

THE U.K. CIVIL RIGHTS CAMPAIGN AND THE DISABILITY DISCRIMINATION ACT.

Vienna, 1/2 November 1996

INTRODUCTION

The two most important issues for the Disability Movement in Europe over the last decade have been the struggle and campaign for Civil Rights legislation or ADL (anti-discrimination legislation) as it has become known as, and the development of Independent Living through direct payment schemes and personal assistance. As a result of the campaigns around these two issues we have seen two new pieces of legislation introduced in the U.K. over the last year. The Direct Payments Act and the Disability Discrimination Act (DDA).

These areas have dominated the thinking and activities of disabled people and their organisations over recent years and have provided the disability movement with a clear focus and objective for its direction. As our organisations have grown and developed we have begun to effectively exert our influence on political governments and institutions everywhere. We have grown in power and our impact now has to be taken seriously and is being taken seriously. In my talk I shall focus my attention on the efforts of the campaign of the disability movement in the UK striving to achieve ADL and its critique of the new Disability Discrimination Act.

The reason for the need for civil rights legislation has been blatantly obvious for all even though many politicians refused to accept it. In the UK as in many other countries disabled people have experienced many forms of discrimination and have been treated as second class citizens. Institutional discrimination against disabled people pervades every area of social life. To highlight a few examples - fully accessible public transportation systems are rarely available, equal opportunities to employment, training and education are often sparse, access to services are much of a lottery, most housing is inaccessible if not segregated, disabled people pay higher insurance premiums for their cars, health and travelling and full inclusion and participation in everyday life can also be restricted through ignorance and attitudinal barriers. The only way to begin to dismantle such a complex problem effectively requires the introduction of a fully comprehensive anti-discrimination policy along with an appropriate and independent enforcement mechanism.

Let us take a look at some of the significant events and outcomes that have occurred in trying to achieve this aim.

BACKGROUND OF THE ADL CAMPAIGN

Since the early 1980s there have been 14 attempts to get a comprehensive, anti-discrimination Civil Rights Bill for disabled people on the Statute books of British Law, all of which have failed. During this time there has been a very strong,

organised cross-disability lobby working together in pursuit of this goal of ADL. The lobby has also had support across the political spectrum by individual politicians from all parties but never ever fully having the support of the British government who have over the years in fact used many dubious political tricks and abuse of parliamentary procedures to kill off the Civil Rights Bill eg. using up all the parliamentary time available with MPs talking out the Bill until the deadline for the vote had passed, and by introducing a totally unrealistic amount of minor amendments to the Bill without enough time to amend them. However even they, the government, in the end were forced to do something about it but I shall talk about this later.

As the years went by disabled people and their organisations got better with their lobbying tactics and political strategies and awareness in learning how to influence the situation, so the campaigns effects became greater. Another great source of inspiration and encouragement for us in the U.K.during this time was the introduction of the Americans with Disabilities Act (ADA) in the USA in1991. We felt that if it was possible in the USA for such legislation then it was also possible in the U.K.

It was 1991 when BCO DP (British Council of Disabled People) which is the national, representative and democratic organisation of disabled people in the UK launched its ADL campaign as its future main objective. This provided a new and concentrated impetus for the disability movement to focus on. This ADL campaign launch coincided with the publication of a significant piece of research done by BCO DP on discrimination against disabled people in the UK called "Discrimination and Disabled People in Britain". The findings of this research were so comprehensive that it provided more than enough evidence supporting the whole case for ADL and it became a very useful tool in the campaign and a symbol for empowerment and inspiration. It was the first authoritative piece of research done in this area and was carried out by disabled researchers and disabled experts. This was to be the first of a number of research projects by disabled people which would impact considerably on future structural developments in British society as a whole.

Up until the publication of this report the government had refused to recognise that discrimination occurred, and it was finally on the 31 January 1992 in the House of Commons that they admitted to it because of the pressure of the Report. Whilst the government was forced to concede that discrimination is a major problem, it was not prepared to allow a Bill to go through Parliament to deal with it. Putting business interests before those of the disabled population, ministers argued that Britain could not afford such a policy. This financial assessment was later proved wrong. They went on to say that discrimination could be overcome by policies of education and persuasion rather than by regulation and enforcement. This exasperated the disability movement and forced them into stronger tactics.

DIRECT ACTION.

During this time we consequently saw the emergence of another form of strategy and activity which disabled people adopted with enormous effect and this was direct action. This would continue to play a major role in the ADL campaign throughout mainly because it generated so much media interest. The sight of seeing disabled

people chained and hand-cuffed to buses creating huge traffic jams in central London and other cities throughout the country and protesting at government buildings caused a media extravaganza. Historically it had always been a problem getting decent publicity and media coverage to publicise disability issues to a wider general public in order to spread the right messages, now with some form of direct action it was literally guaranteed to get a widespread mixture of good media coverage. A few phone calls before the actions and the media would come running.

