

Trevor Phillips' speech at the TUC Disability Conference

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Introduction

Trade unions have a long and proud history in advancing equality for disabled people. From the actions of the National League of the Blind and Disabled fighting for the employment rights of veterans of World War One, to the role of Unison and the TUC in securing the Disability Discrimination Act in 1995, trade unions have been central to disabled people's journey from objects of charity to citizens with rights. And by the way I don't think this journey is entirely complete yet.

Yet disability is of course a relatively recent addition to the equality family. It is easy to forget that before 1995 disability rights had not found expression through the laws of this land. But one would not know that by looking at the sheer scale of achievements of the disability movement and the progress that has been made. We're looking at a decade of change between 1995 and 2005 was bookended by two Disability Discrimination Acts, with developments in the areas of education, transport, our planning system, independent living and a new Government Office for Disability Issues, to name a few, coming in-between those book-ends.

And of course our predecessor the Disability Rights Commission was at the centre of those developments.

In areas like public service reform, the disability movement has increasingly engaged in - and is, I think, indeed winning - the battle of ideas in this country not just for individuals but in terms of how we look at things generally. Not every injustice has been conquered - quite the contrary - but the tide is turning in its favour.

And I want to begin today by saying that as Chair of the Equality and Human Rights Commission I see it both as our task and our opportunity to build on those achievements, maintain that momentum and draw on those ideas to the benefit of the wider equality and human rights enterprise.

I also want to say that we can learn lessons from that struggle that should be applied to all aspects of equality, not just disability. For example, today we know that much inequality isn't just derived from individual bigotry - it stems from cultural and institutional bias and inertia. But even before those ideas became fashionable in the race arena, the disability movement had made this conceptual leap - that people could be made to be unequal by others' failure to act, just as surely as they could be excluded by others' prejudice. The concept of reasonable adjustment was the first real attempt to tackle the systemic and institutional face of discrimination in this country.

In addition, the very fact of having had antidiscrimination movements have changed the rules of the game over the last forty years - the work of our predecessor commissions has stamped out some obvious expressions of prejudice - but it has made some kinds of discrimination more subtle and harder to reach.

Finally, demographics - a more diverse, older population with more people who identify themselves as disabled and with more women in the workforce has changed the challenge we face quite radically. When we started on this journey forty years ago, the default image of the worker was white, male, non-disabled and under forty-five. In the next few years

we know that fewer than one in five workers will answer to that description.

So we start, not just with the ambition of merger or absorption. We begin with the mission of taking what we've learnt in all fields and applying the lessons across the board in a totally new landscape.

Today, I want to explore with you what building on those achievements and taking things to the next stage of development might mean in practice.

A new agenda

First, I want to be clear about what I think the immediate differences between the DRC and the new Commission.

The Disability Rights Commission's vision was of a society in which all disabled people could participate fully as equal citizens.

This Commission's vision is necessarily broader in scope but has to be consistent with that DRC vision. We want a society built on dignity, fairness and respect, with people confident about all aspects of diversity. And I mean all aspects of diversity. Diversity has become a bit of a euphemism for race and religion but I mean all aspects of human difference.

Where the DRC's primary concern was promoting equality of opportunity for disabled people, the new Commission's task is to help bring about a Britain in which all 60 million of its citizens - including disabled people - experience the levels of freedom and fairness commensurate with and necessary for a modern democratic society.

I am quite aware that some in the disability movement are concerned that this wider brief will bring a loss of focus. Let me say today that I think the opposite is true. I believe our new brief demands that we are

even more focused on precisely who is experiencing disadvantage, and on precisely why: The real person, not the stereotype; the individual, not the strand. Not all women, but women with children. Not all young black men, but those at the mercy of the police or psychiatric professionals. Not all Pakistani women, but the 6.6% who suffer from depression or who are affected by thalassemia.

We should be looking beyond the identity map laid out by our equality laws over the last 30 years because, frankly, society just isn't quite like that anymore. These pillars of equality obscure the complex matrix of people's lives and the multiple factors which shape their life chances.

As the Chair of the Commission's Disability Committee Jane Campbell recently cautioned, we have to overcome two key risks if we are going to be successful in building on achievements to date:

'First is an overly narrow representation of disabled people – by other disabled people.... The rich diversity of disabled people has too often been reduced to the wheelchair symbol' she said.

She went on to say that 'second is the related difficulty we could then have in truly recognising, understanding and responding to the multilayered barriers and causes of entrenched inequality that people face' I accept Jane's leadership in this. As chair of the Commission this where I think her expertise and her courage, political and otherwise, should guide us

We must accept that what is ultimately important to the individual is their own and their loved ones life chances, not those of the group one is considered to belong to. It is little comfort to an unemployed Bangladeshi woman with mental health problems - among the most disadvantaged of all people in Britain - who experiences the likelihood of unemployment at close to 100% - to know that disabled people's employment rate has improved by 8 percentage points over the last decade. And we don't have to set her interests against those of non-Bangladeshi disabled

people to recognise that her position is different, and may need different solutions.

