



Human rights visions of equality

Report from
BIHR's conference
18 June 2007

BiHR
bringing rights to life

About BIHR

BIHR is a human rights organisation committed to challenging inequality and injustice in everyday life here in the UK. We work to strengthen human rights policy and support its implementation in practice.

What we do:

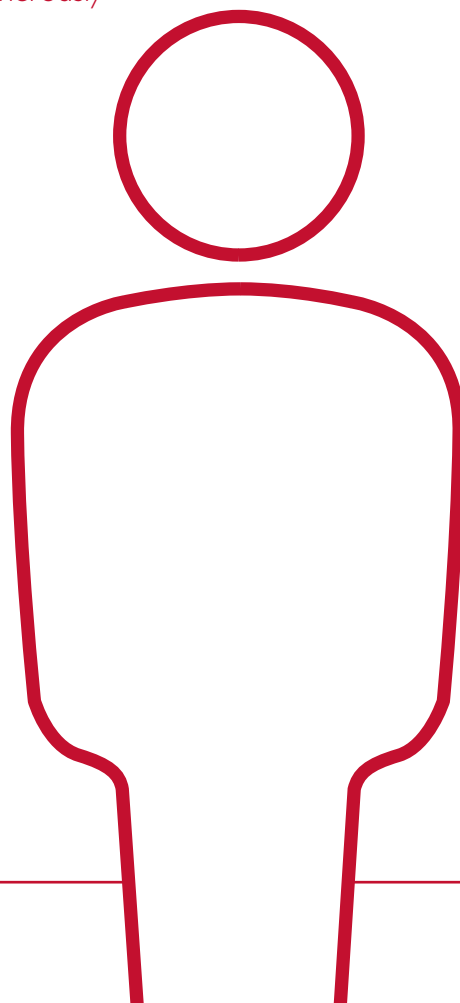
- Provide a range of information and other resources (including briefings and toolkits)
- Develop and deliver consultancy and training for the voluntary and community and public sectors on both practice and policy
- Lead and/or collaborate on demonstration and pilot projects across the voluntary and community and public sectors
- Undertake policy analysis and research
- Lobby national government and Parliament, conduct media activity and campaigns and occasional strategic legal interventions
- Organise a range of events that stimulate debate on topical human rights issues

Please note that the views expressed in this report are those of the individual speakers and delegates and do not necessarily reflect those of BIHR.

This report was edited and compiled by Lucy Matthews, Development and Training Coordinator at BIHR.



The production of this report has been generously sponsored by 18 Red Lion Court



'This was both a stimulating and inspiring event, not least because of the range of people drawn to attend it. Here were individuals who intersect with human rights but are not part of the mainstream of human rights practitioners. Consequently there was a huge amount of shared learning and discussion which I felt would be taken back to the work place and put into action. No account of the conference can quite capture the atmosphere in the room, but it was one of the most vibrant human rights events I've participated in.'

Jon Snow, newscaster

'We were very pleased to sponsor this conference, particularly in view of our role as the UK National Implementing Body for the '2007 - European Year of Equal Opportunities for All'. The conference was a useful stimulus to bring human rights to life as living values, that help individuals and organisations challenge inequality and injustice.'

Zyg Kowalczyk, Deputy Director, Government Equalities Office (formerly Women and Equality Unit)

'The Ministry of Justice was pleased to support this important conference which added to the understanding of human rights principles across a range of public authorities, contributing to the human rights programme led by Lord Falconer and Baroness Ashton.'

Ministry of Justice

'Human rights values are at the heart of the voluntary and community sector, implicit in what we do and how we do it. Therefore we have a key role to play in developing human rights policy and practice, in our campaigns and in the services we provide. This conference and report will help us begin to do that.'

National Council for Voluntary Organisations (NCVO)

'We are pleased to sponsor the BIHR conference – 'Human rights visions of equality', which has a good fit with our approach. Equality and human rights are core considerations to delivering effective public services to all.'

Audit Commission

'Thanks for the bursary place – I wouldn't have been able to attend without it and it has been really useful. It really feels like a first opportunity in a longer term process to bring people together from a wide range of agencies/backgrounds to share thoughts and develop new ideas and relationships to stimulate work around human rights.'

Voluntary and community sector conference delegate

'Oxfam GB believes that the poverty experienced by one in five people in the UK is a denial of their human rights. BIHR's excellent conference gave us the opportunity to discuss what human rights can do for economic and social equality in the UK. Those of us who are concerned about poverty and those who are concerned about human rights must work together more effectively to promote an inclusive culture of human rights, in which the struggle against poverty is central to the struggle for rights.'

Oxfam

'The Disability Rights Commission (DRC) is proud to support the BIHR conference: Human rights visions of equality. 'Promoting a culture of equality and human rights' is one of a series of ten public policy priorities identified in the DRC's Disability Agenda to create an alternative future for our communities.'

The Disability Rights Commission

'Looking back over 38 years at The Guardian, the campaigns to end discrimination, expand human rights, and promote equality have made progress. But as BIHR's excellent conference in 2007 documented in detail, there is still a long way to go. Read this important report, which explores both old and new avenues leading to a fairer and more equitable society.'

Malcolm Dean, The Guardian

'The Department of Health is pleased to support BIHR's conference 'Human rights visions of equality'. Neglecting people's human rights is bad for their health. In contrast, the protection, promotion and fulfilment of their human rights is not only good for individuals' health; it makes for better services for everyone.'

Department of Health

'Amnesty International congratulates the British Institute of Human Rights on an inspiring conference on human rights and equality. A commitment to equality is an essential component of our society, both domestically and worldwide. Human rights empower us all, advocates and service providers, to achieve this end. We urge all parties to continue to engage in the debate.'

Amnesty International

Human rights visions of equality

BIHR conference report

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I. Foreword

'It was such a unique eye-opener to hear so many different people talk about different aspects of human rights, yet share common concerns.'

Conference delegate

I am delighted that BIHR is publishing this report from our conference: 'Human rights visions of equality' just days before the Commission for Equality and Human Rights opens its doors.

The emergence of the Commission for Equality and Human Rights has sparked discussion and disagreement about the relationship between equalities and human rights. Will the inclusion of human rights weaken the body's focus on certain groups or herald a more ambitious approach towards tackling inequalities?

Given the changing landscape, we wanted to host a conference that would give people who work in the equality field, as well as those who have experienced discrimination, the chance to discuss what human rights 'bring to the table', and to develop their own response to this new landscape.

We invited Albie Sachs, a renowned anti-apartheid activist and now a judge on South Africa's Constitutional Court, to tell us how human rights are playing a part in a new South Africa. He spoke of their potential for ensuring that everyone, rich and poor, feels they have a stake in a society, on the basis that all its members have the same basic entitlements and protection of the law. He described his excitement at drawing on human rights principles to tackle new forms of discrimination and unequal treatment: families evicted from shacks and left only with plastic sheeting as shelter; pregnant women living with HIV and their access to prescription drugs; and gay couples wishing to be married. He issued a powerful reminder about the nature of human rights 'not dealing between right and wrong' but 'balancing between right and right'.

I took away two lessons from this perspective from overseas. First, the importance of bringing human rights 'down to earth' and reminding us of the day-to-day injustices that we want to see changed. Second, the potential for innovation as we turn the spotlight on the particular inequalities and divisions we face here in the UK. How do human rights relate to our equality challenges and how should our own thinking and practice develop?

I would like to thank everyone who made the conference happen including BIHR staff, trustees and Advisory Board members. I would especially like to thank our principal sponsors: the Ministry of Justice and the Government Equalities Office, Department for Work and Pensions (formerly the Women and Equality Unit, Department for Communities and Local Government). I would also like to thank our additional sponsors: the Department of Health; the Disability Rights Commission; the Audit Commission; and Cloisters Chambers for their generous contributions. Support provided by our sponsors enabled us to provide free places for people who would not otherwise have been able to attend. Many thanks also to 18 Red Lion Court for sponsoring the production of this report.

Most of all thank you to all those who took part, as delegates, speakers, chairs and facilitators. I was thrilled to see the power of human rights in action: people from different sectors and equality 'battle grounds' coming together. Many participants highlighted the diversity of delegates, from different sectors, backgrounds and interests. I hope that this report does justice to the richness of the discussions that resulted and that it will stimulate people to think further about their own vision of equality and the role that human rights can play in making it happen.



Katie Ghose
Director, BIHR



2. Summary

On 18 June 2007, the British Institute of Human Rights (BIHR) hosted 'Human rights visions of equality', a conference at the QE2 Conference Centre, London. This report brings together the presentations from the conference, and captures the discussions and issues raised by the delegates during the day and their recommendations for action.

The conference opened with a plenary session, giving delegates the opportunity to hear from speakers about the broad equalities landscape and how human rights relate to this both from an international and UK perspective. The morning session of the conference was chaired by Jon Snow, a prominent British newscaster. Jon introduced the conference, and spoke of his passion for human rights, and his dismay at the negative way human rights have been portrayed in this country recently, especially in some parts of the media.

Katie Ghose, BIHR's Director, then spoke about the current state of inequality in Britain and the contribution human rights can make in efforts to forge a fundamentally more equal society in which everyone can flourish. Katie introduced the main themes for discussion during the day, posing two fundamental questions: Can our human rights be protected, promoted and fulfilled without greater equality? And can we progress the equality agenda without looking after our human rights?

The keynote speaker was Justice Albie Sachs, of the Constitutional Court of South Africa. Albie gave a perspective from South Africa, taking us on a moving journey through some of the inspiring human rights cases that he has heard as a Judge on the Constitutional Court. He spoke of the instrumental role of human rights in building a new South Africa. Human rights, he said, are a powerful tool for bringing people together and shaping a far more equal society.

Baroness Cathy Ashton, who was Human Rights Minister at the time of the conference, brought the morning session of speakers to a close by setting

out the equalities challenges in society from the Government's perspective. Cathy emphasised the importance of the Human Rights Act as the foundation of the UK's human rights system and of the need to 'nail it down for all time.'

Following the morning speakers, delegates were given the opportunity to discuss their initial views on the relationship between human rights and equality and what they had heard so far. Delegates fed back key points from their discussions in a plenary session chaired by Jon Snow. These points have informed this report.

The morning plenary session was followed by an opportunity to discuss key themes and issues in more depth in workshop sessions. An introductory workshop on human rights and equality was repeated in both the morning and the afternoon. Other morning workshops focused on the application of human rights to five key policy issues – equal access to quality public services, participation and representation, good relations, prejudice and economic and social equality. These issues were selected as they are often raised by people who are experiencing discrimination and inequality and/or working in the equality field. The afternoon workshops focused on practice – showcasing practical examples of how human rights have been used in healthcare, education, local government, participatory projects and campaigning.

Both sets of workshops considered key questions such as: How relevant are human rights to the equality issue in hand, for example access to public services or dignity in healthcare? What are the benefits and associated challenges of using human rights ideas and approaches? What actions can be taken to address these and by whom? Comments and recommendations from the workshops feature throughout this report.

Following the workshops, delegates came back together in 'plenary' for the afternoon panel discussion.

Members of the panel were Stuart Etherington, Chief Executive, National Council for Voluntary Organisations (NCVO); Professor Francesca Klug and Baroness Jane Campbell, both CEHR Commissioners; and Baroness Cathy Ashton, Human Rights Minister. The debate was chaired by Baroness Margaret Prosser, Deputy Chair, CEHR. The purpose of the session was for delegates to hear responses and views on the issues and themes discussed during the day from people in positions of leadership, who in their different roles are accountable for taking forward the equality and human rights agenda.

The panel discussion was preceded by a short summary of the key issues that emerged from the workshop sessions, from Ceri Goddard, Head of Development and Training at BIHR. Panel members were then invited to give a short input responding to the themes and issues raised during the day.

The session was then opened up to questions and comments from the floor directed at the panel members. A number of issues were raised, including the Government's attitudes towards human rights, legal aid and representation, representation more generally, how to deal with the perceived negative climate surrounding human rights, and the relationship between poverty and human rights.

Angela Mason, who was at the time of the conference Director of the Women and Equality Unit, Department for Communities and Local Government, made the final speech. Among other things, Angela explained how her own initial reluctant response to human rights was transformed as she began to recognise the value of human rights ideas and values, and their potential to be applied across many areas of equalities and other work. Katie Ghose, BIHR's Director, closed the conference by welcoming all of the contributions made during the day as a superb contribution to an important and ongoing conversation about the relationship between equality and human rights in the UK.



3. Key issues and recommendations

'Human rights are a potentially powerful tool for people working on equality – they help us to start from a common understanding, reinforce core values, fill gaps in our legislation, add new dimensions like dignity, and are inclusive.'

Conference delegate

Introduction

The primary goal of this conference was to explore the relationship between equality and human rights. On the eve of the launch of the new Commission for Equality and Human Rights (CEHR), this is an increasingly pressing issue. Until now, discussions about how human rights and equality fit together have been confined to rather narrow circles in the academic and policy worlds. This conference was born of an ambition to increase the range of voices in this important conversation.

The key question on which the conference pivoted was:

How can human rights ideas, law and practice (including human rights based approaches) contribute to the battles for greater equality in society?

Key features of human rights were explored including their focus on our shared humanity and their crucial role in challenging different types of oppression across the world.

This section brings together the key issues and challenges discussed during the day, and summarises the key recommendations for action. It is organised to reflect the three main areas of interest that emerged from discussions:

- (1) The potential for human rights to be applied in different ways to tackle inequality and to promote a more cohesive society in the UK
- (2) The challenges of overcoming a negative climate in order for this potential to be achieved
- (3) The role of the CEHR in overcoming these challenges and developing the potential for human rights to tackle inequality and promote cohesion

All the recommendations included below were made by delegates at the conference. Most were made at the end of workshop discussions, as people reflected on the presentations they had heard. Other recommendations have come from forms which delegates were provided with so they could note down their ideas, views and suggestions.

I. The potential for using human rights to tackle inequality and promote a more cohesive society

Human rights belong to us all

'Human rights are for everyone. They are positive and inclusive.'

Conference delegate

'Human rights could help dispel the myth that equalities are about minorities.'

Conference delegate

The idea that human rights are for everyone, and not just particular groups, was seen as a very powerful notion by many delegates. In different ways throughout the day, people spoke about the emphasis of human rights on the 'human being in front of you' as something that everyone can relate to. This is useful, for example, in the face of multiple or intersectional discrimination as an alternative to traditional approaches which tend to 'box' us in a particular equality 'strand' thereby denying the complexity of our identities. Human rights approaches to



discrimination, which go beyond the six equality 'strands', also provide practical support for those such as carers or homeless people who 'fall through the gaps' of these existing 'strand' based frameworks.

A number of related challenges were also raised during the conference. Some delegates felt that although human rights are for everyone in theory, there are many groups whose human rights we rarely hear about. Some asked: what about the human rights of the majority – why don't we ever hear about them being breached? Other delegates stressed the importance of the universality of human rights as a way of dealing with the general perception that equality is an issue only for minorities.

Some delegates spoke openly of their fears that human rights could in some way detract from the hard fought for gains of different equality movements, for example the women's rights and race equality movements. In response, other delegates suggested that in other parts of the world, human rights are generally viewed as a crucial source of protection, and not as a force for taking things away from us.

Recommendations

- There needs to be an inclusive debate about human rights, involving a far greater range of individuals and groups than ever before. It needs to recognise that there can be a huge gap between people who are currently involved in debating or promoting human rights and those whose rights are most at risk and who are most in need of protection
- If a debate takes place that is truly participative it will help counter views that human rights are only useful for minorities or those who can afford a lawyer
- This debate should incorporate an international perspective and acknowledge that outside the UK, human rights are a unifying set of international values. For example, in many countries human rights are seen as a way of overcoming fears that other groups will 'take your gains'

Human rights as a lens for equalities issues – providing extra 'bite'

'The equalities struggles themselves have had fundamental human rights at their heart, and they have often been framed in human rights terms. They have turned on its head the idea that some people are born less equal than others.'

Katie Ghose, Director, BIHR

'Dignity and respect are important levers to achieve fairness of treatment.'

Angela Mason, Director, Women and Equality Unit, afternoon speaker

'Human rights help you to move away from the law and look at principles. They also move away from strand-based thinking towards commonality.'

Conference delegate

The conference was above all an opportunity for equalities practitioners to explore the relevance of human rights to their existing work. Workshops focused on a range of core equalities issues including equal access to quality public services, participation and representation, good relations, prejudice and poverty. Delegates debated the contribution of human rights to these issues and agreed that the potential for using human rights is largely untapped.

Many delegates suggested that the emphasis of human rights on principles like dignity, fairness and respect could add new dimensions to the traditional equalities focus on equal treatment. For example, disability and refugee activists explained how important legal victories under the Human Rights Act relating to the protection of human dignity have been used to strengthen advocacy activities in many areas.

Other delegates discussed the need to harness human rights standards, both domestic and international, to campaigns for equality in society. One delegate, for example, asked the panel – which included a number of CEHR Commissioners – whether the CEHR would identify poverty as a human rights issue and explicitly



address it in these terms.

A key challenge identified throughout the day was poor awareness of human rights law beyond the legal profession. Delegates from both the public and voluntary sectors explained that this has been an enormous impediment for equalities practitioners seeking to integrate human rights in their work – they simply do not feel confident doing so. For example, some delegates asked about the legal status of international human rights standards that have not been incorporated into domestic UK law and how they could use them in their work.

Other delegates working closely with service users lamented the diminishing availability of Legal Aid and the variable quality of human rights legal advice, both of which make it very difficult for marginalised people in particular to achieve redress after non-legal channels have been exhausted. Whilst it was felt to be vital that people could rely on the law as a ‘last resort’ and pursue legal cases where appropriate, another theme that emerged was the importance of recognising the potential for human rights to go beyond individual cases to achieve system-level changes in policy and practice.

Recommendations

- The use of words like dignity, fairness and respect can be powerful – they are concepts that everyone can relate to
- If human rights law is to be used to provide extra ‘bite’ for equalities challenges and meaningful redress, people need to be aware of the full range of options open to them. Adequate legal support and representation are also essential
- It is vital for the CEHR to take an integrated approach to human rights and equality in both its internal and external work

Healing fractures – human rights as a force for unity

‘Human rights are about never losing sight of our particularities, but doing so in a way that makes links with other human beings.’

Francesca Klug, CEHR Commissioner, panel member

The issue of how we can live together in an increasingly diverse society, and inequality as a barrier to this, was a major topic of discussion at the conference. Some delegates spoke of the divisions in our society and about how a traditional equalities approach, taken alone, could unwittingly deepen these by pitting groups against each other in the struggle for better resources and stronger recognition. Some felt that human rights could promote a more holistic approach by emphasising first and foremost what unites us rather than what divides us, whilst also explicitly acknowledging and celebrating human diversity and the needs of different groups.

Other delegates emphasised the focus of human rights on balancing the interests of different groups, and the utility of this as an approach for solving social problems, particularly where there is disagreement between different groups. In this regard, delegates noted that lessons can be drawn from Northern Ireland.

It was felt that shared values such as free speech or religious expression can be agreed in general terms, but finding a way for people to discuss and agree what these mean in practice is more challenging. However, human rights are a valuable way to bring people together for such discussions in the first place, especially as they are not citizenship-based.

Recommendations

- More work is needed to join up human rights, equality and community cohesion in policy and practice. These three areas are in many ways facets of the same agenda. For example, incorporating economic and social rights in domestic law and using them to combat poverty could have a positive impact on community relations

- Those working to promote good relations are looking to see for themselves how human rights can be used in practice as a conflict resolution tool – leadership and guidance is required
- Specific rights like the right to free speech could be used to empower people whose voice might not otherwise be heard

Changing the balance of power: the potential for human rights to empower people and engender greater participation

'Human rights can help those on the margins of society to understand what they can expect from society. They have great potential to empower the most marginalised to identify their own issues.'

Conference delegate

'I am extremely proud that my government brought in the Human Rights Act. Not as an end in itself but as a backdrop to the empowerment of our people.'

Baroness Cathy Ashton, former Human Rights Minister and now Leader of the House of Lords, panel member and morning speaker

Participation and empowerment are two core elements of a human rights based approach, and both are essential if people are to know what their rights are and be actively involved in their realisation, for themselves and for others. Conference debates looked at how human rights could improve efforts to tackle inequalities, by encouraging better representation, engagement and empowerment of those with the fewest resources, least power and weakest voices.

