

Chapter 1 (In 'Disabled People in Britain and Discrimination : A case for anti-discrimination legislation', Colin Barnes (1991))

INTRODUCTION

Throughout the 1980s there was a growing campaign to persuade the British Government to introduce anti-discrimination legislation in order to enable disabled people to participate fully in the mainstream economic and social life of society. Increasingly, disabled people and organisations controlled by them have come to play an active role in this campaign. During the decade there were several attempts to get this legislation on to the statute books (see Appendix), but hitherto successive governments have successfully prevented the introduction of these bills, arguing that there is little if any evidence of widespread discrimination against disabled people.

Behind the opposition to anti-discrimination legislation lie the assumptions of the traditional individualistic medical view of disability, which explains the difficulties faced by disabled people in their daily lives as individually-based functional limitations. This leads to the assertion that there are few specific examples of discrimination against disabled people. Neither of these arguments corresponds with the experience of a growing number of disabled people and their organisations, who argue that most problems faced by disabled people are socially created and that discrimination is an everyday occurrence.

The data used are both quantitative and qualitative and were collected from a variety of secondary sources, many from government departments such as the Office of Population, Censuses and Surveys (OPCS), the Department of Education and Science (DES) and Employment Services (ES). Moreover, in order to add weight to the campaign for the implementation of anti-discrimination legislation, the book focuses on areas for which the government has direct responsibility, notably education, employment, income, the built environment, transport, housing, health and community services.

Definitions and Terminology

Increasingly in recent years disabled people have come to recognise that the term 'disability' represents a complex system 'of social restrictions imposed on people with impairments by a highly discriminatory society. To be a disabled person in modern Britain means to be discriminated

against. Hence this book adopts a two- fold classification of disability and impairment based on that first proposed by Disabled People's International (DPI) in 1981. DPI is the first international organisation controlled and run by disabled people (Driedger, 1989).

Impairment is the functional limit at on within the individual caused by physical, mental or sensory impairment.

Disability is the loss or limitation of opportunities to take part in the normal life of the community on an equal level with others due to physical and social barriers.

The difference between these definitions and those proposed by DPI is that DPI uses the terms 'disability' and 'handicap' in place of 'impairment' and 'disability', because of their wider currency at the international level. In some languages direct translations of the word 'impairment' have a profoundly negative meaning.

This terminological change was considered necessary because of the role language plays in the creation of disability. In the same way that ethnic minorities and women have identified the power of language in the promotion of racism and sexism, so disabled people have become sensitive to the way words perpetuate discrimination. To counter linguistic discrimination, disabled people have actively promoted their own definitions, as above. Consequently, although officially used by Harris (1971), the terms 'impairment' and 'disability' were applied to similar concepts to those above by the Union of the Physically Impaired Against Segregation (UPIAS) in 1976.

Hence their use and meaning are becoming widely recognised by the majority of organisations of and organisations for disabled people, an increasing number of professionals' As well as some sections of the general public.

In addition, while 'impairment' may be attributable to a number of social causes (Abberley, 1986), its meaning is now almost universally accepted (Martin, Meltzer and Elliott, 1988; Wood, 1981). To begin to refer specifically to individually-based functional limitations as 'disability' at this stage would undermine what limited progress has already been made in establishing the latter as social restriction. Finally, historically the term 'handicap' has associations of 'cap in hand' and begging and until recently was used extensively of people with learning difficulties. It implies that their impairment is permanent and that they will almost certainly remain

dependent throughout their lives (Young, 1987); thus its use is no longer acceptable to many disabled people.

It follows then that 'disabled people' is used here to refer to all those with impairments, regardless of cause, who experience disability as social restriction,

...whether those restrictions occur as a consequence of inaccessible built environments, the inability of the general population to use sign language, the lack of reading material in braille or hostile public attitudes to people with non-visible disabilities (Oliver, 1990, p.vii).

Discrimination therefore is not simply a question of specific examples of individuals discriminating against disabled people, although this is not an uncommon view. This book sets out to demonstrate that discrimination is institutionalized within the very fabric of British society. Following recent studies of sex and race relations in Britain (Banton, 1983; Ginsburg, 1988; Gregory, 1987; McCrudden, 1981; Nanton, 1990), institutional discrimination is evident when the policies and activities of public or private organizations, social groups and all other types of organization in terms of treatment and outcome result in inequality between disabled people and non-disabled people. Institutional discrimination is embedded in the work of contemporary welfare institutions, and is present if they are systematically ignoring or meeting inadequately the needs of disabled people compared with able-bodied people. It is also present if agencies are regularly interfering in the lives of disabled people as a means of social control in ways, and/or to an extent, not experienced by able-bodied people. It is therefore a descriptive concept related to outcome.