Direct action no doubt heightened the profile for the need for civil rights legislation in the eyes of the general public and did a lot to shake up the politicians complacency on the issue but it could never be enough by itself. Without the lobbying of parliament and meetings with politicians putting forward constructive arguments based on available evidence of discrimination and seeking their support the cause would have been lost. Any changes in the law have to be done through Parliament so you have to get some politicians fighting for your cause. At the same time disabled experts and lawyers have to work alongside other lawyers and politicians in writing up the Bill. This work was co-ordinated by a group called the Rights Now Group which was a coalition of about 50 disability organisations and charities who were formed to work together to help bring about ADL.

RIGHTS NOW GROUP.

The Rights Now Group were formed in 1992 in order to organise and co-ordinate events around campaigning, promoting and publicising the need for ADL. It was the extension of an organisation called VOADL (Voluntary organisations for anti-discrimination legislation) which had been going since the mid eighties putting forward the case for ADL. The uniqueness of this group was that it was a combination of organisations OF disabled people and organisations FOR disabled people ie. traditional charities who had joined together with the sole purpose of attaining ADL. There were always going to be differences of approach with such diverse groups but at least there seemed to be a common, unifying factor, that of working towards equal rights for disabled people.

Significantly research done by the 'Rights Now' campaign provides substantial evidence that the government grossly overestimated the cost of implementing the Civil Rights Bill. The government produced a hugely inflated figure of £17 billion with which to justify their case. The Report "What Price Civil Rights ?" draws on research from both the U.K. and USA after their experience with ADA.

DISABILITY DISCRIMINATION ACT.

The DDA became law in November 1995. It was one of the fastest pieces of legislation that the government has brought in. The government was politically forced into bringing in some kind of legislation around discrimination because of the amount of publicity that was being generated by the demands for civil rights legislation. It was a political compromise to counteract the more radical Civil Rights Bill sponsored by the Rights Now campaign that was going through Parliament at the

same time. The DDA took only 6 months from beginning to end in becoming law.

Unfortunately the DDA was flawed from the start as being a weak piece of legislation which was unenforceable and was considered a drop in the ocean, as it was certainly not going to protect disabled people from the many forms of discrimination which existed. It outraged the disability movement because it denied them the fully comprehensive civil rights legislation which they had worked so hard campaigning for and consequently they refused to have anything to do with it.

Limited in its scope from the outset one of the fundamental flaws of the DDA is its extremely limited definition of disability which immediately excluded many groups of disabled people eg. some people with mental health impairments and some people with learning difficulties. The definition was also based on the discredited medical model definition which is based on the idea that impairment is the cause of disablement rather than the way society is organised, as reflected in the social model definition of disability which was incorporated by the UN into the UN Standard Rules which are a set of rules and principles to encourage Member states to bring about equal rights for disabled people in their countries.

What the DDA does cover are three main areas which are access to goods and services, employment, and the buying or renting of land or property. As well as these it allows the government to set minimum standards so that disabled people can use public transport; it requires schools, colleges and universities to provide information for disabled people; and it set up the National Disability Council (NDC) to advise the government on discrimination against disabled people, but all these typify the piecemeal approach of the government in not fully addressing the complex nature of discrimination. It fails miserably in not establishing a clear principle for equal treatment which should be the essence of a law counteracting discrimination.

The rights of the DDA are not universal rights as various exemptions apply. For example the section on employment does not apply to firms with less than twenty employees. This means that over 90% of Britain's employers are not affected by the new law. Moreover, discrimination IS justifiable in certain circumstances; if, for example, 'adjustments' to work practices to accommodate disabled workers are judged to be 'unreasonable'.

Another area of great concern is that there is no enforcement mechanism whatsoever which means that individuals must challenge unfair discrimination themselves and this is even made more difficult when legal aid is hard to come by. The NDC will only advise the government on implementing the law and not enforcing it. Without some kind of Commission discrimination could not be challenged.

Paul Miller, Commissioner at the American Equal Opportunity Commission, the key enforcement agency for the ADA American with Disabilities Act, described the "lack of teeth" in the DDA as a 'social disgrace'. He, rightly, points out that:

'Enforcement is critical to any civil rights act. There has to be parity with other civil rights issues.... otherwise you send the message that disability discrimination is not as serious as race and gender discrimination; you create

a second tier of oppression'

NO TIME FOR COMPLACENCY

Despite the introduction of the DDA and its inadequacies there is no room for complacency and the campaign will not be over until we get our fully comprehensive civil rights legislation. Individuals and organisations involved directly in disability should make it clear wherever and whenever possible that the DDA is inadequate. They should lend their support to disabled people's organisations, both national and local, who are actively working for a change in the law. This is a major human rights issue that can no longer be ignored by anyone who professes to care about the nature of the society in which we live.

John Evans
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October 1996.