Delegates focused on disempowerment as a root cause of inequality and asked what role human rights might play in changing the balance of power in society. Some people considered the fundamentally empowering nature of human rights in putting power in the hands of the people whose rights are being abused, rather than relying on the 'good will' of the provider to 'do the right thing'. Thus the basics of life become rights, rather than things to hope for.

Discussions highlighted different ways in which the balance of power might change. For example, people on the margins of society would be helped to better understand what they can expect from society. The most marginalised would be helped to identify their own issues, claim their own rights and identify key indicators for successful change. Other delegates emphasised the enormous shift that human rights approaches should stimulate at the policy-making level.

Ensuring that participation really is active and meaningful was identified as a key challenge. Could human rights play a role in ensuring that the concerns and issues of all groups, especially those who are often left out of debates, are properly represented? And how could people with the least power be reached, given that they often have the least information about human rights? Other challenges were finding a way to listen to those marginalised people within already marginalised groups; engagement of people such as undocumented migrants, whose focus is their own survival and who are therefore likely to lack time for other activities; and the potential unfairness or ineffectiveness of putting the onus on excluded people to make sure that engagement happens.

Recommendations

- We need to ensure that the most marginalised, including those affected by poverty, know about their human rights and how to claim them in the UK. This process should be about empowering individuals themselves to make change happen in their own lives and communities
- Although voluntary and community sector organisations are key to engaging marginalised people, they cannot do this without proper resourcing and capacity building





Developing human rights practice

The conference was designed to stimulate both an exploration of the basic ideas underpinning human rights but also what these ideas, as expressed in laws, can mean when they are developed into wider human rights practice. In her opening address, Katie Ghose, BIHR's Director, introduced human rights based approaches, a process by which human rights ideas, like fairness or respect, and human rights standards, like the right not to be treated inhumanely or the right to freedom of expression, are made real. She noted that although all human rights based approaches share the same basic features, these can be developed and varied to meet the needs of sectors and organisations in different contexts.

Human rights based approaches emerged from international work sponsored by the UN in developing countries. They are now being increasingly applied in the developed world. The key features of human rights based approaches are:

- explicit acknowledgement and use of human rights principles and standards as a central reference point in policy and planning;
- all key stakeholders are empowered and involved in achieving these;
- accountability is clear; and
- the most marginalised or excluded are prioritised.

In plenary sessions and workshops, delegates explored several areas where there is evidence of emerging human rights practice in the UK: in health, education, local government, the voluntary and community sector, and local communities. It was clear from the discussions that whilst some delegates were beginning to develop their own ways of putting human rights into practice, this was happening with very little awareness of 'human rights based approaches' as a methodology.

One workshop looked at the role of human rights in achieving public services that are tailored more to the individual and are accessible to those who are 'hard to reach'. A key challenge identified by delegates was the 'bare compliance' approach taken in many public authorities. Consideration of a far greater range of marginalised groups in the design and delivery of services, and not only those traditionally classified as suffering discrimination, was identified as a key advantage of a human rights based approach.

Recommendations

General

- Practical tools and guidance are required including:
 - human rights impact assessment tools (encompassing human rights positive obligations, which are poorly understood)
 - human rights indicators set by the people themselves who experience or are at risk of human rights abuses
 - pilot projects demonstrating how human rights are relevant to different sectors
- Meaningful and resourced partnership work and education between the voluntary and community sector and public sector is required to achieve a culture of respect for human rights in relation to service delivery

Public sector

- What is meant by a 'human rights based approach' in relation to public services needs clarification and the actual impact must be measurable
- There is a huge need for further resources and training on human rights. This needs to be made available for different groups. For example, council leaders and chief executives need resources and training so that they can incorporate human rights as part of the 'core business' of local government. Staff in local authorities should also raise awareness among local residents of their rights and responsibilities

- Inspectorates in particular need to work together to embed equality and human rights in an integrated way in their assessment processes, for example Comprehensive Area Assessments. The Discrimination Law Review consultation process should be an important mechanism for exploring some of these issues

Voluntary and community sector

- Voluntary and community sector organisations need to explore for themselves the potential for human rights and 'human rights based approaches' in their equalities work. The lack of funding for human rights work in the voluntary and community sector in particular needs urgent attention
- Voluntary and community sector organisations are in a unique position to 'connect people with government'. They have a key leadership role to play in relation to human rights
- The voluntary and community sector is key to engaging and involving people, especially the most marginalised, in claiming their rights as well as developing human rights as a tool to influence policy. However, for the sector to be able to achieve this, significant resourcing and capacity building is required

2. Changing the climate

Talking about human rights

'I find it extraordinary that this country, with such a proud tradition of campaigning for and observing other people's human rights, can have allowed human rights to have become a besmirched concept here.'

Jon Snow, Newscaster, chair of the morning session

Throughout the conference there was lively debate about how human rights have come to be a 'besmirched' concept and how they must be reclaimed as something positive. Delegates talked about negative media coverage as a particular barrier for people looking to learn about what human rights can offer them. Proactive steps are needed to seize the agenda back from those who have made human rights a 'dirty word'. Some delegates thought that the solution lies in showing human rights to be relevant. Others emphasised the importance of strong leadership.

A challenge identified by delegates was that human rights are perceived as complex, although in fact people can relate to the basic ideas that underpin human rights, such as dignity, fairness, respect and equality.

Recommendations

An over-arching recommendation that emerged was for a 'massive' awareness-raising campaign and associated action to address the myths about human rights in the media. For this type of campaign to be successful the following actions were thought to be necessary:

- Finding ways to popularise debates about values such as dignity, justice and fairness, all concepts which are central to human rights but are relevant more widely as well. The 'dignity in care' agenda is an excellent example of how this can be done
- Demonstrating how human rights relate directly to people's lives through case studies and practical examples of how human rights have been used
- Using more simple, accessible language in communications about human rights – legal jargon must be avoided
- Consistent, sophisticated, targeted and positive messages from the CEHR and the Government
- Focusing on 'what unites us' rather than 'what divides us', recognising the degree of consensus that exists about the basics we should all have access to. The CEHR will play an important role here
- Finding ways for a range of people to engage in tackling media bias 'head-on', for example via radio phone-ins, on-line blogs, and letters to newspapers

Developing knowledge and understanding about human rights

'Human rights exist in our hearts before they exist on paper.'

Baroness Jane Campbell, CEHR Commissioner, panel member

Awareness of human rights was felt to be the preserve of a small number of groups, for example lawyers or politicians. There is very little information about human rights available for the general public. There is also a massive human rights capacity gap within both the voluntary and community sector and the public sector.

Even those who have some knowledge of human rights have limited understanding of the full picture of what human rights are and their potential for contributing to equalities movements.

Jane Campbell spoke of the importance of 'feeling human rights' when she highlighted the peculiar position in Britain of having 'solid human rights foundations on paper' without them having 'reached peoples' hearts'. She cited some examples of human rights abuses including a person with learning difficulties being given a cold shower as a punishment for shouting and a local authority splitting up an elderly couple who had lived together for decades because of different care needs. If these were 'felt' to be human rights abuses rather than administrative errors she predicted that we would respond in a more appropriate way.

Recommendations

- Human rights education, training, awareness-raising and capacity building programmes are required
- Education is essential, in schools and in communities, both formal and informal. There is a huge need for resources to make this happen
- There is a need for targeted education towards key groups, including the judiciary and lawyers, for example through legal journals, websites, and legal bulletins

Filling the leadership vacuum

'The Government needs to send out consistent messages on all equality strands and human rights.'

Conference delegate

A recurring theme throughout the day was the lack of leadership in relation to human rights and the contribution of this to the negative press climate. Delegates felt that this was an enormous challenge given that some of the strongest attacks on the concept of human rights have come from within the Government itself.

Recommendations

- Politicians should promote consistent messages about human rights and be prepared to be unpopular in exercising leadership about human rights. Community and other leaders also need to show leadership
- The CEHR has an important role in explaining human rights to wider society. It also must explain the extent of its human rights duties and powers, as there is currently considerable confusion
- The Government needs to take a lead in mainstreaming human rights, especially in the public sector (the private sector generally falls outside the scope of the Human Rights Act)
- A statutory duty to promote human rights across the public sector should be seriously considered, to reinforce the huge potential for human rights to help engender a proactive approach rather than bare compliance

Expanding human rights protection

'If you in effect give people freedom without bread, you are denying them their full humanity. And if you give people bread without freedom, you are also denying them their full humanity. What we want is the all-round human being who has all the rights featured in our Bill of Rights – a right to be educated, a right to be healthy, a right to be sheltered and so on.'

Justice Albie Sachs, Constitutional Court of South Africa, key note speaker

As well as looking at issues to do with the way people feel or think about human rights, the conference discussed the current extent of human rights protection available to people in the UK.

First, although Parliament intended the Human Rights Act to have a broad application, narrow legal interpretation has limited its impact on private and voluntary sector bodies even when they are delivering public services. A recent House of Lords judgment¹ has confirmed that the courts will not widen their interpretation and the ball is now back in the Government's court, with pressure from many organisations to legislate as a matter of urgency.

Some delegates also questioned the restriction of the Human Rights Act to the public sector and asked whether this was desirable or sustainable in the long run.

Second, contributions from outside the UK, notably South Africa, where a written constitution embraces economic and social alongside civil and political rights, highlighted the weaknesses of current domestic protection for economic, social and cultural rights.

Wealth disparities are growing in the UK, together with relative poverty. Yet economic, social and cultural rights were noted to be 'virtually absent' from the domestic legal system as well as from wider public debate about human rights or poverty.

In this context, the conference heard from Justice Sachs who spoke about how South Africa's Constitutional Court had grappled with 'live' economic and social issues, such as the lack of shelter for some of the poorest people. He spoke about the court's decision to order the state to put in place a programme of emergency housing for people left with no more than plastic sheeting for shelter. He presented this as an example of how a court could be involved in an area with significant budgetary implications but without 'overstretching itself'.

Delegates in one workshop looked at the issue of what a human rights perspective might lend to the issue of unequal resources. A contributor from Oxfam explained how human rights based approaches had been pioneered in the international development context and could be useful in addressing poverty in the UK. Other discussions highlighted how economic and social rights were essential if people were to have meaningful access to their civil and political rights and be able to contribute to democracy.

A major challenge to the embedding of economic and social rights in our laws is the Government's belief that this would give too much power to judges in relation to policy and budgetary decisions.

Recommendations

- The issue of which organisations are defined as a public authority for the purposes of the Human Rights Act needs to be resolved as a matter of urgency
- We should look to incorporate economic, social and cultural rights into UK law. There is a strong move towards incorporating these rights in Northern Ireland. A Bill of Rights could help to achieve this, but only if it is clearly premised on expanding on the rights contained in current law
- There needs to be far more engagement, from the public and politicians and people whose economic and social rights are particularly restricted, in key processes relating to these rights. For example, the UN Committee on Economic, Social and Cultural Rights is about to produce a report on the UK – and the process should be much more public and visible

¹YL v Birmingham City Council and others [2007] UKHL 27

3. The role of the Commission for Equality and Human Rights

'The difference between the CEHR and the bodies it is replacing is that there is not a person in this country who is not touched by the CEHR. For that reason I think we have a real responsibility to do the sorts of things that have been talked about here, and help people to understand human rights as a much more concrete and positive issue.'

Margaret Prosser, Deputy Chair, CEHR and panel chair

Clarifying the CEHR's future role and potential was a key theme for the day, and discussion was aided by the participation of staff from the CEHR's Transition Team and CEHR Commissioners. Recurring themes included the need to clarify and communicate the CEHR's powers and duties widely, bearing in mind that most people were only just beginning to hear about the new organisation; the importance of the CEHR leading a fresh debate about human rights grounded in practicalities rather than abstract discussion; and the significance of the CEHR as a statutory body to encourage the rolling out of good practice, based on human rights. Recommendations for the CEHR appear under many of the sections above. Here we highlight some additional recommendations that reflect these broad themes.

Recommendations

- The division of responsibility between the Ministry of Justice, as the human rights lead within Whitehall, and the CEHR needs to be clarified
- The CEHR should avoid working in 'strands' and should integrate human rights and equality both internally and externally
- Concerns were raised about the CEHR's legal powers and duties in relation to human rights. A point was made that it is unfortunate that the CEHR cannot provide legal assistance for individual human rights cases that do not have an equality dimension
- Positive communications activity by the CEHR is important so that key stakeholder groups, particularly the public sector, are influenced, although delegates said that this task should not lie with the CEHR alone. Positive, sophisticated and targeted messages could make a real difference to the outcomes achieved by the CEHR
- The CEHR will play an important role in ensuring that debate about human rights is practical and 'real', reflecting the fact that there is far more consensus about the basics we should all share than about theoretical frameworks. It should also play a key role in clarifying what 'human rights based approaches' look like in practice

4. Conference proceedings

Introduction

What was the context and need for the conference?

Tackling inequality and promoting diversity are now widely recognised as core to building and sustaining economically strong, socially cohesive, vibrant and safe societies.

The UK has made significant progress in tackling inequality and increasing tolerance and mutual respect. However there are still many challenges ahead for policy makers, practitioners and people experiencing inequality and discrimination working to bring about meaningful change. These include:

- High levels of material inequality – and a growing gap between the rich and poor
- A lack of, and barriers to accessing, quality public services for many minority or marginalised groups
- A political system and key public institutions that are still in no way representative or reflective of the diverse society that they exist to serve
- Stereotyping and misinformation in the media and in wider popular culture of those who are 'different' or from minority backgrounds
- Lack of 'voice' and limited civic and political participation of marginalised groups and communities
- Conflict and violence within and between different communities
- Low awareness amongst much of the general public and marginalised groups themselves about legislation and other protections that exist to tackle inequality and protect and promote all of our human rights

In the UK, equality and human rights have developed along largely separate tracks. But given the nature and scale of persistent and new forms of equality, and as domestic human rights legislation begins to take root and stimulate wider human rights practice, there are signs of convergence, most vividly in the new **Commission for Equality and Human Rights** (CEHR).

When the CEHR opens on 1 October 2007 it will assume the responsibilities of the existing equality Commissions (the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission), together with new duties and powers in relation to age, sexual orientation, and religion and belief. Crucially, the CEHR is also responsible for promoting and protecting human rights in Britain, although in Scotland it will share this responsibility with the new Scottish Commission for Human Rights. The legislation establishing the CEHR requires human rights to be taken into account in its work on equality and good relations, thus recognising that human rights provide an underpinning framework for these other areas of work, and, more generally, that equality is a fundamental human right.

Other legislative and policy developments are showing signs of a fresh approach. The framework proposed by Trevor Phillips' **Equalities Review** for defining and measuring equality pivots on a set of core capabilities based on international human rights standards, spanning the full set of civil, political, economic, social, and cultural rights. The Government's **Discrimination Law Review** represents an opportunity to harmonise and simplify the increasingly complex array of laws designed to challenge discrimination and promote equality in our society in a **Single Equality Act**. It emphasises the importance of measures at an institutional level to positively promote equality as well as provide individuals with redress for acts of discrimination. There are clear opportunities to link these developments with existing duties on public bodies and the CEHR to promote human rights.

These developments raise important issues for those working to tackle inequality in policy and everyday practice. Key questions include:

- What is meant by fulfilling, protecting and promoting human rights?
- What is the relationship between human rights and equality?



- What can human rights offer in tackling key equalities challenges in policy and practice?
- What needs to happen to support this potential and who should take this forward?

To date, discussion and debate of these and other questions have been confined to a relatively small group of politicians, civil servants, academics and non-governmental organisations. In order to make any meaningful change, and to ensure further developments are based on the experience of those working at the equality 'coalface', a far wider of equality 'actors' and, crucially, those who are themselves experiencing discrimination and inequality need to be aware of the issues and ideas and engage in this process.

What were the aims of the conference and who was it for?

In this context the conference aimed to:

- Provide an opportunity for people and organisations working to tackle inequalities to explore the relevance, links and potential value of human rights in their work
- Raise awareness of human rights and human rights based approaches and how they can be used to tackle inequality
- Inform ideas and proposals for action by the Government, the public sector and the voluntary and community sector
- Identify opportunities and challenges for further legislative, policy and practice change

A wide range of people and organisations took part in the event including:

- Politicians and elected representatives from national, regional and local government and civil servants from across Whitehall
- A range of public sector managers and practitioners including health and social care professionals, teachers and other education and youth work specialists
- National, regional and local voluntary and community organisations – in particular those focusing on tackling inequality and/or facilitating the participation of marginalised groups. Over a quarter of the conference places were funded and reserved for grassroots voluntary and community groups with limited resources
- Academics, journalists, trade union representatives and people from the private sector

The conference itself illustrated the potential for human rights to bring together organisations that were focused on the needs and interests of particular groups or on a single issue and to aid greater sharing of expertise and collective action.

'It was such a unique eye-opener to hear so many different people talk about different aspects of human rights, yet share common concerns.'

Conference delegate

Format and content – an overview

In order to meet the objectives of the conference, and considering the broad audience, the conference included key note speeches and informative workshop presentations as well as roundtable discussions, structured workshops and a panel debate.

The morning focused on setting out some of the main equalities challenges facing the UK, existing initiatives to address these, and visions and potential ideas for a future where human rights play a much greater role in change. Workshops in this first part of the day looked at a number of key policy level issues facing equality advocates and the ways in which development and content of our legislation and policy would be different with human rights as an underpinning framework.

The afternoon workshops focused on the potential benefits of human rights in everyday practice. These workshops introduced 'human rights based approaches' – the process of putting human rights principles into practice so that everyone's human rights are fully protected, promoted and fulfilled. These approaches have to date been developed and used more in developing than in developed countries. So for many delegates this was a first opportunity to learn more about them and begin to reflect on how they might be of use in their equalities work.

Human rights based approaches vary according to the context and sectors in which they are being developed. However, they all have the following key features:

- explicit acknowledgement and use of human rights principles and standards as a central reference point in policy and planning;
- all key stakeholders are empowered and involved in achieving these;
- accountability is clear; and
- the most marginalised or excluded are prioritised.

In addition to 'human rights based approaches', the report also contains references to 'rights based approaches' and 'human rights approaches', probably reflecting the fact that no one term is 'common currency'. However, they all seemed to relate to the process of developing human rights practice.

The day concluded with a panel of key 'accountable' figures from government, the CEHR and the voluntary and community sector. Panel members were asked to respond to issues and proposals that had been generated across the day.

What happens next?

The equalities landscape in the UK is shifting, in legislative, policy and institutional terms. It offers a 'once in a generation' opportunity to build a new framework for change with human rights at its heart. The most effective way for this to happen will be for policy makers, practitioners and activists themselves to develop their own understanding of human rights and what it might bring to their work. To aid this process, the report is being widely circulated to all participants and also to key institutions, organisations and individuals working to tackle inequality.

The proceedings

4.1 Morning key note speakers

The conference opened with a plenary session, giving delegates the opportunity to hear from speakers about the broad equalities landscape and how human rights relate to this both from an international and UK context.

Chair's Introduction: Jon Snow, Newscaster

This conference is inspired in its timing – the Commission for Equality and Human Rights (CEHR) is in the very overture of its existence, and everyone is keen to make it a human rights-led organisation. After all, what is equality if it isn't a fundamental human right? Even more acute is the timing of Gordon Brown's ascent – a man who has said remarkably little about anything, but has stressed a respect for human rights.

I think that human rights thread through absolutely everything that we do. I find it extraordinary that this country, with such a proud tradition of campaigning for and observing other people's human rights, can have allowed human rights to have become a besmirched concept. There are tabloid newspapers that are actually campaigning to roll back the Human Rights Act, and numbers of opposition MPs as well. I can remember the fantastic campaigns and diplomatic actions that we have taken to protect people's rights. To now find people saying we're not quite sure that we really want a Human Rights Act is a very interesting thing to observe. I hope very much that the CEHR will do its part to elevate the whole concept of human rights into an all embracing Act that preserves all our rights whoever we are.



Katie Ghose, Director, BIHR

In a nutshell, this conference is about equality and human rights. What are they, and how do they relate to each other? What are the big equalities challenges and how might human rights help overcome them? We have organised this conference because we wanted to stimulate a conversation about the relationship between equality and human rights just four months before the CEHR opens its doors.

What we want equality of is often our basic human rights.

Equality means different things to different people. The Equalities Review, an investigation into deep-seated inequalities in Britain which recently reported, emphasised equalities and the freedoms that we actually have, the things we need in order to lead a fulfilling life. When the public are asked what they think equality means, they often talk about fairness or about people being treated equally regardless of their personal characteristics. When they are asked what they want equality of, they often point to food and shelter; to a fair trial, to the freedom to make political choices. So it is interesting to see that what we want equality of is often our basic human rights.

