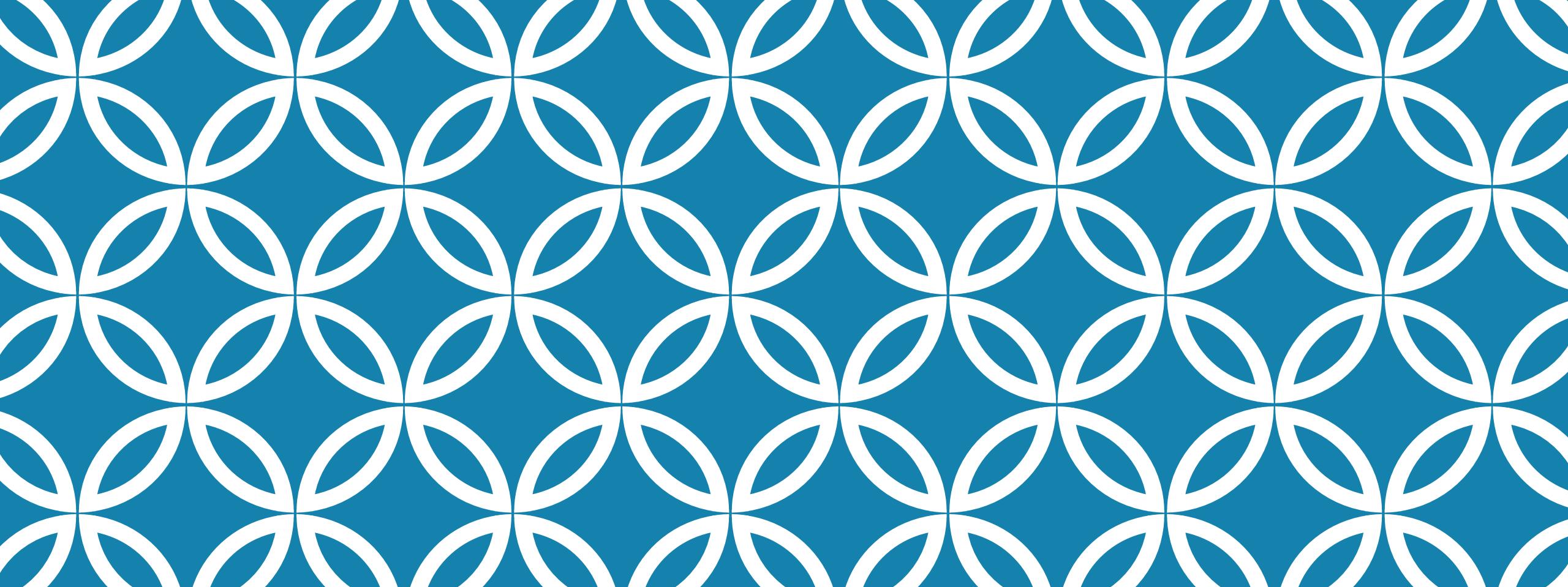
IMMIGRATION BENEFITS

- Lack of data collection and reporting on outcomes for applicants with disabilities
- Lack of clear, transparent processes for requesting and receiving accommodations in the benefits application process, including standards for accessible forms and other tools
- Continued existence of inadmissibility grounds like public charge that sort and exclude disabled immigrants

LEGAL SERVICES AND ADVOCACY



- Lack of disabled immigration lawyers and advocates from affected communities who can practice in workplaces that center access and inclusion
- Lack of knowledge about ableism in the immigration system and disability justice as a tool for dismantling it
- Need to reframe advocacy approaches to protect the dignity and honor the self-determination of disabled immigrants



ACTIONS FOR PHILANTHROPY

HERE'S WHAT YOU CAN DO

- Support organizations built by and for disabled immigrants
- Support immigration organizations to ensure disability access and inclusion for disabled staff (including a leadership pipeline)
- Build the capacity of immigration legal services and advocacy organizations to integrate disability justice principles and disability civil rights into direct services, impact litigation, and policy advocacy strategies
- Fund research to uncover the barriers facing disabled immigrants in our immigration system

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