We are concerned with a particularly pervasive and comprehensive form of institutional discrimination which operates both in society generally and in the state, and is supported by history and culture. It incorporates the extreme forms of prejudice and intolerance usually associated with individual or direct discrimination, as well as the more covert and unconscious attitudes which contribute to and maintain indirect and/or passive discriminatory practices within contemporary organisations. Examples of the influence of institutional discrimination on social policy includes the way the education system is organised, and the operation of the labour market, both of which are influenced by government and both of which perpetuate the disproportionate economic and social disadvantage experienced by disabled people. It is evident therefore that within this frame of reference direct, indirect and passive discrimination

are not easily distinguishable concepts but are inter-twined in most contexts.

Anti-Discrimination Legislation and Legislation relating to Disabled People

This book was produced against the paradoxical situation of a growing awareness of the importance of the principles of equal human rights throughout the world, notably in Eastern Europe and South Africa, and a definite retreat from those principles as applied to disadvantaged groups in Britain. For example, despite the moral liberalisation of the late 1960s and early 1970s, the principle of sexual conformity has recently been official reaffirmed by Parliament with the introduction of Section 28 of the Local Government Act of 1988 (Colvin and Hawksley, 1989; Evans, 1989). Although the notion of equal rights for women and ethnic minorities was endorsed in statute in the 1970s, government support for this legislation during the 1980s was conspicuous by its absence (Lester, 1987), and consequently women's weekly earnings still average around two thirds of those of their male equivalents (McDowell, 1989). In addition, the Policy Studies Institute's influential Third Survey of Black and White Britain shows conclusively that racial minorities suffered disproportionately during the economic recession of the early 1980s (Brown, 1985).

In contrast to the situation of women and ethnic minorities, however, the principle of equality for disabled people has never been enshrined in law by the British Parliament, thus indicating the relative importance attached to notions of equal opportunities for disabled people by successive British governments, as well as the double discrimination encountered by members of the gay community, women and black people who have impairments (Campling, 1981; Conference of Indian Organizations, 1987; Lesbian and Gay Committee, 1990; Lonsdale, 1990; McDonald 1991; Morris, 1989; RAO, 1991). Indeed, because of the size and nature of the task at hand it would be impossible to deal with this issue as fully as it deserves within our present context, but the disproportionate levels of discrimination experienced by these groups should be borne in mind.

Hitherto British legislation relating to disabled people has been ad hoc, piecemeal and grossly inadequate. In the field of education, for example, the benefits of integrating disabled children into mainstream schools have been acknowledged in statute since the 1944 Education Act (the only children in it included were those with 'severe mental handicaps' living in long stay hospitals, for whom responsibility was not transferred from the

health service to the education authorities until 1970). It was subsequently endorsed by the 'Warnock Report on Special Educational Needs' (1978) and in the 1981 Education Act. But because of loopholes in both the 1944 and 1981 Acts, there was a steady increase in the number of children in segregated schools until the mid-1980s, and later improvements have been only marginal (Swann, 1988, 1991). Moreover, there is now a growing realisation among teachers and parents that the Conservative Government's Education Reform Act (1988) is likely to make the process of integration more rather than less difficult.

With employment, while the 1944 Disabled Persons (Employment) Act acknowledged the right to paid work for disabled people, unemployment among them has remained high compared to that among able-bodied people. The recent Government-sponsored OPCS surveys of disability found that only 34 per cent of disabled people under pension age living at home were working (Martin, White and Meltzer, 1989). Yet rather than reinforce the quota scheme introduced in 1944 to ensure that disabled people can find work, in keeping with the demands of most disabled people's organisations, the present administration still favours policies of 'education' and 'persuasion' (DE, 1990; ES, 1988; Hansard, 1990), although these strategies are expensive and proven failures. The futility of these and similar policies will be examined in detail in the final chapter.

The link between disability, unemployment and poverty is well known. Although they seriously underestimate the size of the problem (Thompson et. al., 1989, 1990; DA, 1990), OPCS surveys provided further evidence of the enormous gap between the weekly incomes of disabled people and able-bodied people (an average of £39 per week at 1988 prices), yet there has been decisive retreat from the idea of a state-funded comprehensive disability income during the 1980s.