Human rights have three key features:

- They belong to everyone, because we are human. Because they belong to everyone, they can help us see the things that unite us rather than the things that divide us
- Human rights are about relationships – between us and the state. They are not only about protecting us from abuse of state power, but about the state having positive duties to protect and help fulfil our rights. They are also about the relationships between all of us and society, and our responsibility to respect each other's rights
- Human rights are a floor, but not a ceiling, of the basics we should all have to flourish as human beings, such as protection from inhuman or degrading treatment, liberty, freedom of expression, the ability to form relationships or have a family

So, as a package containing civil, political, social, economic, cultural and environmental rights, human rights are about the fundamental things we need to be ourselves, and to play a full part in whichever society we find ourselves in.

The basic content of human rights is not negotiable. Britain was instrumental in shaping a rock solid framework that has been signed up to by states around the world. How we develop the ideas, make them practical and realise people's rights is a matter for each society to do individually. We all start with the same entitlements – the question is for each of us 'how are they realised in our life?'

So how do these ideas of equality and human rights relate to each other? People have long struggled against fundamental inequalities. People have fought colonisers, they have battled slavery, women have fought for the vote. And the things that have been fought for are basic human rights, like the right to vote, or to marry and have a family, or be protected from the most degrading treatment. The equalities struggles themselves have had fundamental human rights at their heart, and they have often been framed in human rights terms. They have turned on its head the idea that some people are born less equal than others.

What are the other features of what we might call a human rights vision of equality? Human rights go beyond discrimination, to encompass other types of bad treatment. Human rights do not tolerate everyone being treated equally badly. They are a powerful way to tackle the appalling treatment of some groups like older people in residential care who may be malnourished or on forced medication.

Human rights can reach people who are discriminated against for more than one reason. The human rights perspective is not about choosing a group or 'strand' for someone, it is about looking at the human being in front of you and then working backwards to work out what the discrimination is.

Human rights can also reach people who may otherwise fall through the gaps. They can help us take action for

people who fall outside the established areas of equality such as carers, asylum seekers or homeless people, who we know do not get equal treatment.

A human rights vision of equality can cope with clashes between different people's rights. Through an equalities lens, we might say that gay people and people with certain religious views have the right not to be discriminated against. But human rights have a ready made mechanism for balancing those rights and coming to a solution that enables us to live alongside each other.

Human rights provide a vision where people have the power themselves to challenge inequality and bring about change. That is why we have seen human rights so powerfully used by disabled people to underpin their own independent living and start to claim power and control for themselves. A human rights vision of equality is ambitious and radical, and it may appeal to you in your work if you sometimes feel like it is the same old issues coming round again or that in some areas we are perhaps even slipping back from the achievements we have made.

The big question is, where are we in relation to human rights and equality? Are we really on separate tracks? In many parts of Britain, equality and human rights have become separate, at least when you look at laws, policy or institutions. However, I suspect this is not the case for people in their own lives, or for many of you in your organisations. But although they have emerged on separate tracks, they are beginning to come together, most vividly in the new CEHR. There are some key trends that show a more mixed picture than human rights and equality being entirely separate.

First of all, equality and human rights are no longer in separate boxes. The definition of equality developed for the Equalities Review is explicitly informed by human rights. It talks about an equal society, and about opportunities and freedom to live the way we want to, so that everybody can flourish. It also recognises diversity – people have different needs, situations and goals.

There has also been a sea change in thinking. We now know we cannot just ban discrimination. We have to have a more positive approach to equality. We cannot just give individuals rights, vital though that is. We have to change the institutions around them and create an environment where discrimination is much less likely to happen or be tolerated in the first place. This commitment is clearly reflected in the Discrimination Law Review, a very recent government review of equality laws which talks about the importance of promoting equality.

This change in thinking also chimes very well with the purpose of the Human Rights Act (HRA). The HRA gave individuals the right to have our human rights cases heard in our own courts. But it also aimed to achieve a fundamental shift among public bodies and have them put human rights at the heart of everything they do. There are clear links between the positive duties that public bodies now have to promote equality for some groups, and the positive duties that they have to make sure that our human rights are looked after. It is interesting that the positive equality duties have developed on a separate track from the thinking about human rights duties or positive obligations. We should be thinking about where the links are there.

Finally, the law which brings about the new CEHR makes it clear that it will have a broad range of responsibilities across equality, human rights and living together peacefully, or 'good relations'. Human rights will underpin its work on equality and good relations.

So what are the big equality issues that are facing us, and how might we apply this human rights vision of equality to them? I think there are five main issues that are often raised by people who are experiencing discrimination and inequality and/or working in equalities. These issues will be the themes for discussion in the morning workshops.

A human rights vision of equality is ambitious and radical.

We know that we do not have equality when it comes to access to quality public services such as health, education and housing, despite the very good work and efforts that public servants put in. We know that bad experiences can lead to further inequalities, an example being the over-representation of black men in mental health services. The HRA was brought in to help transform the quality of public services, and gave people concrete rights with which to hold public bodies to account. How should the HRA and human rights be used



to have more impact in this area?

Participation and representation are huge equality issues. We know that so many people have little say. Our institutions are not really representative of who we are. We also know that our efforts to tackle inequalities will be much more effective if we take steps to represent, engage and empower people. Participation is really at the heart of human rights, and has been used practically elsewhere in the world to tackle inequalities. Is there room for this to happen here?

When it comes to money, there are significant gaps in income between groups. That in turn can cause, and be a consequence of, other inequalities. The HRA mainly contains civil and political rights, but we are signed up to international agreements which contain social and economic rights. What might these agreements mean for issues such as poverty, low pay, or homelessness? Could they be a way for people who have the least resources, and therefore the least power, to have more of a say?

We know that living separately or poor relations between groups can both reflect inequalities or entrench and contribute to them. Can we have harmonious relations if we have inequalities? Human rights are a ready made tool, and they are used the world over to help bring people together.

Finally, prejudice is still a major barrier when it comes to tackling discrimination and inequality. Human rights belong to everyone, and this can be a powerful way to overcome the idea that equalities work gives certain groups special privileges. Can the ideas that we all have rights and we are all human be used to overcome some of these feelings, that some people are less equal than others, or that equality is all about minorities?

Human rights are sometimes seen as lofty and legal. At BIHR we think they should not be. If they have any meaning at all it is in the hard-edged practical reality of people's lives. The afternoon workshops look at practice and will introduce human rights based approaches (HRBAs). HRBAs are the process by which human rights ideas, like fairness or respect, and human rights standards, like the right not to be treated inhumanely or to have your freedom of expression, are made real. HRBAs vary and they need to be adapted, but they have four key ideas within them: accountability, empowerment, participation and, essential for today, targeting the most discriminated against or vulnerable people.

I hope you can see that whilst we are not starting from completely separate tracks when it comes to equality and human rights, we are newer to bringing these ideas in practice together than elsewhere in the world. Today is an opportunity for all of us together to discuss and explore the ideas and look at how they translate into practice. Can we really flourish as humans whilst we are so unequal? Can we have our human rights fulfilled without equality? Do we honestly think that we will achieve a fundamentally more equal society unless we know what our human rights are; who is responsible for fulfilling them; we are confident in holding them to account; and we enable the widest possible group of people in society to be part of this project? Can we achieve ambitious and radical changes in equality without the leadership to protect, promote and fulfil our human rights? These are fundamental questions. I hope that you will find today's conference a really valuable way to explore them.

Justice Albie Sachs, Constitutional Court of South Africa

Mrs Grootboom had had enough. The heavy winter rains in the Cape were approaching. She couldn't bear another 3 or 4 months living in her shack, with a thousand other families in this low rain-soaked area. About 300 families decided to collapse their shanties and drag the corrugated iron, pieces of wood and sticks and cardboard to a nearby hillside, so that they could re-erect them there and be protected from the rain. Then they discovered that the land had been set aside for low cost housing, and there were other people ahead of them in the queue.

They negotiated with the farmer who owned the land, and with the local council, but



their attempts at mediation failed. They could not go back to the spaces they had left, because other homeless people had come and occupied their waterlogged spaces. They were evicted and ended up on a dusty sports field. The rains were approaching, and they had only a little bit of plastic sheeting to protect themselves.

I imagine Mrs Grootboom, lying under the stars, and asking herself why was I born? I'm a decent person, I look after my children, all I want is a home. Here I am lying out in the open with my kids, and I can't even protect them.

Eventually a neighbouring attorney solicitor nearby said enough is enough, and instituted court proceedings. He said that the Constitution guarantees everybody the right to access to adequate housing. How can it be that these people are sleeping out in the open with just a bit of plastic sheeting to cover themselves?

The case went to the High Court. The Judge said that the South African Constitution says the state should take reasonable legislative and other measures to progressively realise the rights within its available resources. By then the South African Government had built half a million brick houses for homeless people or people living in shacks. They became owners of a piece of land they could sell on eventually, that was fully subsidised with water and electricity. Something like 2 million people had already been re-housed. It is not wonderful housing, but it is secure housing. So he said that the state was complying with its obligations.

But, he said, there is a provision later on in the Constitution that says every child has the right to shelter. That is not a provision qualified by progressive realisation within available resources. He therefore ordered that the children of Mrs Grootboom and the others be given shelter immediately. Shelter might be less than adequate housing, but at least it is protection from the rain.

The state took the case on appeal to our court. It was very fairly argued on all sides. How do you get the right balance between a judiciary engaging in issues that have major budgetary implications and deal with policy on the one hand; but on the other hand there is a fundamental right of access to adequate housing?

We decided that the way forward was not through children's rights. This would give a privilege to people who had children as against people who did not have children but might have an equally powerful claim, such as elderly or disabled people. We decided in the end that the failure of the state was not specifically in relation to Mrs Grootboom and the others. What was not reasonable was to have this progressive programme of housing without taking account of those in extreme situations of crisis or emergency.

So we ordered the state to provide a programme of emergency housing to deal with people in Mrs Grootboom's situation within a reasonable time. It was a world first. The Grootboom case has now been picked up all over the world. It has been discussed as an example of how it is possible for a court to be involved in an area that has budgetary and policy implications, but without overreaching itself and without trying to become a substitute for government. We don't know much about housing, financing, water, electricity, the priorities of organising who gets first access. But when we see people sleeping out in the open with their children, the rains pouring down, we know about human rights, and we know about human dignity, and the interrelationship between the two.

Professor Sunstein of Chicago University had written vehemently against constitutionalising social and economic rights, because he feared that somehow they would take attention away from basic civil rights. He changed his mind completely on reading our decision. If you in effect give people freedom without bread, you are denying them their full humanity. And if you give people bread without freedom, you are also denying them their full humanity. What we want is the all-round human being who has all the rights featured in our Bill of Rights – a right to be educated, a right to be healthy, a right to be sheltered and so on.

We had another case shortly after Grootboom dealing with the right of access to adequate healthcare. It was a case of women living with HIV about to give birth. If the drug Nevirapine is given to the mother when she is about to give birth, and the child is given a drop immediately after, it reduces the chances of transmission of the virus by about 50%. The Minister of Health was very concerned about the logistics and follow-up. She said that there needed to be a period of two years to see how the administration could best be managed. She selected



two hospitals in each of the nine provinces.

There were doctors in other hospitals who were clamouring for the drug. The Treatment Action Campaign argued that the drug was safe, it was provided free, and the doctors would ensure that it was taken with informed consent. It could save thousands of lives each year. But the Minister was adamant. The Treatment Action Campaign went to the High Court, and the case eventually came to us.

A year or two earlier we had a case of Mr Hoffman who had applied for a job on South African Airways. He passed all the tests with flying colours, but it turned out he was HIV positive. They said they would employ him as ground staff, but that he could not be a steward on the airline. They actually said that their customers would go to British Airways, because they don't employ people living with HIV as stewards.

The High Court accepted a variant of that argument and it came on appeal to us. We went into court; the court was absolutely jam-packed. The people were wearing T-shirts, most of them saying HIV positive. There you saw the nation, black people, brown people, young people, old people, men, women, HIV positive. Dead silence, waiting to hear the outcome of the case. Sandile Ngcobo, on behalf of the court, said that South African Airways had a duty not to go along with but to combat public prejudice. We cannot take our standards of what fundamental rights South Africans are entitled to from the commercial practices of other airlines. He ordered that Mr Hoffman be employed as long as his health permitted him to carry on the work.

We filed out of the court. There was dead silence. As we got to the little corridor at the back, there was tremendous cheering and I burst out crying. It wasn't simply the weight of HIV in our country, what it meant to people and the distress it is causing, but the feeling that I am on a court where we now can defend fundamental rights. Not simply denouncing apartheid and demanding equal rights and votes for everybody, but opposing new forms of discrimination that are constantly emerging, new forms of marginalisation, new forms of disrespect for the fundamental dignity of people.

The themes of fundamental dignity and human rights play a very profound role in our society.

A couple of years later, we were about to go back into the court to make our decision on the Treatment Action Campaign case. We knew the court would be packed once again with people wearing T-shirts saying HIV positive. Arthur Chaskalson, the President of our Court, read out the judgement. He said that it is unreasonable in these circumstances for the government not to make Nevaripine available at all hospital sites in the public sector. It is in the interests and the rights of the child, the mothers and the right of access to adequate health. We left the court. There was complete silence as we filed out. We got into the corridor at the back. The cheering started again and I cried again.

These are areas of public law where the themes of fundamental dignity and human rights play a very profound role in our society. But we have found it goes well beyond simply the public law. We live in a constitutional state. That is almost the only way that we can cohere as a society, with the huge cleavages, enormous diversity and the massive inequalities that sadly are still part of South African life. We have a Bill of Rights at the core of the Constitution that is derived from our needs, our negotiations, and all the pains, hardships and humiliations that people have suffered in our society. That notion really makes those who have suffered feel hopeful and protected for the future. And it makes those who belong to the privileged sections of society feel that we are secure, we can live with our fellow human beings as equals.

We have had cases where the common law has to be developed in keeping with the new fundamental rights notions. One of them involved a question of privacy. A lot of our work is not dealing between right and wrong, it is balancing between right and right. You have a right to privacy as an individual, and the press have a right to publicise. You cannot say that one right is intrinsically more important than the other right, that there is a hierarchy of rights. All rights are important. So we find ourselves as judges in a totally new world, in the realm of fairness, of balance, proportionality. We have to find good rationales, we have to find ways of explaining why we make the decisions we make, not simply on the basis that it's the law. We move from a culture of authority to a culture of justification. If the justification is strong enough, you explain why, and then you can limit the

fundamental right in terms of another right that is being affected.

A South African case on privacy involved private medical facts about women living with HIV who had been involved in some trials and experiments. A book was published by one of our Members of Parliament, and she mentioned the names of the women concerned. She and the authors said that they thought, on very reasonable grounds, that the women had consented to their names being revealed. The women sued – they said that it was their private information.

Our court decided that when it comes to something so deep and so personal you have to go beyond the ordinary steps of checking up, because you are violating the autonomy and dignity of people. In other countries privacy cases are often brought by celebrities – the Princess of Monaco, Michael Douglas, Naomi Campbell and so on. In our case it was poor women living in a very destitute area. We felt their right to privacy and dignity is as important as it is for the Princess of Monaco and Michael Douglas.

Let me just give you an idea of how extensive the human rights approach to law is. I'll just mention four cases that we are dealing with at the moment.

One is a case where a tribe called the Valoyi decided that the chief's daughter should become the new chief of the tribe following the death of her father. The whole royal family had signed a document, including the incumbent. However, before the incumbent died he changed his mind and he said his son ought to be the chief. He went to court and he prevented her installation as the chief of the tribe. It went to the Supreme Court of Appeal. They upheld his decision saying that it was customary law. The case has now come to us on appeal. The case is about the question of reconciling customary law, based on the inheritance of the monarchy through the male line, against the principle of equality.

Another case that has hit the headlines is that of Mr Shabir Shaikh. He was sent to jail for 15 years for developing a corrupt relationship with Jacob Zuma. Zuma was one of the great freedom fighters in South Africa, and was deputy President of the country. Shabir Shaikh tried various appeals; he eventually came to us and said he did not get a fair trial. Our constitution guarantees everybody the right to a fair trial. He is arguing that he should not have been tried separately from Jacob Zuma.

We have another case also of considerable public interest. A year or so ago President Thabo Mbeki dismissed the head of our National Intelligence Agency, Billy Masetlha. He is now suing the President for unfair dismissal. I don't think that has ever happened in the world. And yet it doesn't seem to be incongruous in South Africa, that's what the courts are there for. Should he have been given a hearing before he was dismissed?

The rights of the child are very strong in our Constitution. The right to parental and family care is an express right, and there is a statement that in all matters concerning the child, the child's interest shall be paramount. In a fourth case we are dealing with, a divorced mother of three children was sent to jail for repeated cheque fraud. She is arguing that not enough attention was paid to the rights of her children. You cannot just send someone to jail and hope for the best or let social welfare look after the children. When sending a primary care giver to jail, the courts must enquire into what will happen to the children and ensure proper arrangements are made.

Let me conclude, having told you about the judge who cried, about the judge who smiled, not once, but twice.

Two people had met each other, fallen in love and set up home together. They went to the marriage officer and said they wanted to get married. He said I'm sorry but you are both women and I don't have the power to marry you. The case eventually came to us. I wrote the judgement for the court and I said this was an example of unfair discrimination. They were adamant that they wanted marriage. Not simply a civil union or a partnership – implying that somehow their relationship was less worthy of respect, that their love and commitment was less than that of heterosexual couples. The judgement gave Parliament one year to correct the defect in our marriage law, but left it to Parliament to decide how to do it. It was important that there be public debate and public involvement. We felt very strongly that the promotion of human rights is not simply a

The promotion of human rights is not simply a judicial function.



judicial function. All the organs of state have a duty to promote human rights, including Parliament.

Parliament has now passed a law called the Civil Union Act. It allows same sex couples to say when they are being united whether they want to be married or simply to have a civil partnership. They can opt for the term marriage, and so now it is generally known as the Same Sex Marriages Act. And the country hasn't come tumbling down. It is a country noted for its homophobia and its narrowness, but somehow it is working and people begin to accept. Particularly because Parliament was involved and not just the courts, there is a feeling of legitimacy to the whole programme.

In January this year, not long after the Act had been passed, I was driving to Kirstenbosch in Cape Town. I saw a sign, saying 'to Amy and Jean's wedding'. And I just started smiling. It was so simple, so banal, so ordinary. At the ceremony every banal and predictable statement that was made just made me glow. Because it was really saying, we are different from people in that we love each other, but we are the same human beings like everybody else. So I smiled.

The second time I smiled was when an American friend told me about when he had flown to South Africa. He opened the South African Airways magazine and was amazed to find an article on how same sex couples can get married. So in between buying diamond rings and seven star hotels and seeing elephants was this article that turned out to be an advert from the Department of Home Affairs. Once again I felt very proud to be a judge. I didn't cry this time. I just smiled.

Baroness Cathy Ashton, Human Rights Minister

Last summer I myself was in South Africa, and during my time there I did a number of discussions on human rights, including a lecture to university students at the University of Pretoria. They had been eight years old when the struggle finally saw the end of apartheid. You could feel that for them this was already history. I was very keen to say to them that the Constitution which you have is so important as a guarantor.

I told them the story of another university student, my father in law Michael Kellner. In the 1930s in Vienna he was an extremely promising engineer. He had a very eminent lecturer write wonderful words about his ability. But the piece of paper that describes Michael as a wonderful student, a piece of paper which I possess, also says unfortunately this young man cannot possibly have an education now because he is not Aryan, he is Jewish. That lack of a right to education was followed for all but three of his family by the loss of the right to life.

The European Convention on Human Rights, the Human Rights Act (HRA) in this country and the Constitution of South Africa are really important so as to ensure that this could not happen again. If it could happen in Europe and South Africa, no country should consider itself incapable of descending into that kind of turmoil. So the first thing we have to do with the HRA in this country is nail it down for all time. That means rejecting anything that appears to water it down or convert it into anything less than it currently is.

I am extremely proud to be Human Rights Minister. I am extremely proud that my government brought in the HRA. Not, as everyone has said already, as an end in itself, but as a backdrop to the empowerment of our people. Your rights as a human being need to give you the confidence and the empowerment to know that you cannot be treated badly, that you should be treated with dignity and respect whoever you are. For the HRA to apply to you in this country you simply have to be human and be here. So too the CEHR's work will apply to everyone in this country. Human rights must and will underpin everything that the CEHR does. The CEHR will take up the causes and needs of all our citizens, to make sure that issues of equality and discrimination are tackled effectively.