I also think that in the past we have placed too much of an accent on the negative - on freedom from discrimination or restraint. Our Commission will put the accent on the positive - on people's freedom to flourish as human beings in ways which benefit our whole society.

Our focus

So you ask, what are we going to focus on then? Let me give you nine items which I think are important. Not the only ones which are important, but the ones I choose to illustrate the scale and scope of our ambition.

First, we plan this year to become Britain's official promoter, protector and monitor of the new UN Convention on the rights of persons with disabilities.

Britain has shown leadership on disability rights around the world- our laws are copied. To retain that status it must show leadership in being the first significant country in the developing world to ratify the Convention - by the end of this year and without reservation. The Commission is in discussions with Government about how to make that goal a reality.

Second - hate crime. Many will like me have felt deeply disturbed by the cases of Brent Martin and Steven Hoskin - men with learning disabilities targeted, exploited, abused and then horrifically murdered - yet neither crime recognised as a disability hate crime. We know that the details of those cases are sickening.

These men's most fundamental human right - the right to life - was breached, and they were failed by both public authorities and the community at large. Alongside commissioning new research, which I

think is important, we will be hosting a summit next month to get to the bottom of what is going wrong and to identify what we as a Commission can do to put things right, including if it is necessary using our legal powers over public bodies.

Third, social care. Last week Government launched a six month deliberative debate about the future of adult social care. The outcomes of this debate will touch all our lives and have major implications for the future of human rights and equality in this country, not least the opportunities of older and disabled people to lead independent lives and of course those of their families who without public services currently frequently provide this support themselves. This agenda also presents major questions concerning the social care workforce - typically women, frequently members of ethnic minority communities and in our ageing society increasingly new economic migrants. This debate is about their future too. We have already begun to try to influencing this agenda and the Commission will host its own deliberative debates on the future of social care and in the autumn publish a report setting out our proposals.

Fourth, something which trades unionists know all too much about - class-based inequality. We know for example that a person is more likely to develop an impairment or health condition earlier in their lives if they are poor, and far less likely to escape poverty if they are disabled person. Equally, we know that disadvantage aligned with disability, race and religion can combine to create the most entrenched and grinding poverty – for example whilst a 36% risk of child poverty in families with a disabled parent is already pretty disproportionately high, the figure for a Bangladeshi family is 83%. We will seek to understand what it is about the different experiences and circumstances of these families and come up with what we want to be effective solutions.

Fifth, we have continued to pursue the recommendations of the DRC's formal investigation into fitness to practice standards governing entry into key professions - and we've already had, we think, some success.

We are confident these will now be removed in the area of nursing and social work, and believe we are one step closer to their removal in relation to teaching. In future, patients, pupils and those requiring support will benefit from the talents of disabled people in these professions.

Sixth, we will build on the transformation of work agenda pioneered by the Equal Opportunities Commission, proposing new flexibilities in terms of where and when people work and in terms of the operation of our benefits system in order to widen opportunities significantly for people with mental illness, 80% of who remain locked out of the labour market. We need to continue reforming welfare and employment services, wherever possible transferring resources which are currently used to sustain people on benefits or sheltered employment towards supporting disabled people and people with mental illness into open employment. And if I may add on this point, one of my proud moments at the Commission so far was the effective winning of the Sharon Colman case which introduced the concept of associated disadvantage. We believe the European Court on Human Rights will rule to support Sharon on this, which will give rights to 6 million people.

Seven, health. Most existing evidence on health inequalities points to issues of class and locality as the primary determinants, and of course health inequalities are a major barometer of inequality more widely - there exists a gap of 10 years in average life expectancy between men in part of the east end of Glasgow and men in an affluent area of Dorset. But a growing body of evidence, including that collated by the CRE about the health of gypsy and traveller communities, by the EOC about men's health, by the DRC in relation to people with learning disabilities and mental health conditions and by Stonewall in relation to the failure of the health service to recognise gay and lesbian people, shows that aspects of identity are relevant to health outcomes. The work of Dr Richard Wilkinson at Nottingham University shows how more

unequal societies produce worse health outcomes overall. We want to build on the work of our legacy Commissions to develop a more detailed picture of health inequalities in Britain, their causes and of course solutions.

Eight, to date individual claims of discrimination by disabled people in relation to physical access to goods and services have had very little strategic benefit, often essentially the cases are settled only in relation to the individual concerned. We are going to take a different approach, challenging the owners of high street chains like Pizza Express and Arcadia to show they are discharging their responsibilities to disabled customers more broadly. We are going to ask them what they are doing, and if they fail to play ball and work with us to implement a plan of action, then we will use our legal powers against them. You will forgive me if I don't expand on the details

And we know that we can make a difference. Last year when Tanni Grey Thomson was unable to take part in an awards ceremony at the Savoy Hotel due to the inaccessibility of the venue we intervened. In partnership with Visit Britain and the British Standards Institute we recently published a guide to hotel accessibility and I am particularly pleased to note that the Savoy Hotel - perhaps the standard bearer for hotels around the world - has pledged to implement this guidance via their current refurbishment.

Earlier this year our intervention helped lift the exclusion of children with learning disabilities from participating in the school games. We hope, working with others, to see the parallel International Paralympic Association rule lifted in time to ensure elite athletes with learning disabilities can compete in the 2012 games in London.