This is evident with the recent shift from statutory to discretionary provision in the state-funded benefit system (Glendinning, 1990; Lynes, 1988), the increased emphasis by Government on the role of the voluntary sector in this area (HMSO 1990), and the failure by ministers to include disabled people and their organisations in policy-making. For example, since the OPCS surveys were announced in 1984 the Government has promised on several occasions that the results would be followed by a thorough and extensive review of disability benefits. It also promised full consultation with disabled people's organisations throughout that review. The last of the six OPCS surveys was published in July 1989. The Government published its proposals in the form of a White Paper titled *The Way Ahead: Benefits for Disabled People* on 10

January 1990. The Bill which will implement those proposals appeared just one day later. 'A Bill is not a consultative document' (DA, 1990).

The Book's Focus

This book marks another stage in the growing international campaign to secure equal rights for disabled people. In Britain the roots of this campaign can be traced back to the nineteenth century with the formation in the 1890s of the British Deaf Association and the National League of the Blind (Pagel, 1988). The movement took hold in the post-1945 years with the formation of the Disabled Drivers Association (DDA) in the 1940s (Campbell, 1990), the struggles for independence by disabled inmates in residential institutions in the 1950s and early 1960s (Mason, 1990), and the setting up of the Disablement Income Group (DIG) by two disabled women in 1965 (DIG, 1985). The proliferation of disability organisations during the 1970s and the lack of progress in securing an adequate disability income resulted in the formation of an umbrella organisation known as the Disability Alliance (DA) in 1975.

Both DIG and the DA have mainly concerned themselves with the financial needs of disabled people, an approach rooted in the assumption that disabled people are economically and socially dependent on the rest of society. It also perpetuates that myth by ignoring the causes of that dependence, namely the systematic exclusion of disabled people from mainstream economic and social life (UPIAS, 1976). The majority of organisations of disabled people favour a broader approach.

From the mid-1970s onwards organisations of disabled people such as UPIAS, formed in 1974; the Liberation Network, which functioned mainly through the publication of the magazine *In From the Cold* between 1979 and 1983, and the early disabled women's movement Sisters Against Disability (SAD), have all shared the same basic goals of removing negative discrimination in all its forms and securing equal rights for disabled people. Similar goals were later adopted by the British Council of Organizations of Disabled People (BCODP) after its inception in 1981. A member of DPI, BCODP is an association of over eighty organisations controlled and run by disabled people. These range from small groups working on single issues to national organisations with huge memberships.

The campaign for equal status for disabled people grew in stature during the 1980s with the formation in 1985 the Voluntary Organizations for Anti-Discrimination Legislation (VOADL) committee. This was significant in the struggle for equal rights for disabled people in Britain

because it signified a decisive coming together of organisations of disabled people, such as BCODP, along with the more traditional organisations for disabled people like the Royal Association for Disability and Rehabilitation (RADAR), for the sole purpose of getting anti-discrimination legislation on to the statute books.

This book represents the latest in a long line of studies which, to varying degrees, have all outlined the extent and effects of institutional discrimination against disabled people. Two notable examples are the Silver Jubilee Access Committee (SJAC) report *Can Disabled People Go Where You Go?* (1979) and the report of the Committee on Restrictions against Disabled People (CORAD, 1982), the first because it drew attention to a 'number of blatant acts of discrimination against disabled people', and caused the then Labour Government to set up CORAD under the chairmanship of Peter Large, himself a disabled person, who had chaired the SJAC committee. CORAD is important because it saw the problem of discrimination in a structural, or institutional, context. It looked at a wide range of issues such as access to public buildings transport systems, education, employment and entertainment. It made important recommendations for improving public attitudes toward disabled people. It also called for the introduction of anti-discrimination legislation to secure disabled people's rights by law.

However, unlike other studies which have looked at these issues in detail, the present one is the first to be conceived, sponsored and written with the full cooperation of disabled people and their organisations. The project was originally conceived by members of the VOADL committee in 1989, and it was subsequently agreed that it should be under the control of an advisory group set up and chaired by BCODP with a representative from VOADL and a research supervisor, Dr Mike Oliver, Reader in Disability Studies at Thames Polytechnic, London. The advisory group was controlled by disabled people and all its members had a history of working both professionally and voluntarily with other disabled people.

Arguments for Anti-Discrimination Legislation

Besides organisations of and organisations for disabled people, there is evidence of support for anti-discrimination legislation from the Trades Union Congress (TUC) (Willis, 1989), lawyers Palmer and Poulton, (1987), and a substantial majority of the general public (Outset, 1987).

The denial of equal rights for disabled people cannot be orally justified when other disadvantaged groups have protection under the law, no

matter how inadequate that protection may be. It is also becoming increasingly apparent that to make as many as 6.2 million people financially and socially dependent through institutionalised discrimination is economically untenable, particularly since the 'demographic time bomb' could cause that number to increase (Skills Bulletin, 1989).