And now we have the Discrimination Law Review. For forty years we have had discrimination law. Nine major pieces of legislation – a sort of patchwork quilt. Now it is time to pull this all together, to create something new and seamless that says: this is what we believe about discrimination, whoever you are. To bring together what we have already done, but also to focus on areas of discrimination that have hitherto not been focused on. It is very important that all of you

Human rights must and will underpin everything that the CEHR does.

respond to what we have asked you in the consultation. It will only become a very good Single Equality Act, guaranteed in this Parliament under our manifesto, if you give us the tools with which to work.

We have heard from the eminent Albie Sachs about the role of the law, and the critical and vital importance that it has in terms of making sure that rights are enforced. But actually my ambition is that we never have to resort to law. The practice of those who are either participating with us in life, or providing services to us, should be so rooted in a human rights backdrop that there is no need for that recourse.

At the Ministry of Justice we have been meeting with lots of organisations, such as the General Medical Council, the Association of Chief Police Officers and Governors, to talk to them about what practice means in terms of the services that they offer and the work they do. I say to them that this is about common sense and common values – understanding what the HRA means and the value it brings to the provision of services. That applies to public bodies, and also to government departments. This is why we have pulled together a Ministerial team of 13 Ministers to meet regularly about how we make sure human rights are a fundamental part of everything that we do in government.

We also need to rebut the nonsense. Jon Snow talked about the role of some of the media. You know as well as I do the stories that have hit the headlines that are completely untrue and distort the HRA. They are ammunition for those who wish to see it toned down. But most importantly, and worse really, the stories are confusing for our population and our people who start to see something so vital and fundamental as less than it should be. Something, perhaps, that they do not really need.

So it is very important that as this conference develops throughout the day you take the opportunity to take up the questions and themes that Katie Ghose has mentioned, to help me to be able to do more in the human rights field. We need to make sure that the debate moves on, because the HRA is nothing if it is not a living document. We need to think through everything that we do in government, in public authorities, effectively and properly in the context of human rights. What I am looking for from you is, where do I take this next? What are the things that we need to do? How do we keep this living document, this backdrop to our society, as vibrant and effective as possible? And how do we make sure that no one can take it away?

4.2 Morning roundtable

Following the morning speakers, delegates were given the opportunity to discuss their initial views on the relationship between human rights and equality and what they had heard so far. The discussion focused on three questions:

1. You have heard a number of issues and ideas raised by the morning speakers - what are your general responses to or comments on these?
2. What do you understand by a human rights approach to tackling inequality and how would equalities work be different if we used this approach in the UK?
3. What do you think could be the main benefits of a human rights approach to equality? And what do you think could be the main challenges/barriers?

Delegates fed back key points from their discussions in a plenary session chaired by Jon Snow. In addition to the oral feedback, delegates were also given forms which they could use to record their ideas and thoughts during this discussion.



Oral feedback
Human rights and equality

Separating out human rights and equality legislation, as we have done in the UK, was seen to have had divisive ramifications. Different ethnic groups are working against each other, creating more and more division. However, if we were to look at it from more of a human rights perspective, then everyone, regardless of where they come from, would say that in particular areas we are all deprived of various

social rights, various economic rights, and so on. It was suggested that this could be a way to heal some of the divisions in UK society.

Human rights and the media

It was noted that the public perception of human rights is very affected by the media. Human rights have become a dirty word, and parts of the press are encouraging that. The only way that human rights can become a reality in the UK for many people is for it to be seen as inclusive and positive, and the press has a large role to play in that. It is very important for us to be proactive about challenging the negative perceptions in the press.

Human rights projects

Delegates spoke about projects that had been developed using a human rights framework. For example one delegate spoke about a project with people who have experienced social exclusion and long term mental health needs. The project encourages people to think about the messages that they have been given about themselves and about their world, to decide which of them are actually true, and which relate to them, and get rid of the ones that don't.

Class action

It was suggested that we need to start class actions, so that it is not just individuals attempting to change the culture, attitudes and legislation. We need to start thinking about how the government might take the concept of class action on, rather than leaving it to individuals.

Legal support and representation

The difficulty of accessing legal representation was raised. This was seen as particularly pertinent with regards to mental health at the moment because of the amendments to the Mental Health Act which have very fundamental human rights implications. The point was also raised that we should be taking preventative action rather than taking cases to court after they have occurred.

There were some questions regarding the extent to which the CEHR would be able to provide legal support. It was affirmed that while the CEHR will be limited in what it can do, it will be able to provide support for cutting-edge discrimination cases. If human rights points are brought up, those can be part of the case. However, the CEHR does not have the power to support individuals taking cases under the Human Rights Act if they do not have a discrimination point as well under one of the pieces of discrimination legislation.

Feedback from forms

1. *You have heard a number of issues and ideas raised by the morning speakers - what are your general responses to or comments on these?*
 - The presumption that fundamental human rights should be implemented unless they need to be balanced by others' rights is very inspiring. The starting point should always be that everybody has rights
 - We need to move away from a focus on law towards a focus on policy and practice. The practice of rights is very important
 - It is very good to hear a strong defense of the Human Rights Act from the Human Rights Minister: It is very important to have committed people in power
 - The right messages are being promoted, but we need to focus more on the positive – the negative side is always heard more. We also need to think about how to empower communities
 - The message is still not clear that Britain is a place where discrimination is not tolerated
 - The morning session really brought issues to life. Case studies really helped to make it relevant to UK
 - Several delegates felt both inspired and encouraged by what they had heard so far
2. *What do you understand by a human rights approach to tackling inequality and how would equalities work be different if we used this approach in the UK?*
 - A human rights approach would mean human rights being seen as integral to equalities work, rather than an add-on
 - Human rights could provide a more cohesive approach than equalities. Focusing on 'discrimination' can be divisive
 - Human rights provide a more sophisticated framework, with a focus on everyone, and balancing the needs of individuals and groups
 - Human rights provide a baseline where the 'doing our best' argument is not good enough
 - A human rights approach would mean that equality would become common sense
 - A human rights approach could lead to an objective established framework for tackling all forms of inequality
 - Human rights help you to move away from the law and look at principles. They also move away from strand-based thinking towards commonality
3. *(a) What do you think could be the main benefits of a human rights approach to equality?*
 - Human rights are for everyone. They are positive and inclusive. They could help dispel the myth that equalities are about minorities
 - Human rights provide a baseline – they raise standards for everyone
 - There are established international human rights standards. They enshrine a basic standard of living and dignity in law
 - Human rights provide a lens through which to view things differently and in a more joined up way
 - Human rights stop people being treated equally badly
 - Empowerment – human rights put power in the hands of the individual/group whose rights are abused, rather than relying on the 'goodwill' of service providers
 - Human rights could lead to a reduction in class inequalities for people who are experiencing deprivation
 - With a human rights approach, people would not be denied information and representation. People would have choices; basic living standards and needs would be a right, not something you have to fight for
 - If we can really 'market' the human rights approach as a universal tool, it could mean everyone in the UK feels equal as opposed to a minority member
3. *(b) What do you think could be the main challenges of a human rights approach?*
 - There is a need for more information about human rights. People do not understand how human rights apply to them



- There is a lack of awareness of human rights among the most marginalised and vulnerable – the people that need them most
- There is a lack of funding for human rights based initiatives
- There are negative perceptions and misconceptions surrounding human rights – largely fuelled by the media. We need a massive awareness campaign and we need to address the myths in the media
- People can see some areas of life as self-inflicted e.g. addiction and being in a violent relationship. Therefore people may see themselves as not being deserving of support
- Those in power try and hold on to their power, and do not give people adequate information about their rights
- It may be difficult to bring the equalities strands together coherently. The CEHR should avoid working in 'strands'
- Human rights are often seen as requiring resources
- The idea that if someone is human and here they have access to a basic level of rights does not work 'on the ground' if, for example, someone has no recourse to public funds or is a failed asylum seeker
- The legislation and enforcement powers of human rights are limited

Delegates also came up with some issues that they felt needed to be addressed:

- How do we ensure that human rights work on the ground, not just on paper?
- How can we be sure that the Human Rights Act is made real – both in other policy areas (e.g. mental health, housing etc) and in service delivery?
- How can we use human rights principles to achieve change in private sector?
- How do you prevent human rights abuses from occurring without going to court?
- How do poor people suffering injustice gain equal access to legal support to take cases to court?
- There is a real lack of funding in the voluntary and community sector. How will work on human rights be funded?
- How do we measure the impact of human rights based approaches in practice? We need to ensure it is not reduced to bureaucratic processes that do not measure the actual impact on people's lives
- How can we ensure human rights take us beyond the floor of basic dignity – to true equality?

4.3 Workshop summaries

Workshop 1: Human rights and equality – long lost siblings?

Chair: Sarah Spencer, Chair, Equality and Diversity Forum

Speakers: Nick O'Brien, Legal Director, Disability Rights Commission; Sonya Sceats, Policy and Research Officer, BIHR; Simon James, Head of Projects, Human Rights Division, Ministry of Justice

This workshop was kindly sponsored by the Disability Rights Commission.

Introduction

Unlike in many other countries, equality and human rights in Britain are largely separated in legislation, policies and practice. The new Commission for Equality and Human Rights (CEHR) offers an opportunity to bring them together. But what should the relationship be? This important question clearly underpinned the conference as a whole. This workshop was designed as a space for participants to hear and discuss the 'big ideas'. Because of its central importance to the day, the workshop was run during both the morning and afternoon workshop sessions.

Speaker inputs

The session was chaired by **Sarah Spencer**, Chair of the Equality and Diversity Forum, and a member of BIHR's Advisory Board. Introducing the session, Sarah described the incredulous response ten years ago when it was suggested that equality is a human rights issue and that it might be good to bring human rights and equality together within a

single statutory body. She reflected on the progress made since then with the establishment of the new CEHR, and increasing convergence between these agendas in both the public and voluntary sectors. However, acknowledging that many questions remain unanswered for practitioners, she explained that this workshop was designed to explore 'what on earth' human rights have to do with the important work of promoting equality in society.

The first speaker was **Nick O'Brien**, Legal Director of the Disability Rights Commission. Nick began by posing three essential questions:

- Does equality really need human rights and what can it expect to get from human rights?
- Does it really matter? Does it make any difference and do we think this is a question worth asking?
- Are there any particular practical obstacles to progress in using an equalities model at present?

Nick explained that work on equality is already very dynamic, successful and has strong grassroots engagement. Nevertheless, challenges remain. The proliferation of equality 'strands' has led to complex legislation and the absence of a shared narrative about equality. There is also an over-emphasis on equal treatment at the expense of a richer concept of equality incorporating ideas such as diversity, redistribution, and participation. So despite the success of the equality movement, there are reasons for taking a pause. Patterns of entrenched disadvantage persist and increasingly these do not match our anti-discrimination model. If instead of looking at particular victim groups we look at the notion of a life journey, we see clusters of problems – exclusions, unemployment, mortality and morbidity rates, crime, prejudice etc. – affecting large groups of people who often share a number of minority group identifying features. We need an approach that looks beyond the employment context, that focuses on outcomes as well as process, and that overcomes the current situation of fragmentation. Before considering how human rights can help, there are three things to bear in mind:

- Do the equalities issues that we now perceive really break down neatly into the conventional strand approach?
- Is that complex range of issues amenable to analysis just in terms of a notion of equality that privileges anti-discrimination?
- Can these challenges be met simply by a remedy that is something to do with equal treatment, or do we have to be slightly cannyer than that?

The key question is to what extent human rights provide the answers to those questions – an alternative way forward?

The second speaker was **Sonya Sceats**, Policy and Research Officer at BIHR. Sonya began by recapping some of the ideas introduced at the beginning of the conference about human rights based approaches. She explained that she would concentrate on the first feature of these approaches – an explicit emphasis on human rights principles and standards in policy and practice.

Modern human rights standards were a response to the Holocaust and a challenge to the idea that states could act as they please towards people within their borders. These standards are underpinned by a set of core principles including fairness, respect, equality, dignity and autonomy. They are found in three levels of law: international law (in the form of treaties such as the Convention on the Elimination of all forms of Racial Discrimination), regional law (such as the European Convention on Human Rights) and domestic law (for example our own Human Rights Act (HRA)).

The HRA incorporates most of the rights contained in the European Convention on Human Rights into domestic law. This was meant to usher in a new culture of respect for human rights in the UK. Sonya explained the key features of the HRA and emphasised the way in which responsibility for ensuring our system is compliant with human rights is shared across the executive, the judiciary and the legislature, resulting in a 'democratic dialogue' between the branches of government.

Sonya introduced some core ideas about the relationship between human rights and equality. She explained that equality is a fundamental human right as well as a core underpinning principle of human rights, and that human rights encourage a holistic perspective. Human rights start with the basic idea that a human being



has been treated badly and then work back from there to consider whether that bad treatment is because somebody comes from a particular group. For this reason, human rights focus on what unites us, rather than on what divides us. Human rights offer a more ambitious vision of equality that protects against other forms of ill-treatment besides discrimination (for example the denial of dignity) and against universally bad treatment. A human rights vision of equality demands access to the full set of human rights that allow us to participate meaningfully in a democratic society. It also allows us to recognise other forms of discrimination not captured by the six equality 'strands' and provides a framework for balancing rights.

So are human rights and equality long lost siblings? As Albie Sachs intimated earlier in the day, outside the UK equality and human rights are not seen separately and are instead closely linked in policy and practice. Against this backdrop it is interesting to ask why they came to be seen separately in the UK. Nevertheless, the first 'green shoots' of joined up thinking can be identified, in the pioneering use of human rights by the Disability Rights Commission and in the older age sector; and of course in the new CEHR itself. Flying under the radar there are also a range of low profile initiatives 'on the ground', many of which are being showcased in other workshops. Sonya finished by saying it is unclear what the future holds but that discussions today by the practitioners and other experts would be an important step in carving that out.

The final speaker was **Simon James** from the Ministry of Justice, who offered a government perspective on the issue of the relationship between human rights and equality. Simon focused on four examples of institutions and mechanisms which demonstrate how human rights and equality are working together at the macro level.

First, the Human Rights Act itself, which was reviewed at the request of the Prime Minister last year. The review found that public sector officials valued the Human Rights Act as a tool for improving policy outcomes and that its emphasis on fairness, equality and proportionality meant the needs of the UK's diverse population can be taken into account.

Second, the European Convention on Human Rights has 'wired in' equality. For example, Article 14 prohibits discrimination in the enjoyment of Convention rights on a non-exhaustive range of grounds.

Third, the CEHR combines work on equality and human rights. It has a wide range of duties to promote human rights, encourage good practice in relation to human rights, and promote awareness of and compliance with human rights. It must also take human rights into account in its work on equality.

Fourth, the Government has worked very closely with partners across the EU to set up a new Fundamental Rights Agency which will build on anti-discrimination work at the EU level, illustrating again the anomalous separation traditionally between human rights and equality in the UK.

The key challenge, however, is for Government to work successfully with the CEHR. As our Secretary of State has said, 'Human rights is not the icing on the top of the equality cake, it is the key ingredient'.

Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges of a human rights vision of equality, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- Human rights are a potentially powerful tool for people working on equality – they help us to start from a common understanding, reinforce core values, fill gaps in our legislation, add new dimensions like dignity, and are inclusive
- The right to participation is particularly powerful for those working on equality
- Human rights based approaches are empowering and participatory – they challenge some of the more segmented, fragmented equalities approaches
- Human rights support everybody, not just groups. They improve access to services, not just employment.

Human rights are particularly useful in the context of multiple discrimination, for those who belong to more than one group and thus do not fit neatly into boxes

- Because the Human Rights Act is a living instrument, it can help us look at both sides of the issue
- Putting human rights into the equality debate could bring many benefits, including in relation to social cohesion and multiple discrimination

Challenges

- We still have more work to do with 'selling' human rights effectively – human rights is sometimes a 'dirty word' and this is fuelled by compensation culture. We also have to be careful not to undermine what we've achieved so far. Hearts and minds need to be captured with regards to human rights
- Messages need to be handled carefully because there are still different views about whether human rights can help deliver equality more quickly or not, and whether they are actually a distraction
- Does the protection of property rights undermine the agenda to redistribute wealth? In some ways inequalities have become worse since the Human Rights Act was passed
- It is very important not to neglect economic, social and cultural rights, or to say that our domestic system protects them when actually they are virtually absent
- It is unfortunate that the CEHR cannot support individual human rights cases that don't have an equality dimension

Suggestions for taking forward a human rights approach

- We need to popularise the debate about dignity, justice, fairness and other human rights values. If we can successfully show that human rights are relevant, people will listen. Talking about people's stories is key. There needs to be ownership and empowerment on the individual level so that human rights are promoted as part of our culture
- Partnership working is crucial, and the Government needs to take a lead. Inspectorates in particular need to work together in embedding equality and human rights in their assessment processes, for example Comprehensive Area Assessments. The Discrimination Law Review consultation process should be an important mechanism for exploring some of these issues
- The language of human rights needs to be kept simple – human rights need to be made visible so that everyone can understand them. We need more accessible information and more awareness-raising. They should be prominent in the national curriculum – we need to empower young people so that the future looks different
- Global campaigns like Make Poverty History or climate change show an active citizenship which can be tied to human rights
- We need to recognise that the community cohesion debate is about equalities and human rights as well
- Positive communications activity by the CEHR is important so that key stakeholder groups, particularly the public sector, are influenced, although the task should not lie with CEHR alone
- Economic and social rights need to be brought into the debate. A Bill of Rights might help if it expanded on the rights in the Human Rights Act
- Human rights impact assessment tools are needed, and they need to include positive duties in relation to human rights, which are poorly understood. We need more guidance and monitoring on human rights processes and outcomes
- The Government should demonstrate leadership in mainstreaming human rights, especially in the public sector. A human rights duty across the public sector is something to think about – a human rights approach is about being proactive not just compliant



The Disability Rights Commission (DRC) is proud to support the BIHR conference: Human rights visions of equality.

In February 2007, the DRC launched its Disability Agenda which sets out what we believe are the chief public policy challenges for the coming decade and the action required to meet them.

The Disability Agenda is focused on resolving the deepest and most persistent social and economic exclusion facing disabled people and their families. It aims to do this by recommending policies to reach those individuals who have felt the least benefit from progress so far, and by addressing those emerging issues that will become the fault lines for inequality in years to come. This means giving disabled people the necessary support to participate.

The first of ten priorities within the Disability Agenda is:

'Promoting a culture of equality and human rights.'

The Disability Agenda identifies the following key objectives of an effective reform agenda aimed at addressing this priority:

- The adoption by the Commission for Equality and Human Rights (CEHR) and governments of human rights principles – freedom, respect and dignity – as the value-base for their work
- The strategic enforcement of equality and human rights law
- The reform of existing anti-discrimination law to achieve a clearer, simpler and fairer legislative framework, including a Single Equality Act (SEA) that builds on the positive features of the Disability Discrimination Act (DDA), and the introduction of new laws on social rights such as independent living
- The promotion of cultural change through the use of 'good relations' powers, evidence-based communications campaigns, and partnerships with governments to promote disabled people's participation in public life

As evidence of the achievement of these objectives, we want to see:

- Clarity of principles underpinning CEHR and government policy on equality and human rights, with particular reference to freedom, dignity and respect
- Effective strategic legal interventions to enhance equality and human rights. The CEHR should develop indicators of success, to include measurable change in practice and organisational culture in organisations and whole sectors targeted by the CEHR
- Greater understanding amongst those with duties, those with rights and policy-makers that the legal framework for fairness and dignity applies across the range of experiences of impairments and health conditions
- Improved understanding, in targeted sectors, of the human rights of disabled people
- Effective legislative reform on equality and social rights
- Improvements in 'good relations' between disabled people and other citizens
- Progress should be reported under the Disability Equality Duty requirements by the Secretary of State for Communities and Local Government, Scottish Ministers and the Welsh Assembly Government First Minister. Reporting should also relate findings to ethnicity, age, gender, parental and carer status, religion and sexual orientation



The Disability Agenda is part of the larger project of creating a culture of equality and human rights. Central to that endeavour will be the CEHR, which opens for business on 1 October, when the DRC dissolves.