Finally, the new Commission brings together work on the three existing equality duties relating to race, gender and disability. Perhaps unsurprisingly where public bodies are failing to advance equality

effectively in one area they are failing in the others too. Where such patterns of failure exist, we plan in the first instance to take these issues up directly with the lead Government Departments to take strategic action on sector wide aspects of non compliance. This means working collaboratively with regulatory and inspection bodies to create a focus on equality and human rights across their areas of concern.

Our primary interest is in outcomes, not process. That is why the Commission's chief executive Nicola Brewer has recently written to all Secretaries of State reminding them of their duties to produce reports on progress towards disability equality in their policy sectors by this December - something we would like to see across the equality family - and asking for information about what they plan to include.

And we would like to work with Trade Unions to build Trade Union capacity, especially at local level, to hold public sector employers to account.

So these are just some of the ways the Commission is seeking to create a fairer and more open Britain, able to draw on the potential of all of its people specifically in relation to disability issues.

The future

But if that were all that we did you would be right to ask, is this just a new version of the old DRC, perhaps with more money, perhaps a few more powers and perhaps a slightly higher profile. And if that is all the Equality and Human Rights Commission became, the critics, of whom I have been one myself, of this new approach, would be right.

The answer will come for you, I think, in whether the Commission in its work across the strands of inequality can use its extra reach, resources and weight to deliver an extra dividend for everyone in the country including disabled people.

Perhaps the first example of whether we can do this, and if so how, will come with the reform of our equality laws.

Britain's equality law is forty-year old maze, impenetrable to all but the legal experts.

And that is bad for those seeking to understand their duties or their rights, and it undermines the principle of empowerment which should underlay effective equality and human rights legislation. If you can't manage to use the law you will never be protected by it.

So the first goal has to be simplification. That does not by the way mean watering down. The best route to simplification in our view is to level up, drawing on the best of existing equality law. But it must be clear and unambiguous to all.

Just as we want as a Commission to focus on freedom to, not freedom from, so we also want a legislative framework with an accent on enabling. One which doesn't spend all the time saying 'you cannot', but instead says 'you can', 'you should' and sometimes 'you must'.

Employers and service providers need clarity concerning what they can do under our equality laws, not just what they cannot do. For example, they should be able to take proportionate action to redress serious inequalities in terms of the mix of their workforce.

And it should not be our role simply to punish the bad employer or service provider. We need equally to be able to celebrate success and hold it up as a beacon for others to follow.

We also believe there are ways our equality law could be democratised as part of a wider strategy of putting power into the hands of individuals to overcome the disadvantage they face, and here we learn from the DRC. The approach pioneered in the Disability Equality Duty which requires the involvement of disabled people in the preparation of equality

schemes is one which doesn't currently exist anywhere else, and which should be extended across a single equality duty. Shareholders in private companies should also be allowed to ask business to publish information about their performance on equalities.

You may also be interested in some work the Commission plans to do on 'looked after' children with special educational needs. These children are in effect left without the means to exercise their rights given their legal guardian is the same institution they would need to claim their rights from – that is to say their local authority. I will be taking this issue up with the Secretary of State for Children, Schools and Families, and if we see no movement the Commission will conduct an Inquiry or Investigation into the issue.

We expect Government to set out their proposals for reform in early June.

But it is not just our equality laws which are under review. Some of you will have noted that amongst the various legislation announced in the draft Queens Speech was a Bill of Rights and Responsibilities.

It is fair to say that human rights in Britain today does not enjoy a positive image. We're the brand managers for human rights, and it is our role to turn this situation around. That is why we have launched a major programme of work on human rights this year. With a human rights inquiry looking into the operation of the Human Rights Act within the public sector to identify both good and bad practice so that we can begin to understand what it means to implement human rights principles in practice.

Alongside this work it is clear we have a major task ahead rewriting the discourse about human rights so it is not just what you read in The Sun or The Daily Mail. We need first to truly get to grips with these attitudes and deal with them at source - we have to find ways to relate human rights to the particularity of people's everyday lives, and to stop human

rights being characterised as the sole province of those who wish to do us bad.

The experiences of disabled people and the role of human rights in 'reaching the parts our equality laws cannot' need to be part of the process of reclaiming ground from its detractors. Widespread public and media support – including by the way in The Daily Mail - for the Government's announcement of legislation to ensure that all 300,000 publicly funded residents of private residential care homes are covered by the Human Rights Act shows that all is not lost, and that people retain an intuitive sense of fairness which we need to build upon in defending our most fundamental liberties.

Conclusion

Last year I spoke at the launch of the DRC's Disability Agenda last February I said the task of the new Commission was to build a coalition of hope.

The ultimate objective of an equality and human rights movement is not about dividing up finite resources among competing interest groups, but deciding priorities through debate and democratic argument. It is about genuinely involving people in the decisions that affect their lives.

Participation is the means, not just the ends of equality and human rights.

I hope in the months and years to come we in the new Commission will come together with you to help build this coalition and in doing so helping to create a fairer Britain for all its citizens.