Because of the unprecedented decline in births and the increased life-span of the British population it is currently estimated that by the end of the century one person in six will be above retirement age. There is little doubt that the incidence of disability increases with age (see Martin, Meltzer and Elliot, 1988). This has obvious implications for the British economy in terms of the national infrastructure -the built environment, housing stock, transport systems, health and community-based services etc. - as well as creating serious skill shortages in the labour force (Labour Market Quarterly Report, 1990; Skills Bulletin, 1989).

Similar demographic changes are occurring in many western-type democracies throughout the world, and number have already adopted legislation proscribing discrimination against disabled people. These include the United States, Canada, Australia and New Zealand. Indeed, Government responsibility for securing equal rights for disabled people was stated in the United Nations (UN) World Programme of Action Concerning Disabled People, which was adopted by consensus in the UN General Assembly in 1982. To provide a framework for implementing the Programme of Action the General Assembly proclaimed a UN Decade of Disabled Persons from 1983 till 1992.

The UN Programme of Action outlines global disability strategy aimed at preventing disability, and realising the full potential of disabled people. It explicitly recognises the right of all human beings to equal opportunities and is an important extension of the concept of human rights (UN, 1988). Similar recommendations have been made by the Commission of the European Community and the Council of Europe (Expert Seminar, 1989) although most member-states already have the right of equal treatment for disabled people in specific areas, particularly employment stipulated in law (Commission of the European Communities, 1988).

General Outline

Before discussing the extent of discrimination encountered by disabled people in modern Britain it is important to understand why that discrimination exists. Chapter 2 therefore focuses on the philosophical

and cultural roots of discrimination, and the discriminatory policies of the past, and show how they influence contemporary British institutions and attitudes.

Each of the subsequent chapters deals with one of the seven basic human rights which were identified by DPI in 1981, often denied to disabled people, but considered essential for their full participation in modern society. These include the right to education, employment, economic security, services, independent living, culture and recreation, and the right to influence (DPI, 1981).

Chapter 3 looks at education. It includes an examination of Government legislation and its implications for disabled children, parents and professionals, data on the numbers of children in segregated provision, an evaluation of the limitations of segregated provision, an appraisal of the barriers to mainstream education systems for disabled children at the primary, secondary and tertiary levels.

Discrimination in employment is discussed in Chapter 4. Attention is focused on unemployment and underemployment among disabled people; forms of direct and indirect discrimination in employment; government policy since the 1944 Disabled Person (Employment) Act, notably registration, the quota scheme and the controversy over its implementation; and the role of Disability Resettlement Officers (DROs), Employment Services (ES), Disability Advisory Service (DAS), training schemes and sheltered workshops.

By looking at the financial circumstances of disabled people, including those with and without paid work, Chapter 5 shows how disabled people are economically and socially marginalised by the present welfare system which not only keeps them in relative poverty but also ensures their dependence on others, notably unpaid helpers (usually women) and professionals.

Chapter 6 examines health and community-based services for disabled people, in particular the ideologies of 'care and the notion of 'rehabilitation', current health and social support services for disabled people with reference to community-based facilities, gaps in provision and the role of professionals.

Chapter 7 addresses the question of independent living in relation to housing, transport and the built environment. It includes a brief appraisal of official policy in each of these areas since 1945, and of the current

situation regarding access to housing, transport systems and the environment. The data show that despite relatively minor improvement in each of these areas in the late 1980s, physical barriers remain central to the general oppression of disabled people in contemporary Britain.

To demonstrate how disabled people are excluded from mainstream social and leisure pursuits, Chapter 8 compares the recreational activities of disabled people with those of able-bodied people, and demonstrates how the culture and leisure industries contribute to discrimination.

Chapter 9 focuses on the numerous ways in which disabled people are prevented from participating in the democratic process both in politics generally and in organisations which purport to represent their interests. It contains subsections on the barriers to integration in conventional politics, and the degree of influence disabled people have within state and voluntary charities and organisations of disabled people. The data show that hitherto only the latter have given disabled people any real opportunity to exercise control over their own lives.

The conclusion discusses the gradual but significant shift from rights-based to needs-based policies for disabled people since the 1939-45 war and makes a number of recommendations. These include a call for comprehensive anti-discrimination legislation, the implementation of an all-inclusive Freedom of Information Act and the adequate funding and resourcing of organisations controlled and run by disabled people, since it is they and only they who are equipped to safeguard disabled people's rights.