'Promoting a culture of equality and human rights' is one of a series of ten public policy priorities identified in the Disability Agenda to create an alternative future for our communities.

For further information visit www.disabilityagenda.org

From October 2007, the Commission for Equality and Human Rights will cover all equality issues. Visit the website www.cehr.org.uk for contact details.

Disability Rights Commission

Workshop 2: Equal access to quality public services – how can a human rights based approach add value?

Chair: Frances Butler, Vice President, BIHR

Speakers: Dan Vale, Head of Social Policy, Citizens Advice; Jiwan Raheja, Head of Performance and Delivery, Human Rights Division, Ministry of Justice

Introduction

Access to quality public services is a crucial part of efforts to tackle inequality. This is recognised in a range of legislation and government policies which aim to ensure that marginalised groups receive equal treatment, both in terms of access and quality. However, for many individuals and groups this is not their experience. This workshop looked at how human rights principles and standards could be used to address this situation.

Speaker inputs

The first speaker was **Dan Vale**, Head of Social Policy at Citizens Advice. Dan began by introducing the work of Citizens Advice, and spoke about how their client profiling has shown that poor public services or exclusion from services disproportionately affects clients from already marginalised groups. These groups include women, black and minority ethnic communities, disabled people, older people and groups with less 'visible' characteristics such as rural and semi-rural communities and people in the informal economy. This impacts on people in these groups in number of ways, causing or exacerbating social exclusion, poverty and debt, ill-health and decreased confidence.

Dan spoke about the current policy context, which is characterised by public sector reform – modernisation and rationalisation, the shift of onus from state to individual, growing choice and the consumerism agenda, a recognition that hard to reach groups have been under-served (although few new solutions have been provided to deal with this issue), and equalities and human rights frameworks.

Dan identified a number of problems with current public service approaches to marginalised groups, including inflexible definitions; a focus on demographic and visible characteristics; a tendency to assume homogeneity



within groups; and a tendency to generalise, leading to stigmatisation and stereotyping. Evidence from Citizens Advice about public services shows that:

- They tend to be relatively efficient at reaching the majority of people who have certain attributes which the system is designed to find 'easy'
- There is a significant number of people who are still not claiming or are unaware of their entitlements to public services
- There are significant access problems for the hard to reach 'last quarter' of the population
- The systems which make delivery to the majority so efficient can have a tendency to make delivery to the minority both difficult and resource intensive

Finally, Dan outlined the characteristics of public services that would enable an inclusive and inviting service. These include: diverse, flexible, responsive, communicative, visible, accessible, not patronising, trustworthy and trusting.

The second speaker was **Jiwan Raheja**, Head of Performance and Delivery at the Human Rights Division, Ministry of Justice. Jiwan spoke about how human rights can add value to public services from a government perspective.

Jiwan began by outlining the key concepts of a human rights approach, which involves promoting values such as fairness, respect, equality and dignity. The UK Human Rights Act places a duty on public authorities to consider human rights in all that they do – including the design and delivery of public services. In adhering to their duties under the Human Rights Act public authorities need to consider the following kinds of questions in taking decisions and developing policy:

- What is the objective of the policy/decision?
- Who will be affected?
- Will the policy/decision affect their human rights?
- If yes, would the policy/decision interfere with or limit their human rights, or does the authority have a positive obligation to protect these rights?

Benefits for public service providers in using the framework provided by the Human Rights Act include better decision-making and more person-centred and personalised services. The human rights framework also supports equality and non-discriminatory practice and outcomes. Jiwan identified a number of good practice initiatives on human rights within government, including the development of a human rights and healthcare framework by the Department of Health, BIHR and five NHS Trusts.

However there are a number of issues within public authorities with regards to the use of the human rights framework and the Human Rights Act. These include:

- There is inadequate access to human rights advice for front line staff, and often there is a failure to identify the practical relevance of human rights to staff
- Public authorities often fail to consider the broader organisational/staff implications of a human rights approach
- Some public authorities take only a 'bare compliance' approach to human rights
- Human rights often remain on the desk of lawyers and are not used in a practical way
- There is usually no one person with a specific human rights responsibility
- Human rights may be seen only as a minor 'add-on' to equality and diversity

Jiwan finished by speaking about what success in the greater use of human rights in improving public services would look like. This would include:

- Appropriate and effective use of the Human Rights Act based on an accurate understanding of what it means for public authorities

- Increased public confidence over time in human rights
- Higher levels of awareness of what human rights are and why they are relevant to better public services
- Real coordination across Whitehall and the wider public sector

Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in applying human rights to the delivery of public services, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- It is positive that human rights are and can be seen as for everyone
- Human rights approaches follow the 'curves' of people's real lives, not linear processes
- The CEHR is a massive step towards encouraging and rolling out good practice
- With a human rights approach, public services will reflect core human rights principles such as dignity, equality, respect, fairness and autonomy
- A human rights approach will mean that a greater range of marginalised and disadvantaged people and groups will be considered in the design and delivery of services – not only those covered as 'strands' in current equality legislation

Challenges

- Whilst the Human Rights Act is a positive step in dealing with key issues such as protecting the dignity of individuals (e.g. tackling elder abuse), a degree of caution is needed because it does not include social and economic rights
- There is a lack of funding to support changed practice in individual casework and wider organisational change
- The intention and potential of the Human Rights Act is not entirely fulfilled due to the current limited legal definition of 'public authority'
- There is not always clarity on what is meant by a human rights based approach in terms of public services, both with regards to content and process
- It is not clear who is leading on human rights in the public sector – the Ministry of Justice or the CEHR?

Suggestions for taking forward a human rights approach

- There needs to be more collaboration between voluntary and community sector service providers and the public sector
- Public awareness of human rights needs to be raised, for example through storylines in public groups
- The CEHR should play a key role in clarifying what is meant by a human rights based approach
- Human rights performance indicators would be of practical use and should be developed
- The Human Rights Act should be the basis for the role of public bodies in delivering services. They should be held accountable on this basis
- Building a human rights culture in public services is everyone's responsibility, including individual service users and public bodies. Therefore, these groups need much better understanding of what this means in practice

Workshop 3: Participation and voice – a request or a right?**Chair:** Vivienne Hayes, Director, Women's Resource Centre**Speakers:** Ruth Lister, Professor of Social Policy, Loughborough University; Pam Giddy, Director, POWER Inquiry**Introduction**

Participation and involvement in the determination of one's own destiny is the essence of human dignity. Efforts to tackle inequalities in society will be far more effective if they better represent, engage and empower those they seek to benefit. However many people are either excluded from, or have limited influence in relation to, the key decision-making processes affecting them and our wider society. This workshop looked at what a human rights based approach offers to current participation initiatives – especially among people living in poverty and other excluded groups.

Speaker inputs

The first speaker was **Pam Giddy**, who introduced the POWER Inquiry, of which she is Director. The POWER Inquiry was set up in 2004 to explore how political participation and involvement can be increased and deepened in Britain. Its work is based on the primary belief that a healthy democracy requires the active participation of its citizens.

The Inquiry established a Commission under the chair of Helena Kennedy QC, to investigate why the decline in political participation and involvement has occurred and to provide concrete and innovative proposals to reverse the trend. The Commission published its final report, *Power to the people*, in February 2006. The report outlined 30 recommendations for change, but most importantly it argued that there is a need for a re-balancing of power between the Executive and Parliament, between Central and Local Government and between the Citizen and the State.

Pam spoke about how lack of participation in democratic mechanisms tends to be high among specific groups such as women and black, Asian and ethnic minority communities. Some reasons given for this in the Power Inquiry were that people are no longer able to relate to the electoral system. In newer democracies around the world there has tended to be a conversation with people around what can make the electoral system accessible and relevant to the general population. In South Africa it was recognised that there should be a right to participate in the political system.

Politicians sometimes believe that only the political elite have the ability to develop and make national laws, policies and plans. However, Pam cited examples from around the world that demonstrate that members of the general public have actively participated in political decision-making. In Canada citizens have been involved in constitution making. In Brazil regional groups of people have been involved in setting the budget for public spending in their area.

Pam concluded that to enable meaningful political participation in the UK, change is needed where people feel that they can truly participate in the political process.

The second speaker was **Ruth Lister**, Professor of Social Policy, Loughborough University. In her presentation, Ruth explained why a human rights based approach underpins the case for the participation and voice of marginalised groups, notably people with experience of poverty; and why, in turn, participation is so important to a human rights based approach to poverty reduction.

Ruth spoke of the centrality of participation to a human rights based approach, as it underpins the effective realisation of other rights. The process of participation enables people living in poverty and other marginalised groups to act more effectively as citizens and bearers of human rights.

The right of participation represents an important means of recognising the dignity of people living in poverty and other marginalised groups. It is saying that their voices count; that they have something important to contribute. It also acknowledges how much policy-makers have to learn from listening to those affected by the policies and how much this strengthens the policy-making process, in particular with respect to policies promoting social inclusion. Recognition of the valuable perspectives that marginalised groups can bring to policy-

making is crucial in counteracting the disrespect with which many people living in poverty feel they are treated by the wider society.

The lack of respect for people living in poverty came across clearly in the evidence received by the Commission on Poverty, Participation and Power, on which Ruth served. Other key issues identified by the Commission included:

- The lack of respect for people living in poverty is closely tied up with voicelessness, powerlessness and disengagement from the political system
- In order to redress the power imbalance associated with poverty and marginalisation, participation has to be genuine. However, all too often it is not. People experiencing poverty see consultation without commitment, and phoney participation without the power to bring about change, as the ultimate disrespect
- There needs to be a willingness on the part of power holders to let go of some of their power. Power imbalances have to be redressed, and those that remain should be acknowledged and made transparent
- Mechanisms are needed at every level of governance to ensure that people living in poverty can be involved in the development and assessment of policies that affect their lives

Ruth spoke about the national project 'Get Heard', through which 146 participatory workshops were held throughout the UK, enabling people with experience of poverty to give their views on policies to combat poverty and social exclusion. These were fed into the 2006-08 National Action Plans on Social Inclusion. However, Ruth pointed out that such projects only represent a start. We are a long way from a genuinely human rights based, participatory anti-poverty strategy in the UK. And there is still work to do to join up initiatives on democracy, human rights and poverty. The new Commission for Equality and Human Rights provides a potential opportunity for making some of these links. Therefore a human rights approach to poverty needs to be a thread woven through its work.

Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in applying human rights to participatory initiatives, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- Human rights provide the opportunity to change the label of 'most vulnerable' and imbue more agency and dignity for the people described
- Human rights illustrate a more effective way to work bottom-up as well as top-down
- Human rights are very useful when looking at issues related to multiple discrimination
- Human rights can help to dispel the myth that equality is for minorities
- If used in schools, human rights provide an opportunity for young people to develop their skills in relation to participation

Challenges

- Often communities are made up of multiple groups with different issues. This can often lead to some issues not being identified within marginalised groups. How do you ensure that all priorities are addressed in these cases?
- Time and resources are key issues for those who are trying to deal with their own basic survival such as undocumented migrants. How do you engage these groups with human rights?
- How do you set indicators for participation?
- There is no real legitimacy/accountability when it comes to public authorities and decision-making around exclusion. This lack of accountability is often disguised through the use of terms such as 'hard to reach,' which do not really explain the issues a group may be facing and put the onus on the excluded person to take action



- The majority of those with power are not prepared to acknowledge the powerlessness that exists within other groups

Suggestions for taking forward a human rights approach

- Measures should be taken to make the process of participation accessible to as many as possible, in particular those who are marginalised. The voices of individuals are important and should be listened to
- Voluntary and community groups are key in this work. However, they require resourcing and capacity building to engage people with human rights
- The power of storytelling should be acknowledged. More resources should be developed and publicised that illustrate practical examples of how human rights have been used positively
- It is important to raise awareness of what rights people have and how people are protected
- Adequate legal aid and other supports are needed if rights are to be made meaningful or accessed by people

Workshop 4: Human rights and good relations – a source of common values or conflict?

Chair: Clare Collins, human rights consultant

Speakers: Professor Ted Cantle, Institute of Community Cohesion; Colin Harvey, Professor of Human Rights Law, Queen's University Belfast

Introduction

Achieving community cohesion and good relations between different groups is one of the key challenges of our current times. However, a major barrier to this is the levels of inequality in our communities and wider society. Other challenges identified by the interim report of the Commission on Integration and Cohesion include the complexity of community relations, how to support interaction between different groups and how to identify common values. This workshop explored what a human rights based approach to these challenges might look like and what value it could add in formulating effective policy for change.

Speaker inputs

The first speaker was **Professor Ted Cantle** from the Institute of Community Cohesion. His presentation outlined some of the key issues in terms of community cohesion in the UK today. He began by stating that the community context cannot be divorced from human rights and we need to focus as much on the community as we do on individual rights. There may be some areas where human rights conflict with wider community interest. Ted gave the example of the issue of translations raised in the final report of the Commission on Integration and Cohesion. To receive information in one's own language may be important for fulfilling an individual's basic rights but may discourage them from learning English. It is in the wider community interest that everyone can communicate in English as a common language. However, if a person's human rights are infringed by not being able to access information, this may be where the line needs to be drawn and the information provided in another language.

Ted emphasised that tackling inequality effectively is a necessity for improving community cohesion. To this end the concept of equality needs to go beyond equal treatment to encompass wider values such as fairness and dignity.

He also addressed the issue of shared values as providing a foundation for community cohesion. He acknowledged that as a society we can agree some shared values in very general terms, for example the right to association, right to free speech and right to practice our religion. But the agreement on what these values are must result from bottom-up processes and involve people in communities. He suggested that the strength of the community cohesion agenda is that it is participative and interactive. He also pointed out that shared values are not always universally agreed, and there were difficult questions on how to reconcile universal human rights

values with minority or extremist views. He argued that there was a need to accommodate different views for social change, and asked whether the pursuit of human rights reduced the ability of collective social action.

Ted concluded by talking about layers of integration. In some areas it is easier to accept separate lives than in others, for example cultural differences. But laws within a country must be universal, which would include domestic laws on human rights. We need to debate and discuss issues as a group. The community cohesion agenda tries to create a sense of shared experiences and shared spaces for interaction to encourage this debate.

The second speaker was **Professor Colin Harvey** from Queen's University Belfast and a member of BIHR's Advisory Board. He responded to Ted's presentation by offering comments on how a human rights based approach can help to tackle inequalities and promote community cohesion.

Colin began by saying that human rights, equality and community cohesion are complementary and interdependent agendas, or should be. But there is ongoing suspicion in the different camps. The human rights/equalities field worries that community cohesion might water down their agenda, while the community cohesion field worries that the other is divisive and causes tensions within communities. However, evidence from Northern Ireland suggests that different communities get on best within the employment context. This is the most heavily regulated in terms of equality and human rights. He stressed that in his opinion this is no accident. Respect for and promotion of human rights and equalities underpin good community relations.

Colin went on to talk about three main points. The first was the value for community cohesion of human rights not only being citizen's rights – the European Convention on Human Rights protects everyone within the jurisdiction of the state. A human rights based approach focuses on participation. People are not passive receivers of public services, and they must have an active part in the process of public service delivery. The fact that human rights are based in law and can be claimed can help – it is an empowering language. However there are so many myths regarding human rights that there is a lot of clarifying to do.

He then cautioned that human rights are becoming wrapped up in the debate on Britishness. There seems to be a sense in this debate of trying to reclaim and rescue British national identity from racists and xenophobes and reclaim it for the progressive British. The strength of human rights values is that they are not owned by any one national tradition; they are part of a global movement, not a citizen's charter. Colin suggested that there is a danger of collapsing human rights into a nationalist rhetoric.

A further point was on integration – Colin asked why minority communities seem to be constantly perceived as the problem. Why is the majority community not seen as the problem more often? In Northern Ireland the majority community had to change and accept things it did not necessarily want to, and this was facilitated by using the human rights framework.

His final comments were on the national security debate. Colin warned of the danger of creating suspect communities. Protection of national security is in line with human rights, but it must be done on a secure human rights basis and with respect for equality. He emphasised the value of human rights as a framework within which to debate issues around national security and have this dialogue. Colin concluded by stressing that effective community cohesion can only be achieved if human rights and equality are fully respected by individuals living within the community.

Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in applying human rights to good relations and the community cohesion debate, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- Human rights are a basis for shared fundamental values
- Certain rights, like the right to free speech and participation, can help community cohesion in empowering people in the community to have a voice



- Human rights laws give us a tool for navigating competing rights, a useful framework that can be used locally
- The language of human rights could add value in the context of integration of gypsy and traveller communities
- People in institutional care have found the language of human rights valuable. There are important challenges around integrating people who live in institutional care into the wider community
- The fact that human rights are based in law is useful in terms of empowerment and accountability

Challenges

- A key challenge is the widespread myths and misconceptions about human rights among the general public
- There is a perception that human rights are complex and difficult to understand/communicate. This needs to be overcome

Suggestions for taking forward a human rights approach

- More work needs to be done on joining up human rights, equality and community cohesion in policy and practice. The three areas are interrelated and interdependent, and represent a shared agenda
- If economic, social and cultural rights were properly implemented into domestic legislation and used to combat poverty, this could be very important in improving community relations
- Human rights might provide an opportunity to avoid labelling and categorising people into groups, by focusing on the individual. This could help to address a common problem in the community cohesion approach of who represents the community. Community leaders are often older men and there is low representation of women

Workshop 5: Changing public attitudes: a role for human rights in tackling public prejudice about equality?

Chair: Jenny Watson, Chair, Equal Opportunities Commission

Speakers: Dominic Abrams, Professor of Psychology, University of Kent; Katie Ghose, Director, British Institute of Human Rights; Colleen Harris, Communications Project Lead, Commission for Equality and Human Rights

Introduction

The conference as a whole was designed to examine major equalities issues and challenges and to look at the contribution that human rights might make to these. This workshop looked at prejudice as one of the most significant barriers to achieving an equal society. It aimed to explore current public attitudes towards equality issues and to debate whether human rights ideas and language helps or hinders people working on equalities to communicate their messages and achieve their goals.

Speaker inputs

Dominic Abrams, Professor of Psychology, University of Kent was the first speaker. He gave a presentation about attitudes to equality, explaining that they were complex and varied. Equality was 'valued by all people' but 'not for all people'.

Dominic reported some key findings from the National Survey of Prejudice for the Equalities Review (2007). The aim of the research was to obtain some broad benchmark evidence about prejudice in Britain. The results showed how prejudice is expressed and experienced in different forms and degrees by, and towards, different groups. They highlighted that both directly hostile and more subtle and patronising forms of prejudice can underpin unequal and discriminatory treatment.

The survey focused on six broad disadvantaged social categories: women, lesbians and gay men, disabled people,

black people, people over the age of 70, and Muslims. For comparative purposes some questions were also asked about other groups, including white middle class men, legal and illegal immigrants, asylum seekers, and various other religions and nationalities.

A large majority strongly endorsed equality and treating people as individuals. However, a majority also wanted minorities to share their majority values, suggesting that they did not value diversity as highly.

Despite positive feelings about equality, there were very different views about who merited equal treatment. Whilst 80% of respondents thought it important to satisfy the needs of people over 70, women, and disabled people, far fewer were so positive about black people, legal immigrants, Muslims and gay and lesbian people. For example only 50% thought it was important, and 21% thought it was unimportant to satisfy the needs of gay men and lesbians. Similar patterns emerged when people were asked who merited special help with employment. Significantly more people thought that efforts to ensure equal employment opportunities had gone 'too far' as opposed to 'not far enough' when it came to black people, Muslims and gay men and lesbians in comparison with their attitudes towards women, disabled people and older people.

These findings pose the question: are some groups viewed as 'more than equal' already, or are they perceived as not deserving the same level of equality as others? The answers to further questions suggest the latter, with significant numbers expressing negative feelings towards many of the same groups.

The survey also revealed the prevalence of prejudice and discrimination, with half of respondents reporting that they had been the victim of prejudice or discrimination. Interestingly, the highest reported numbers (sexism and ageism) are not borne out by the findings on negative attitudes, so it appears that other factors must be causing the discrimination. Dominic explained that patronising attitudes could be a cause, with disabled people and people over 70 evoking benevolent emotions of admiration and pity. In contrast, some groups, in particular Muslims and gay men and lesbians, were viewed as evoking emotions of disgust, anger and fear. So whilst benevolence may not typically be understood as prejudice it can clearly result in discrimination – in a denial of opportunities given to other groups.

Finally, some of these findings were borne out in choices about which charities were most deserving of support. Most people chose causes that supported the groups towards whom they had feelings of benevolence or pity, although this trend was somewhat reversed when the person's own group was to benefit.

Dominic summed up the findings by saying that people placed a high value on equality. He said that this appeared to provide a good foundation for promoting human rights as a system for guiding policy in an increasingly diverse society. However, the survey reveals a complex picture when it comes to the meaning people attach to 'equality' and the way they apply it which is, ironically, unequal. Prejudices are expressed and experienced differently by different groups and towards different groups.

It is clear that both active and passive forms of prejudice and discrimination can lead to a denial of people's human rights. In order to understand what actions were needed, Dominic concluded by making a case for building a clearer picture of the forms that prejudice and discrimination take.

Katie Ghose, Director, BIHR, was the second speaker. She opened her presentation by explaining that whilst the issue of public attitudes to human rights themselves was extremely important, the specific question for the workshop was whether using human rights language and messages could help people working on equality matters, especially in influencing policy and communications.

Katie contrasted the amount of research into the public's attitudes to equality with attitudes towards human rights, where little comprehensive data had been collected. This meant that whilst there was a general 'feeling' of hostility towards human rights, as reported in, and to some extent stoked up by the media, there was no detailed information or surveys to help us make a proper assessment. However, available data suggests that people's attitudes change significantly when they are given basic information about human rights and begin to understand their key features.



Katie highlighted some ways in which human rights concepts and language could be a powerful way to communicate and engage people in equality causes. Human rights are often presented as abstract or legalistic. In fact, human rights are based on fundamental principles including fairness, dignity and respect. They are accessible and have a natural fit with the way people talk.

Human rights language can give profile and 'edge' to persistent areas of discrimination or inequality issues, such as domestic violence or low educational achievement of some racial groups. Acknowledging acts of violence or degrading treatment as human rights abuses could help to breathe fresh life into campaigns on these issues.

The language of rights is fundamentally empowering. It has been explicitly used by groups such as disabled people to establish that as human beings they have fundamental entitlements rather than being subjects of benevolence or pity.

Human rights ideas and language include everyone, rather than just those groups traditionally recognised as facing discrimination. They also offer a way to highlight issues of poor treatment where there may not be discrimination in a traditional sense – for example where everyone in a residential care home is being treated equally badly.

BIHR's work with health organisations has provided some interesting examples of how the basic ideas of human rights could be used to engage with a wide range of people experiencing discrimination and unequal treatment. Mersey Care NHS Trust designed a human rights questionnaire for people with learning disabilities who had used their in-patient services. They used fundamental principles such as fairness and respect to capture people's experiences in their own words and start to measure their service in human rights terms.

Katie summarised the potential for drawing on human rights language and concepts to change attitudes to equality as follows:

- Explicit use of human rights language could give profile and renewed energy to equalities issues and campaigns
- The language of rights is fundamentally empowering and can be used to shift the balance of power further towards groups who are facing discrimination and inequalities
- Because human rights belong to everyone they can help overcome the perception that equality is only about minority groups
- Human rights involve the articulation of concrete (minimum) standards from which groups can argue for equal treatment even when they cannot prove discrimination in a traditional sense
- The ideas that underpin human rights are accessible to a very wide range of individuals and groups

Colleen Harris, Communications Project Lead at the CEHR, then spoke about the challenges and opportunities for the CEHR in fulfilling its human rights remit and in communicating about human rights. She highlighted the need for the development of slow, steady, understanding and awareness of what human rights were really about.

Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in using human rights to tackle public prejudice about equality, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- Human rights are inclusive and bring people together
- The use of words like dignity, fairness, respect can be powerful; they are concepts that everyone can relate to
- Human rights mean that people feel like they can be taken seriously
- Equality is a subset of and inseparable from human rights. Human rights go beyond groups and offer an opportunity to avoid 'pigeon-holing'

Challenges

- There are variable perceptions of what a human rights abuse is
- We need to calm fears that some groups are getting more rights than others
- Many people get their information from tabloid newspapers which are very hostile to human rights
- Experience of human rights abuses can be limited e.g. to disabled or older people. To what extent are rights breached for the majority?
- Human rights focus on the state so there are fewer opportunities to influence the private sector

Suggestions for taking forward a human rights approach

- Education is essential and there is a huge need for resources to make this happen.
- We need targeted education towards key groups, including the judiciary and lawyers, for example through legal journals, websites, legal bulletins etc.
- We need to counteract negative perceptions and stereotypes. Strong leadership and the role of opinion-formers are critical
- Messages from the Government need to be consistent
- CEHR messages should be positive, sophisticated and targeted – they can make a difference to outcomes

Workshop 6: Unequal Britain: what can human rights do for economic and social equality in the UK?

Chair: Maggie Beirne, Director, Committee on the Administration of Justice, Belfast

Speakers: Kate Wareing, Director of UK Poverty Programme, Oxfam; Stuart Weir, Director of Democratic Audit, Human Rights Centre, University of Essex

Introduction

Wealth disparities have been growing in the UK, together with relative poverty. There is increasing concern over unequal access to resources. Yet the potential for economic and social rights to be used to challenge these trends has not been fully realised within the UK. This workshop set out to explore this potential.

Speaker inputs

The first speaker was **Kate Wareing**, Director of Oxfam's UK Poverty Programme. Kate explained Oxfam's analysis of poverty and inequalities in the UK and its view that human rights based approaches, pioneered in the international development context, could prove useful in addressing these.

Poverty certainly exists in the UK – in 2004/5 1 in 5 people in Britain were living in income poverty and the wealth of the poorest is shrinking. Direct discrimination is a cause of poverty for some groups, but we must also recognise structural factors, such as the nature of the welfare state and labour market and deeply held assumptions on the part of service providers (for example that South Asian families 'look after their own'). The idea that poverty denies human rights to those experiencing it is central to Oxfam's mission. Oxfam has embedded human rights based approaches in its work to ensure it is doing all it can to hang the organisation's activities on the Government's legal obligations – this means invoking the full set of political, civil, economic, social and cultural rights. Kate provided an overview of a number of projects undertaken by the UK Poverty Programme focusing on participation, gender needs, and empowering migrant workers.

Kate concluded by discussing a new focus in Oxfam's work on legally enshrined rights. This has included lobbying the UK Government to incorporate economic and social rights into domestic law, using legal standards to advocate for improvements in policy and practice for those living in poverty, and evidencing the Government's



failure to protect against certain human rights abuses affecting domestic violence victims and those without recourse to public funds.

The second speaker was **Stuart Weir**, Director of Democratic Audit at the Human Rights Centre, University of Essex. Stuart commenced by recognising some of the challenges in promoting the importance of economic, social and cultural rights in the current climate. Government ministers and other politicians are clearly hostile to the idea, fuelled by their exasperation at adverse court judgments on counter-terrorism laws, and a degree of ignorance about the respective roles of the executive and judiciary in a modern constitutional democracy.

Despite this, the case for economic, social and cultural rights is very strong. First, they make a reality of civil and political rights and inclusive democracy by ensuring that people have the resources and education necessary to make use of those rights. Second, they remove the common view that human rights are there for minorities, because substantial numbers of people who feel excluded from human rights as they know them also feel excluded from state provision in housing and education and other areas that could be the basis for agitation in relation to economic, social and cultural rights.

Stuart also pointed to a more favourable ideological climate in the European Union, where economic rights are championed in states achieving higher rates of growth than the UK without the same focus on the need for a flexible employment market. The idea of a welfare state, entailing commitment to social justice, is still very appealing to older people in this country. Polls for the Joseph Rowntree Reform Trust have shown that most people want a Bill of Rights that encompasses economic, social and cultural rights. The trade unions still represent a powerful force in civil society and they should be drawn into the debate. There is also a growing revulsion in society to gross inequalities. In addition to correcting misunderstandings about economic, social and cultural rights, the challenge is therefore to argue for a new British/English approach based on civil liberties, social justice, fairness, sustainability and solidarity, combined with a case for civic citizenship based on a written constitution.

Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in using human rights to tackle social and economic inequality, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- The emphasis in human rights based approaches on the need to prioritise vulnerable groups is preferable sometimes to the language of positive discrimination, which has negative connotations
- A human rights approach could potentially help address challenges posed by economic inequality
- Debates about constitutional reform are an opportunity for new thinking about economic, social and cultural rights
- International mechanisms and case studies with regards to human rights can be very helpful – they are too often overlooked or not known about

Challenges

- It is important to recognise that there is inequality and poverty in the UK
- Negative discourse in politics and the media about rights and responsibilities throws up challenges for efforts to use human rights based approaches – we need to familiarise people with a more positive kind of rights discourse that has real examples of where human rights have helped. In any case the Human Rights Act does set out responsibilities as well as rights so the media portrayal is wrong
- The language of citizenship is often attractive in these debates because it appeals to popular ideas of reciprocity. However it is less robust because citizenship excludes non-citizens, who are vulnerable to social and economic exclusion

Suggestions for taking forward a human rights approach

- Education and capacity building in relation to human rights is urgently needed
- We should look to incorporate economic, social and cultural rights into UK law. There is a strong move towards these rights in Northern Ireland
- We need a Bill of Rights and we need institutions to be held to account. A Bill of Rights should also reinforce the responsibilities that all citizens have towards each other
- The voluntary and community sector is in a unique position to connect people with government – we need empowerment from the ground up by linking economic and social inequality with the social inclusion agenda which advocates involvement of those who too often find themselves at the bottom of the pile. Those affected by poverty need to be supported and facilitated to lead the work
- The UN Committee on Economic, Social and Cultural Rights is about to produce a report on the UK – it is important that this process is more public and visible
- We need to join up thinking about the rights agenda and social cohesion
- The debate must be practical and 'real' – there is far more consensus about the basics we should all share than about theoretical frameworks. The CEHR will play an important role here
- It is imperative that the debate is an inclusive one. This is important as a way to stop human rights being seen as a minority issue, or an issue only for those who can afford a lawyer. Too often there is a huge gap between people who promote human rights and people who need their rights protected

Workshop 7: But it's not fair! – education, equality and human rights

Chair: Carol Whitty, Deputy General Secretary, National Association of Head Teachers

Speakers: Helen Trivers, Education Officer, British Institute of Human Rights; Johan Jensen, Education Officer, Stonewall; Alec Roberts, Deputy Head Teacher, Portchester School

Introduction

Education is frequently cited as a key driver in the promotion of an equal society, yet schools often provide compelling case studies of inequality and discrimination. Schools are only beginning to explore the role that human rights. This workshop considered the role of human rights in schools and explored how adopting a human rights based approach might support equality for all pupils.

Speaker inputs

The session was chaired by **Carole Whitty**, Deputy General Secretary of the National Association of Head Teachers (NAHT). Carole introduced the workshop by highlighting the importance of education in the realisation of an equal society, and the importance of this timely discussion about the role human rights has to play. Carole explained that the NAHT is committed to promoting an emphasis on human rights in schools, and is currently working closely with UNICEF on its Rights Respecting School award and with BIHR on their Human Rights in Schools project.

The first speaker was **Helen Trivers**, Education Officer at the British Institute of Human Rights. Helen began the session by giving participants a brief overview of BIHR's Human Rights in Schools project, which is funded by the Ministry of Justice. Helen explained that the project aims to support schools to contribute to a culture of human rights in the UK by enabling them to use Human Rights Based Approaches (HRBAs) in their work. A HRBA is the process by which human rights principles are put into practice: where human rights principles and standards are a central reference point in policy and planning, where staff and students are empowered and involved in achieving these, where accountability is clear and the most vulnerable are prioritised.

BIHR's Human Rights in Schools project has three main strands:

- The development of a Key Stage 3 teaching resource on human rights for use within citizenship lessons



- The development of whole-school guidelines for secondary schools to support them to use human rights based approaches in their work
- Training to support the implementation of the resource and guidelines

Helen explained that BIHR was interested in hearing people's thoughts on how human rights can promote equality in education.

The second speaker was **Alec Roberts**, Deputy Head teacher at Portchester School, Hampshire. Alec gave a presentation on how and why his school has put human rights at the heart of what they do.

Alec explained that Portchester school has been part of the Hampshire County Council 'Rights, Respect, Responsibility' project since 2005 and has incorporated human rights as an underpinning feature of the school. The promotion of human rights features as part of the strategic plan for the school and each department in the school must show how they are contributing to the promotion of human rights through teaching and learning in their departmental plans. All staff at Portchester receive training on human rights through inset days.

Student Voice, the involvement of pupils in decisions that affect them, is a key feature of their human rights focus. The school has set up a Rights, Respect and Responsibility group of students who work in parallel to The Student Council. This group works together with staff to ensure that human rights are built in to the way the school works, in terms of teaching and learning, behaviour and discipline. They have recently worked together with staff to produce a charter of rights and responsibilities for students and staff in the school. The group works to develop the core values of the school.

Portchester places an emphasis on Personalising learning; viewing each student as an individual with different needs, and ensuring that their education is tailored to these needs. Personalisation is very much rooted in the 'Every Child Matters' agenda; however it is also based on a human rights approach.

Portchester is currently applying for the Unicef Rights Respecting School award to recognise the work that they are doing to embed human rights into the school. It is also working towards achieving The International School Award. Alec explained that whilst this may be seen as badge collecting, it is important for the staff and students that efforts are recognised and provide a platform for sustainable cultural change within the school and the community.

The final speaker was **Johan Jensen**, Education Officer at Stonewall. Johan introduced the Education for All campaign. Education for All is a joint campaign developed by Stonewall and LGBT Youth Scotland. The aim of Education for All is to ensure that all young lesbian, gay and bisexual (LGB) people can fulfil their potential, and that the UK's schools and education systems can deal appropriately with homophobia and homophobic bullying.

Research has shown that only 6% of schools have policies that are capable of tackling homophobic bullying, and LGB pupils are more likely to leave school early than other students. Yet it is an issue that schools find more difficult to deal with than other areas of discrimination. In terms of human rights, the ideas that all should be treated with dignity, respect and fairness and that equality is a human right, can support and underpin the campaign for equal treatment of all pupils.

Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in applying human rights to education, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- Human rights can give us the language to challenge existing views
- We are all human beings. Human rights give us the space to explore what links us, instead of focusing on differences
- Human rights allow all strands of discrimination to be challenged. This includes strands which schools often find more difficult such as sexual orientation

- Human rights can highlight and clarify the responsibility of schools to 'include' all children
- Human rights language resonates well with children
- A human rights based approach can enable culture change to happen within a school which can support schools to tackle inequality

Challenges

- Leadership is key. However, securing buy-in from school leadership is a real challenge
- With an overcrowded curriculum and an emphasis on exam results, it is often hard to find the time for issues such as human rights
- Existing values will need to be challenged
- There is a need for more resources and training that are properly structured and funded
- A real challenge is lack of time. Schools have any demands placed on them, and have little time. How do we ensure that this work is seen as a priority?

Suggestions for taking forward a human rights approach

- We need to make schools understand that it is good for them to use a human rights approach. We need to ensure that schools understand the links with attainment. If people feel respected, they are more likely to engage
- Schools should be creating a culture around shared values. It is important to ensure that teachers have the necessary knowledge and skills to challenge inequality
- We need to work to raise awareness of human rights with head teachers and senior management teams
- All staff within schools need to receive training both on human rights and on equalities issues. Staff need to model human rights respecting behaviour. Teachers need to be empowered so they can challenge inequality
- All diversity issues need to be highlighted in the curriculum
- The citizenship curriculum is an opportunity to address human rights issues through teaching and learning
- Should a human rights framework be a requirement for schools?
- Schools need to hear positive messages of support for a human rights approach from lead government departments including the MoJ and the DfES. Government departments need to ensure that they have a joined up approach towards this work. The Government needs to send out consistent messages on all equality strands and human rights so that there is no hierarchy of oppression
- Schools should be supported to develop an ethos based on the principles that underpin human rights: fairness, respect, equality and dignity. This would support other work on this issue happening within schools

Workshop 8: Healthcare – pioneering human rights practice

Chair: Surinder Sharma, National Director of Equality and Human Rights, Department of Health

Speakers: Gemma Pearce, Deputy Chief Executive and Director of Strategy, Mental Health Act Commission; Diane Baderin, Directory of Diversity and Inclusion, Surrey & Borders Partnership NHS Trust

This workshop was kindly sponsored by the Department of Health.

Introduction

Neglecting people's human rights is bad for their health. In contrast, the protection and promotion of human rights is not only good for individuals' health; it makes for better services for everyone. This workshop explored human rights based approaches to inequality in healthcare in practice. It aimed to inform participants about trail-blazing human rights and healthcare projects, and to provide an opportunity for participants to discuss developing human rights based approaches in their own work.



Speaker inputs

The session was chaired by **Surinder Sharma**, National Director of Equality and Human Rights at the Department of Health. Surinder introduced the workshop by emphasising that human rights and equality are integral to health and are reflected in the founding principles of the NHS. He explained that the Department has been working with BIHR and five pilot NHS Trusts to produce a 'Human Rights in Healthcare' framework which demonstrates the practical benefits of human rights for organisations, and he reiterated the Department's commitment to taking forward human rights and equality in the NHS and social care.

The first speaker was **Gemma Pearce**, Deputy Chief Executive and Director of Strategy at the Mental Health Act Commission (MHAC). Gemma commenced by explaining the background to MHAC's innovative 'Making it Real' project aimed at:

- strengthening the organisation's understanding of human rights and their relevance to MHAC's work;
- meeting MHAC's statutory (and moral) obligations; and
- increasing MHAC's effectiveness

In early 2005, MHAC took the unusual step of abolishing its Equality and Diversity Committee, replacing it with an Equality and Human Rights Strategy aimed at mainstreaming human rights and equality across the entire organisation. The 'Making it Real' project was designed to turn the theory of this strategy into practice. The project, supported at the highest levels of the organisation, had three main elements: (1) gathering information about existing knowledge and ideas about human rights and the core values of MHAC, via activities including a whole organisation questionnaire, discussions with service users and focus groups; (2) bespoke human rights training developed in partnership with staff; and (3) opportunities for staff to share experiences and put training into practice, including during visits to mental health services.

A high priority was placed throughout the project on the views of service users and it was clear that human rights struck a deep chord with them. As one service user explained:

'You go to the toilet, you have to rush to keep your robe together so people don't see your body. I feel it's a violation. It's my right to have my body in privacy. I'm old-fashioned like that.'

Staff also contributed their views to the project. For example:

'We need confidence to be able to use the Human Rights Act properly.'

'I'm clear about the values, but the legislation – how you can apply it to your work in a mental health setting – is harder.'

Gemma shared the following key messages learned from the 'Making it Real' project:

1. It is very important to invest in gaining service user views and to support them to express them. The impact of 'personal connection' with issues is enormous
2. 'Leadership from the top' needs to be combined with 'bottom up' ownership
3. A values based approach should be underpinned with a clearly understood analytical framework
4. Training should be specific to the organisation and its work, not general
5. There is a strong link between equality and human rights: they reinforce each other in values and practical impact
6. Human rights can be used as a tool for broader organisational culture change

The link between human rights and equality was a recurring theme throughout the project. As one project participant explained:

'Human rights training gives extra ammunition ... for grasping race issues.'

Gemma concluded her presentation by explaining some of the benefits of MHAC's approach. She stressed that human rights values such as dignity and respect can be demonstrated positively in the attitudes of all staff and in the way that all services are delivered. Moreover, the emphasis on universal human rights was welcomed by staff and service users as a solution to pigeonholing. As a consequence, there was real buy-in by all involved.

The second speaker was **Diane Baderin**, Director of Diversity and Inclusion at Surrey and Borders Partnership NHS Trust. Diane spoke about the commitment of the Trust to integrating human rights principles and standards into their work.

She began by explaining why the Trust decided to participate in the Human Rights in Healthcare project together with four other Trusts, the Department of Health and BIHR. To ensure that their services are provided in a fair and equal manner to all, they decided to base service design and provision on the human rights principles of fairness, respect, equality, dignity and autonomy. The Human Rights in Healthcare project led to 'Human Rights in Healthcare – A Framework for Local Action'. This framework is an introduction to human rights and human rights based approaches and offers practical guidance to NHS Trusts wanting to develop work in this area.

Diane spoke about the Trust's commitment to this project and how the project has built on and informed the Trust's Equality and Human Rights Strategy, 'Diversity – Yes, Stigma – No'. This strategy is a key part of the organisation's five year strategic direction and aims to place human rights principles at the heart of their business. The motivation for integrating human rights across the Trust is the conviction that the development of a human rights based approach will result in significant improvements to the way the Trust operates in the short, medium and long-term.

Diane then spoke about where the Trust is currently at in terms of developing work on human rights. To support staff at all levels of the organisation to take forward and 'make real' the commitments in the Equality and Human Rights Strategy, the Trust is developing human rights training modules (and other learning supports) that will embed human rights in their existing Key Skills Framework. The Trust has been working with a group of staff and service users to develop the content of these modules, with advice and support from BIHR. The training modules will be piloted in the autumn and rolled out in the new year.

Diane concluded by re-emphasising the Trust's commitment to embedding human rights, and how she believes taking a human rights based approach will improve their service delivery and lead to better results for service users.

Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in applying human rights to healthcare, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- Human rights based approaches help us move away from 'tick box' approaches that have come to plague some of the equality initiatives (such as race equality impact assessments), and instead they focus on culture change
- Human rights apply to everyone – this stops service providers from pigeon-holing people for convenience
- Human rights based approaches help us to discover the issues according to service users. They also empower service users to claim their rights
- Human rights provide a set of transparent standards
- Human rights offer a unifying approach in a context where equality 'strands' are disagreeing over resources



- Human rights are core to a range of important issues in the health sector: inequalities in health outcomes, over-representation in mental health services of people from BME backgrounds, and the use of 'Do Not Resuscitate' orders without consent
- The capacity of the CEHR to take forward the human rights agenda is an important opportunity

Challenges

- The failure to involve children in treatment decisions needs to be addressed, and human rights can help here
- The challenge is to change services and outcomes and not only organisations and employees – this means that service users and people from disadvantaged backgrounds need to be empowered

Suggestions for taking forward a human rights approach

- It is vital for the CEHR to integrate human rights and equality at both the internal and external levels
- We need a positive duty on the public sector to promote human rights
- The link between socio-economic background and health access/outcomes is as important as equality in human rights terms
- The dignity in care agenda is an opportunity to move human rights further up the agenda



The Department of Health is pleased to support BIHR's conference 'Human rights visions of equality'. Neglecting people's human rights is bad for their health. In contrast, the protection, promotion and fulfilment of their human rights is not only good for individuals' health; it makes for better services for everyone.

NHS Trusts have the power to make a difference to the enjoyment of people's human rights through the way in which they design and deliver services. A human rights based approach is the process by which this can happen. As Trusts develop their own human rights 'practice', principles such as dignity, respect and equality will underpin the day to day experience of patients, their carers and families as well as staff.

Until recently there was little practical guidance tailored to support NHS staff in applying human rights principles to their work. For this reason the Department of Health initiated a project, together with the British Institute of Human Rights and five different NHS Trusts, to support NHS Trusts to develop and apply human rights based approaches in their work.

This project produced 'Human Rights in Healthcare – A Framework for Local Action'. This practical framework aims to support NHS Trusts to use human rights based approaches across the services they provide. Working in this way will help promote services that are shaped with people's needs as their starting point. It contains practical ways to adhere to their legal duties and required standards under the Human Rights Act 1998 and equality legislation. And it will place Trusts at the heart of a drive to create a culture of respect for human rights across all health services.

The framework was launched successfully by the then Minister of State for Health Services, Rosie Winterton. For a copy of the framework please contact:

DH Publications Orderline
PO Box 777
London SE1 6XH

Email: dh@prolog.uk.com
Tel: 08701 555 455
Textphone: 08700 102 870 (8am – 6pm Monday to Friday)

This project forms part of the wider human rights programme within the Department of Health, which has the overall aim of supporting the use of human rights based approaches in improving health and social care.

For more information please visit our website at:

<http://www.dh.gov.uk/en/Policyandguidance/Equalityandhumanrights/index.htm>



Workshop 9: The right to participation and voice – from principles to practice

Chair: Helene Reardon-Bond, Department for Communities and Local Government

Speakers: Dessie Donnelly, Participation and the Practice of Rights Project, Northern Ireland; Jessica Nott, Brighter Futures Coordinator, Save the Children

Introduction

The focus of the Participation and Voice workshop was how human rights can practically support the voices of those with the least power and voice in our society. The case studies that were presented focused on two different groups living in different geographical locations and facing a range of different issues. However, both projects demonstrated the positive difference a knowledge of human rights made to the everyday lives of the project's participants.

The two projects are distinct in the way that they employ participatory methods to facilitate marginalised groups to identify the main issues they are facing and encourage the groups to take a further step to identify their own solutions. Both projects work with groups who would traditionally not have their voices heard or be able to access the key decision-making processes that affect their lives.

Speaker inputs

Dessie Donnelly introduced the **Participation and the Practice of Rights Project**. This project is based in two economically deprived communities in North Dublin and North Belfast. The project supports communities in using a human rights based approach (HRBA) in addressing social and economic inequalities. The focus of the project has been the provision of poor and inadequate housing to families, specifically those with young children. The project has sought to provide these communities with training and capacity building to develop the confidence and skills to challenge bad or negligent service provision and to negotiate better housing conditions.

Dessie highlighted their work on the Seven Towers housing estate. Families with young children were being housed on the estate despite the Northern Ireland Housing Executive accepting that 'this type of accommodation is unsuitable for families with young children'.¹ The high rise development was kept in a poor condition and the residents complained of a number of maintenance issues. The poor condition of the housing was exacerbated by the unwillingness of the local authority to act on complaints. Other issues affecting the project were the sectarianised debate around housing policy in North Belfast and the failed Seven Year Housing Strategy for the area.

The long-term goals of the project were the following:

- To address the maintenance issues
- To re-house families into suitable accommodation
- To construct a relationship with the local authority which enhanced their accountability and empower residents to participate in decision making processes
- To ensure this relationship was sustainable and effective

Initially community outreach sessions were run with residents to raise awareness of HRBAs. The programme sought to build the capacity of the residents to understand their relationship with the local authority. The project helped the residents to identify the local housing needs and then situate them within a human rights context. The programme also sought to empower the participants with the confidence and skills to understand the institutional exclusion they were facing, and to identify solutions to their issues in the form of human rights indicators and benchmarks.

The **Brighter Futures Project** was introduced by **Jessica Nott**, Brighter Futures Coordinator, Save the Children. There are many areas in which children and young people are marginalised or made vulnerable due to their immigration status. They face challenges in accessing basic welfare, housing and educational services,

navigating a complex and often inaccessible immigration system, and in dealing with emotional and mental health needs as a result of their experiences. Young refugees and asylum seekers are often given insufficient information on their options from which to make informed choices. On top of this, they are often portrayed negatively in the media and may face discrimination and racism in their daily lives.

Jessica explained that the Brighter Futures Project supports young refugees and asylum seekers to advocate on behalf of themselves and other young people facing similar issues. The advocacy groups meet regularly to discuss issues affecting them in their lives and to find solutions that will improve things. The groups focus on two aims: trying to get direct access to the Government to get their voices heard, and challenging the media. The project reflects the wider work of Save the Children which aims to integrate Child Rights Programming, implementing the principles of the United Nations Convention on the Rights of the Child into all projects.

The young people involved in the Brighter Futures Project are provided with training by Save the Children staff about their rights and entitlements, campaign management and work with politicians, civil servants, local government and practitioners. The groups have voiced their concerns about:

- The services they receive from social services
- The negative media coverage of asylum seekers and refugees
- Racism
- Difficulties in accessing further and higher education
- Reductions in the legal aid for asylum seekers
- How complicated the asylum process is here in the UK for people who continue to flee persecution, war and human rights violations

Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in using human rights to practically support the participation of the most marginalised and excluded, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- Human rights can help those on the margins of society to understand what they can expect from society. They have great potential to empower the most marginalised to identify their own issues and key indicators for successful change
- Human rights are legally enforceable, making it something concrete with which to address discrimination
- Human rights are not just about the services that people are entitled to, but how they are treated when they are receiving the services. Human rights principles such as dignity and respect can inform service provision
- Human rights can be used to assess progress and define what people should expect
- Human rights provide a place of safety and are power neutral
- Human rights provide a practical and clear way of making participation measurable

Challenges

- There is a general lack of awareness and cynicism amongst the general public regarding human rights. This will need to be challenged to enable us to move forward with the human rights agenda. Human rights language can be complex, meaning that the most vulnerable are not aware of their rights or how to access them
- Some local authorities refuse to work in a transparent and accountable way making it difficult to engage with and challenge them



- Ensuring that participation is active and meaningful is difficult especially when working with young people. We have to ensure that the concerns and issues of young people are properly represented
- With the bringing together of all equalities areas there may be a risk that human rights issues are diluted
- Enforcing human rights is a challenge – this should be a role for the new CEHR
- The legal processes are extremely complex. The reduction of Legal Aid makes it difficult for people to access this system, especially the most vulnerable. There is a low standard of legal advice available

Suggestions for taking forward a human rights approach

- Demonstrating how human rights relate directly to people's lives and the use of real case studies and practical examples of how human rights have been used are invaluable to raising awareness amongst the general public
- It is important that human rights are used to hold public services to account. We need to work with public authorities to show how they are relevant to service delivery
- The CEHR needs to work across the strands and win the trust of the general public
- We need to raise awareness of what people can do when their human rights are being breached. We need to ensure that the most marginalised know about their rights and how to claim them
- The issue of which organisations are defined as a public authority needs to be resolved

Workshop 10: Local government tackling inequalities – human rights principles and standards making a practical difference

Chair: Loraine Martins, Head of Diversity, Audit Commission

Speakers: Nikki Fashola, Principal Lawyer, Southwark Council; John Clarke, Deputy Director of Children's Services, Hampshire County Council

This workshop was kindly sponsored by the Audit Commission.

Introduction

When it comes to tackling inequalities, local government is literally at the 'coalface'. Subject to equalities legislation themselves, local authorities also work with and for some of the most marginalised groups. They have a variety of roles, as community leaders, service providers and contributors to wider policy debates. This workshop presented two case studies of human rights being used in local government to add practical value to their equalities work. It aimed to share good practice and stimulate discussion on how human rights can be integrated into the work of local government to increase effectiveness in tackling inequality.

Speaker inputs

The session was chaired by **Loraine Martins**, Head of Diversity at the Audit Commission. Loraine introduced the session by emphasising the importance of local government in creating a culture of human rights in public service provision. She highlighted the commitment of the Audit Commission to supporting local government in this endeavour and pointed to some of the previous work the Commission has done in this area, including the report 'Human rights: Improving Public Service Delivery'.

The first speaker was **Nikki Fashola**, Principal Lawyer at Southwark Council. Nikki began by outlining the importance of integrating human rights into the heart of the work of the Council. Embedding human rights into Southwark is a core part of their Equalities and Human Rights agenda.

Nikki introduced the key equalities and human rights structures at Southwark. A need was identified for capacity building across the Council on human rights, and a Human Rights Working Group was convened to take this forward. The initial focus of the human rights project was on training and development. From the start the Working Group recognised that for human rights to be effectively mainstreamed across the Council they needed

to challenge the perception that human rights were only a concern for the legal team. It was important to get buy in and a sense of ownership from staff in other departments from the beginning. The Working Group decided that two key departments to start with in terms of training were Housing and Social Services. Staff members from these departments were invited to sit on the procurement panel during the process of selecting an external specialised human rights training organisation, involving them in the process from the start. BIHR was awarded the training contract and has been working with Southwark to design and deliver the training courses since 2004.

The training is provided to members, managers and staff. It is delivered in interactive one day workshops that focus on relevant human rights articles contained within the Human Rights Act and issues relevant to the work of each department. Action planning is an important part of each session. This provides an opportunity for participants to consider concrete actions they can undertake to embed human rights into their work and the work of their team. This rolling programme of training has been delivered to over 600 participants to date. Participants also have parallel training on equality and diversity. Southwark is currently developing additional training and development tools including e-learning, interactive role plays and video.

The human rights project at Southwark has expanded from training to other ways of embedding human rights. For example, the Education Department is putting together a best practice guide to decision-making using a human rights framework. The Council is also integrating human rights into procurement and contract compliance and risk management strategies.

Nikki finished by sharing some of the lessons learnt so far from the human rights project at Southwark. These included the importance of starting with a pilot followed by a roll out across the department, and incorporating a solid action planning activity. She highlighted that feedback from participants has been extremely positive. This was in large part due to the topic specific approach, which demonstrated how human rights are relevant to the staff's particular area of work. Nikki concluded by saying that the human rights framework can be used as an effective tool to improve the quality of decision-making and assist staff in designing and delivering better services. As she said, 'human rights really do make a difference.'

The second speaker was **John Clarke**, Deputy Director of Children's Services at Hampshire County Council. John introduced the 'Rights, Respect and Responsibilities' (RRR) programme for schools that the Council has developed.

RRR is an initiative that focuses on making real an overarching framework of values based on the UN Convention on the Rights of the Child in the school environment. The UN Convention is promoted as a framework for the school's ethos and teaching and learning. By empowering young people to understand their own rights, they become more respectful of the rights of others. This leads to a culture of respect for rights within the classroom and the school community.

Through RRR, the Council supports participating schools to develop and implement their own human rights based approaches (HRBAs). The Council provides training to head teachers and teachers on the UN Convention and HRBAs, and acts as a resource for the schools. It also plays a role in bringing the schools together to share learning and experience. Since January 2004 over 360 primary schools have chosen to take up RRR training. About 45 secondary schools are also involved to a varying extent.

John highlighted the positive effect that the programme has had on young people's behaviour and attitudes. He indicated that one of the strengths of the project is the direct inclusion of the concept of responsibility. In the project's experience people may be more easily put off by rights language if it does not expressly include responsibility.

Some of the benefits of a HRBA to education that John touched upon were its usefulness as a language to resolve conflict, as it is non-adversarial. It also demonstrates that codes of conduct are not unique to each school, but come from a set of world-wide principles and values. He emphasised the evidence that the project had gathered that a HRBA can lead to a better quality of education and a more harmonious learning environment.

John concluded by stressing the importance for the Council leadership to impress upon staff that human rights and equality is not something else that they do, it is what they do. The equality agenda is the core business of human rights and must always be kept visible within a HRBA.



Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in applying human rights to local government, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- A human rights based approach can help create a structure/framework for work on tackling inequality
- Human rights can help ensure that equality action plans are embedded in the regular service planning cycle. They provide a more creative and joined up approach towards service planning
- Human rights add value as they place the emphasis on recognising individual needs and focus on standards of service – an equally bad service is unacceptable
- Human rights help to find a way through difficult situations, for example balancing competing equality claims
- Human rights can be a more inclusive and appealing framework/language than the traditional equalities approach

Challenges

- A key challenge is the negative public attitudes towards the Human Rights Act. Messaging on human rights needs to be thought about carefully
- There are problems of capacity – it is sometimes taken for granted that people in positions of responsibility know what they are talking about in terms of human rights
- It can be difficult for services that are restricted to meaningfully talk about human rights

Suggestions for taking forward a human rights approach

- There is a huge need for further resources and training on human rights and evidence of good practice to demonstrate that human rights do make a positive difference to the work of local government
- Human rights need to be communicated in a more accessible language, not in legal jargon. There is a need to inform the public as well as frontline staff of rights and responsibilities
- Staff working in local government should raise awareness among local residents of their rights and responsibilities, and provide resources for them to have a place around the decision-making table
- There is a significant role for the voluntary and community sector to work with public authorities on this agenda. To take forward the opportunities of a human rights based approach, meaningful and resourced partnership work and education is essential
- The localism agenda could be used to help everyone see that human rights are all about people
- Council leaders/Chief Executives should be trained on human rights. They should become part of the core business of local government

Everybody counts

We are pleased to sponsor the BIHR conference – ‘Human Rights Visions of Equality’, which has a good fit with our approach.

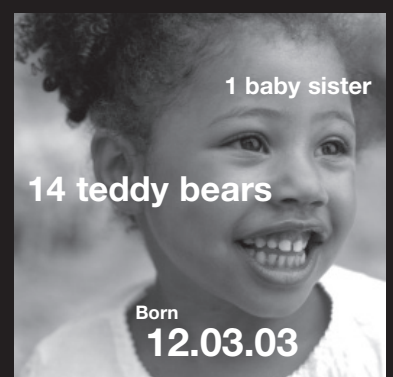
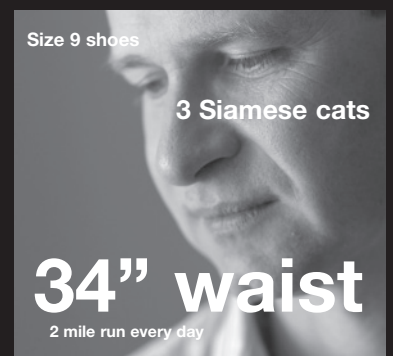
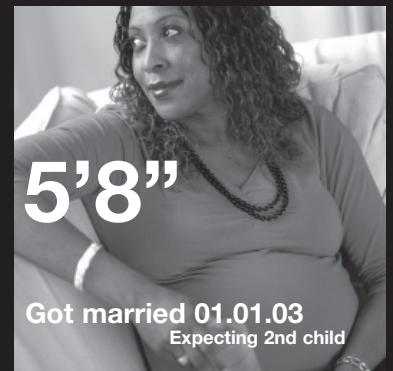
We are committed to involving the public in our work so that we can reflect the experiences of people who use public services. We promote a user-focused approach to public services and have established five core principles for user focus, diversity and human rights that underpin our attitude towards involving the public. They also describe the expectations that we have of ourselves and of the audited and inspected bodies that we work with. They are: fairness; diversity; consent; engagement; and value for money. (*Making equality and diversity a reality – our diversity scheme 2006-2009*).

Equality and human rights are core considerations to delivering effective public services to all. We will involve the public in our work to help us to play an active part in encouraging the organisations that we work with to do their best to ensure that local people receive services that take account of individual’s rights to be treated fairly and with dignity and respect – because everybody counts.

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To serve society, we must represent it.



Workshop 11: Campaigns and influencing: reclaiming human rights as a practical tool to campaign for a more equal society

Chair: Chris Stalker, Head of Campaigns and Communications, National Council for Voluntary Organisations (NCVO)

Speakers: Margaret Burns, Vice Chairperson, Children's Rights Alliance; Ray Mitchell, Campaigns Manager, Age Concern England

Introduction

Around the world there are many examples of campaigners using human rights language, law and practice to frame and give impact to their campaigns. In Britain the explicit use of human rights or human rights based approaches is much less common. Through the presentation of two case studies, this workshop aimed to provide an opportunity for participants to explore how they could use human rights closer to home as a practical tool in campaigns about equality.

Speaker inputs

The first speaker was **Margaret Burns**, Vice Chairperson, Children's Rights Alliance – Republic of Ireland ('the Alliance'). The Alliance is a coalition of 80 non-governmental organisations (NGOs) who are involved in or concerned about children's rights and welfare in Ireland. Its overall aim is to secure the implementation of the UN Convention on the Rights of the Child in Ireland. It was formally established in March 1995, a year and a half after Ireland ratified the Convention. At that point, there was little awareness in Ireland of the Convention and its implications.

Margaret said that, from the beginning, the Alliance recognised that a key mechanism through which the implementation of the Convention could be advanced was the monitoring process of the UN Committee on the Rights of the Child. NGOs have an important role in that process. The UN Committee welcomes written submissions from NGOs and may invite them to address members of the Committee directly at its 'pre-sessional' meeting, held in advance of the formal examination of a State's report.

The Irish Government has submitted two National Reports to the Committee, examined in 1998 and 2006. In both instances, the Alliance submitted 'Shadow Reports' to the Committee. These were based on official data, research findings and policy analyses and were developed in consultation with the member organisations of the Alliance and other individuals and organisations with expertise on children's issues.

The Alliance was invited to address the UN Committee at the pre-sessional meetings held in preparation for the formal examination of Ireland's National Reports. These meetings enabled the Alliance to elaborate its position on specific issues and to highlight its principal recommendations.

Representatives of the Alliance also attended the UN Committee's hearing on the Irish National Reports. While the examination by the Committee does not include any formal role for NGOs, there are opportunities to meet Committee members informally and to suggest issues which might be raised with the Government delegation.

The Alliance believes that its written and oral submissions to the UN Committee were important in shaping both the questioning of the Irish delegation at the two hearings and the Concluding Observations issued by the Committee following the hearings.

In November 1998 the Alliance organised a major conference to highlight the recommendations of the Committee's Concluding Observations and to explore their implications. Over the following years, it continued to press for their implementation, and a number were in fact adopted, including the establishment of an Ombudsman for Children.

Margaret emphasised that the progress made in relation to the recommendations in the 1998 Concluding Observations also reflected the influence of media coverage. The Alliance held an advance 'media briefing'. As a result several key media outlets sent reporters to the hearing. The resulting media coverage highlighted the searching questions put to the Irish delegation and drew attention to the significant ways in which Ireland was failing to live up to the requirements of the Convention. It is clear that a desire to ensure that the examination

of Ireland's Second Report would not be similarly negative pushed the Government to implement the major recommendations of the 1998 Concluding Observations.

Besides the UN monitoring process, the Alliance's advocacy for policy reform to reflect the requirements of the Convention on the Rights of the Child has been undertaken by a variety of means, including written submissions, oral presentations to parliamentary committees and media statements.

In 2003, the Alliance became a member of the 'Community and Voluntary Pillar' of Ireland's Social Partnership structure. This has facilitated more direct access to elements of the policy-making process. The Partnership Agreement includes a range of commitments in policy areas affecting children – education, health, housing, income adequacy, play and recreation. Significantly, the Agreement explicitly acknowledges Ireland's obligation to implement the Convention.

Margaret concluded by saying that the Alliance had achieved significant success in promoting awareness and understanding of the Convention and greater acceptance at central government level that the commitments entered into on ratification have to be taken seriously. The Alliance can also point to specific changes that have been influenced by its work. Nevertheless, Ireland has a long way to go before it can be said to be anywhere near fully implementing the Convention.

The second speaker was **Ray Mitchell**, Campaigns Manager at Age Concern England. Ray introduced 'Hungry to be Heard', Age Concern's campaign to end the scandal of malnourished older people in hospitals. The campaign began with a steady stream of complaints to Age Concern from older people and their relatives about the way they had been treated in hospital. They reported both a lack of appropriate food and a failure to provide assistance with eating.

The potential scale of the problem is highlighted by the large numbers of older people in hospital. Four out of ten older people admitted to hospital are malnourished on arrival. For some of those arriving with malnutrition, their condition often worsens because it goes unnoticed and untreated. Others actually become malnourished during their stay in hospital.

In August 2006 Age Concern launched its Hungry to be Heard report and concentrated first of all on raising awareness of the issue with health professionals and MPs. The organisation also drew up seven steps to ending malnutrition in hospitals, such as making sure that ward staff were 'food aware' and giving a red tray to patients who need help with eating so that nurses can quickly see who needs help.

Before the campaign launch, Age Concern had already begun to explore the treatment of older people in hospitals in a human rights context – in particular in an Age Concern report, *Rights for Real*, published in May 2006.

Ray explained that dignity, a key human rights concept, has been a key theme of the campaign. The lack of dignity has been illustrated by practices such as babies' bibs tied round the necks of older patients because there were no napkins available.

Framing malnutrition as a human rights issue opened an additional channel of influence. For example, Age Concern was able to present its evidence to the UK Parliament's Joint Committee on Human Rights for their 2006-2007 enquiry into the human rights of older persons in healthcare.

However, the campaign also highlighted the challenges in explicitly drawing on human rights. These emerged from Age Concern commissioned research into the attitudes of older people. When focus groups of older people were asked about their values, they spontaneously came up with values like dignity, respect, equality and fairness, but did not recognise these as human rights values. People appeared initially quite hostile to the idea of human rights. When they had the basic principles of the Human Rights Act explained to them, they began to have a much more positive view and understand that it could be very relevant to them.

Ray concluded by speaking of the enthusiasm at Age Concern about the potential for placing campaign issues in a human rights context. However, challenges remain to encourage both the public and service providers to make explicit use of human rights.



Overview of group discussion/feedback

Participants were given the opportunity to discuss their ideas and views on the issues presented at the workshop. Their feedback is set out below, outlining participants' views on the benefits, opportunities and challenges in applying human rights to campaigns and influencing, and their suggestions for what needs to or could be done to take these opportunities and challenges forward.

Opportunities and benefits of a human rights approach

- Because human rights are general they can help to uncover 'untouched issues'. As 'living instruments', they give opportunities to be creative
- Knowledge of human rights can be empowering
- The CEHR gives clear opportunities for engagement and influence
- Human rights based approaches have the potential to help campaigners themselves be more accountable

Challenges

- The Government is sometimes contradictory when it comes to human rights – giving with one hand and taking away with another (treatment of asylum-seekers and refugees was one example)
- Negative perceptions surrounding human rights mean that the language of rights can sometimes be off-putting
- The level and type of engagement with human rights when campaigning is likely to vary according to the issue
- There is a lack of awareness around how enforceable human rights legal standards are, and which human rights standards we are signed up to

Suggestions for taking forward a human rights approach

- Human rights education, awareness-raising and training are all essential, so that human rights can be made concrete
- Human rights can be abstract. Therefore, practical examples are essential to simplify human rights and make them practical
- In future there could be a broader progressive consensus forming around more than civil and political rights – i.e. extending to social, economic and cultural rights



4.4 Afternoon panel discussion

4.4.1 Introduction

The afternoon panel members were:

Stuart Etherington, Chief Executive, National Council for Voluntary Organisations (NCVO)

Baroness Cathy Ashton, Human Rights Minister

Baroness Jane Campbell DBE, Health and Social Care Policy Adviser and CEHR Commissioner

Professor Francesca Klug OBE, Professorial Research Fellow, Centre for the Study of Human Rights, LSE and CEHR Commissioner

Chair: Baroness Margaret Prosser, Deputy Chair, CEHR

The purpose of the panel was for delegates to hear responses and views on the issues and themes discussed during the day from people in positions of leadership – those with the responsibility and power to take action. Each of the panel members has a background in the arena of human rights and equalities work generally. In their different roles they all have accountability for taking forward the equality and human rights agenda – accountability being a key principle of a human rights based approach.

Prior to the panel discussion, Ceri Goddard, Head of Development and Training at BIHR, gave a short summary of some of the issues that had been discussed at the workshops. Panel members were then each given the opportunity to respond to the themes and issues raised during the day. They were also asked to say what actions they might take as a result of what they had heard.

Questions and comments were then taken from the floor, and the panel members were asked to respond.



4.4.2 Summary of key workshop themes

Presented by Ceri Goddard, Head of Development and Training, BIHR

Ceri outlined some benefits of a human rights approach to equality that came out of the workshops, key challenges that had been identified, and some suggestions for action.

Benefits of a human rights approach to equality:

- The basic notion that human rights are for everyone was felt to have a very practical application, for example in tackling issues such as multiple or inter-sectional discrimination. The notion of looking at a person as a human being first and foremost can be very powerful
- Delegates felt that human rights have the potential to empower the most disempowered, disempowerment being at the root of inequality. The notion that we all have human rights as human beings was seen as something that could really shift the political discourse at a policy-making level
- A human rights vision of equality was seen as much more than the absence of discrimination. The vision of equality underpinned by human rights was felt to be something that people could readily understand
- Human rights were seen as having the potential to have a positive impact on cohesion and good relations. Human rights focus very much on what we have in common, but still allow us to respect our differences
- It was felt that human rights could be a very practical and accessible problem-solving tool for those working on the frontline. Despite the fact that there is a lot of negative talk about human rights, human rights do have the potential to win hearts and minds, in particular through the underpinning concepts such as dignity, fairness and respect

Challenges:

- Delegates identified a really low awareness of human rights. They felt that a very small percentage of our population and decision makers are engaged in this area
- Where there is an understanding of human rights, it is often a narrow one. The concept of human rights is often perceived as difficult or problematic. Delegates felt that the existing commissions had relied a bit too much on legislation to try and change this, and less on changing hearts and minds. This was seen to be a huge challenge for the new CEHR
- Delegates questioned whether we need to continue to develop more and more separate equality statutes and bits of legislation. Can we not just strengthen our existing human rights legislation? On the other hand, delegates had concerns about the really hard fought equality gains by e.g. women and black people. Would a human rights approach take away from those gains? There was a sense of tension between these two approaches
- Human rights legislation or ideas are only really associated with the public sector. Delegates asked whether human rights legislation should be expanded to cover the private sector
- There was a concern about leadership – not just politically, but also in the voluntary and community sector and within our communities. There is a lack of clarity over roles. People are only just starting to hear about the CEHR and what powers and duties it will have

Suggestions for actions:

- The language of human rights needs to be more accessible, with education, training and awareness-raising
- More leadership is needed. Not just from the CEHR and politicians, but other leaders. Individuals should be empowered themselves to make change happen
- There is a need for better partnership and joined up working
- Some practical human rights indicators need to be put in place to measure whether things are actually changing for the better. These indicators need to be set by the people themselves who are most at risk of

experiencing human rights abuses. Those who have experienced human rights abuses are the experts in human rights policy and practice

- The group of people that is involved in these discussions needs to be expanded. It should not be the preserve of a small group of elite politicians and lawyers

4.4.3 Inputs from panel

Stuart Etherington, Chief Executive, NCVO

We should not assume that civil society is all good in relation to the human rights agenda or indeed any other agenda. There are two or three ways of describing civil society. One notion is that civil society is about the space in which citizens come together to define the good society. If you take that line, then we operate from the assumption that the majority of organisations within broad civil society would support the human rights agenda. But it cannot be assumed that they do.

Historically, voluntary organisations have articulated the needs of particular groups. However, organisations within the sector are very good at articulating the needs of their particular constituency, but not always as strong at seeing the links with others. Voluntary sector organisations can be single issue, and therefore find it difficult to join up.

There are also challenges around capacity. Many voluntary organisations do not have an understanding of how human rights translate for them in terms of their own practice. Organisations like NCVO, jointly with organisations such as BIHR, need to build their capacity so that organisations understand the new duties, how it will affect them, and what their role is.

Some voluntary organisations are anxious about broadening this agenda without losing the gains that have already been made. Another challenge is thrown up by the role of voluntary organisations in terms of contracting for public services. On the one hand, why would voluntary organisations object to an extension of the public duty if they were providing public services under contract? On the other, if the duties on public bodies are placed on voluntary organisations, this begins to define the voluntary sector as part of the state, rather than as part of civil society.

Baroness Cathy Ashton, Human Rights Minister

One of the themes emerging from the workshops was that we need to do more about raising awareness and joining up with different actors to demonstrate the importance and vitality of human rights. I could not agree more with that. I am very keen that the next phase of the campaign that we are running at the Ministry of Justice should be about how we transform people's understanding of the Human Rights Act (HRA). The ownership of the HRA should be with the people who live in this country, not with politicians or lawyers. It is a huge effort that we have to undertake, but one that I think is absolutely vital.

I would also like to comment on the relationship between civil society, the private sector, the public sector and the HRA. If we begin from the premise that the HRA was about the relationship between individuals and the state, we can see why public bodies have such an important role in the HRA. In civil society and the voluntary and community sector, there is currently much debate over how we make sure that people are protected and treated properly when it is not the public sector itself delivering services. There have also been lots of debates about whether we should expand the HRA to the private sector. I am really interested to talk to people about their views on these issues.

Professor Francesca Klug OBE, Professorial Research Fellow, Centre for the Study of Human Rights, LSE and CEHR Commissioner

Katie asked us this morning whether human rights can flourish if we are so unequal. I think that is a very important question. But I want to go back even further than this, and suggest that equality is the starting point of human rights. Not just because human rights came from struggles all around the world for equality. And not



just because the very first phrase of the Universal Declaration of Human Rights is 'all human beings are born free and equal in dignity and life'. But because the only way to understand human rights principles is by putting flesh on the bones of the idea of equality. Every single human rights standard and principle is about defining and achieving equality. In other words the pursuit of equality is unquestionably the driving force behind human rights. And during this conference I have been very struck by how much people are already trying to do what BIHR encourages us to do, which is to take a human rights based approach to equality.

I came to human rights through very practical experiences of life. Initially I worked as a social worker, where we struggled to find an ethical framework to balance the rights of different people. I was then a policy officer at Hackney Council. Whilst I was there we were involved in transforming the Council from one where the best jobs, and housing, were effectively reserved for the mainly white inhabitants who had lived in the area for generations into one which served the multi-racial, diverse borough that Hackney had become.

In that process we managed to make everybody equally miserable. What we lacked was an ethical framework to address the fact that everyone was competing for victim-hood. Everyone was competing for scarce resources in an impoverished area and trying to prove that their needs were greatest.

So when I began to understand what human rights were, I realised that they had a very practical application in what Eleanor Roosevelt called 'the small places'. She famously said universal human rights begin 'in small places, close to home – so close and so small that they cannot be seen on any map of the world... unless these rights have meaning there, they have little meaning anywhere'.

Experience has now taught me that human rights are only going to be effective in the little places if they also work in the big places. In one of the workshops I was at today, somebody said that in order to do the work we are trying to do on the ground, we need a consistent message from Government. I recognise that I am speaking here as a Commissioner. I am very aware of the enormous responsibility we have to do something about the discourse in this country around human rights. That is what I mean about working in the big places. We have to show moral courage and leadership. We have to be prepared to be unpopular sometimes. As Justice Brenda Hale recently said: 'democracy values everyone equally even if the majority does not'.

Baroness Jane Campbell DBE, Health and Social Care Policy Adviser and CEHR Commissioner

I have just come from a launch of a campaign called 'our lives, our choices'. Disabled people from all over the country came to London today to go to 10 Downing Street to stop the cuts in social care. Social care is absolutely fundamental in ensuring that people like me and thousands of others across this country have dignity, choice and control over their lives.

Without this support some of our essential human rights are denied us. In 1987 someone like me could easily get a support package that not only got me up in the morning, but supported me all through the day and night in whatever I decided to do. Today you will be lucky if you get more than dressed, fed, washed and sat in front of day-time TV. It is definitely time, in my view, for a more active human rights culture and framework, especially in public support services.

No-one gives us rights, we win them in a struggle. They exist in our hearts before they exist on paper. I want to remind people about feeling human rights, and not just talking about them. In Britain we are in a peculiar position of having solid human rights foundations on paper, but they do not seem to have reached people's hearts. We should feel it is a human rights abuse, not a staff training need, when a person with learning difficulties is tied to a chair and placed in a cold shower as a punishment for shouting. We should feel that it is against human rights, not a local authority administrative error, when we hear that a local authority is splitting up an elderly couple who have lived together all their life, and sending them to residential homes.

If we feel these issues in this context, I believe that we will respond appropriately. At the CEHR I want the disability committee to play a pivotal role in helping to build a more profound human rights response to occurrences such as the ones I have just quoted. We need to be able to say not just what an individual can do to claim their rights, but what they can do to uphold the rights of others.

Our path to a human rights culture has also got to be about collaboration, co-production and cooperation. Unless we have that essential collaboration we won't feel it, because we won't be talking about it together and coming up with solutions. At the CEHR we cannot do less than work towards this society of feelings. I hope that you might have that shared purpose.

4.4.4 Summary of questions/comments from the floor and panel responses

Questions/comments from the floor

- **The government and human rights** – the issue was raised that some of the strongest attacks on our human rights come from within government. The panel was asked what they thought was needed to achieve that consensus in government, and whether a Brown-led government would make any difference
- **Fear of human rights** – the point was raised that every group has their own interests. Human rights can in some ways challenge those interests, saying that the values which you hold in your community will not hold up in the context of your human rights. There is a fear that human rights will have a negative impact on group interests, and that is a reason why human rights have been demonised
- **Legal aid** – it was noted that there is a real lack of access to legal aid and support
- **Representation** – the issue of representation on tribunals was raised. Employment tribunals are often made up of white, middle-aged men, and only 4% of race cases are successful in employment tribunals. This must tell the government that something is wrong. It was also noted that all members of this panel were white
- **Poverty** – it was noted that poverty is now seen as a human rights issue. Poverty overlaps with the equalities agendas that the new CEHR is focusing on. The panel was asked whether they agreed that the CEHR should take on board poverty as a human rights and equalities issue, and if yes, how can that best be done?

Panel responses

Cathy Ashton

In response to the question on the government and human rights, I don't think we should shy away from raising issues around human rights and the issues facing government. The first job of government is to keep people safe. Within that context, we face some very difficult challenges. My point earlier about people understanding the benefits of the HRA is, I think, the best way of being able to have that kind of debate and conversation. I do not necessarily agree with everything my colleagues say. But I do defend their right to be able to say in the context of their work that these are really important issues, and to express their concerns about how we make sure we keep people safe.

In terms of employment tribunals, there is a really big issue about how we make sure people have access to the tribunal service. Panels give confidence to those appearing before them that they understand the issues and take them seriously, and that the quality of the decision-making is everything they could wish for. I think we have still got more to do in terms of that public confidence.

The legal aid budget runs at £2 billion a year and is growing. There are real questions about how we make sure that those who really do need to get access to legal aid get it. At the same time we need to provide support for those who provide services long before people get to court, such as community legal services and voluntary and community organisations. It is a big challenge and one that we are still working on. Our job is to try and respond to that better than we do now.



Francesca Klug

When I talked earlier about living and working in Hackney, this touched on the issue of the fears that surround human rights, even amongst those who have most to gain from them. Everybody was very worried about everybody else encroaching on their space and the gains that they had achieved. However, I suspect that in most places in the world this is not the case – people see human rights as being a way of overcoming the threat of others taking your gains.

But there is no doubt that in the UK the idea of human rights does endanger fears, on many grounds. I went to the Anne Frank Moral Courage Awards earlier this week. Most people performing at this event were black, and most people spoke about their experiences in the prism of Anne Frank, a Jewish girl. What struck me most about the event was that it amplified through poetry and dance exactly what I understand by the term human rights. To my mind human rights are about never losing sight of our particularities, but doing so in a way that makes links with other human beings. If we do not do this we end up reproducing oppression from one group to another. That was the insight that came out of the devastating experiences of the Second World War, and is reflected in the Universal Declaration of Human Rights.

On the issue of poverty – I do not see how a body called the Commission for Equality and Human Rights can have nothing to say about poverty. The human rights framework within the body gives the Human Rights Act a slightly privileged status, but also refers to human rights generally. International human rights include economic, social and cultural rights, and nowadays poverty is seen increasingly as a human rights issue. Human rights are what human beings need to flourish. So yes I hope we will have something to say about poverty.

Jane Campbell

Representation is a word I have struggled with all my life. We will have to struggle with the issue of representation at the CEHR. Next week I have to shortlist seven Commissioners for the disability committee. Everybody, every impairment has lobbied me. But I would have to hire the whole of the Albert Hall if I wanted to get the whole of the disabled people's movement on the committee. If we cannot get full representation we must work even harder to represent those who are not in the room, to make sure that their voice is amongst us. It will never be easy, and we will never get it absolutely right. But if I am doing it, we will get as near as we can.

Stuart Etherington

Ultimately NCVO's job is to ensure that all the various strands are heard. We rely on state institutions, such as the new CEHR, to make decisions which rise above particular interest groups. They cannot shirk that responsibility because otherwise there is nobody that is mediating around the various voices. There is an inherent tension between participative democracy, represented by voluntary agencies and others, and representative democracy, that has to mediate those voices.

Chair's summing up: Margaret Prosser

The difference between the CEHR and the bodies it is replacing is that there is not a person in this country who is not touched by the CEHR. For that reason I think we have a real responsibility to do the sorts of things that have been talked about here, and help people to understand human rights as a much more concrete and positive issue. We need to develop really positive ways of engaging and enabling society and all its members to participate in a variety of different ways. The discussions that you have been engaged in today are one of the ways in which we can get this debate going and begin to break down those myths.

4.5 Closing remarks

Angela Mason, Director, Women and Equality Unit

In preparing for this address, I was really struck reading the BIHR newsletter by how the discussion about human rights really relates to some of the core issues that we are trying to deal with in our society today. Issues

of poverty and social mobility, integration and cohesion, issues around democracy and what sort of society we want to be.

At the Women and Equality Unit, we helped to draft the Equality Bill setting up the Commission for Equality and Human Rights (CEHR). When I first started working on the project, I admit that I thought this was not a very good idea. I thought that it was difficult enough to bring all the strands together; never mind the possibility of getting high-jacked by controversial human rights legislation.

However, I soon changed my mind, for several reasons. First of all, it became increasingly apparent that the barriers preventing significant groups from achieving their potential could not be resolved by legal concepts of equal treatment. If we really wanted to change things, we had to take respect for the dignity and worth of every individual as our cornerstone. If we really want to tackle disadvantage, then using human rights tools to tackle that disadvantage is very important. This has already been demonstrated in legal cases in relation to disability, domestic violence, older people and so on. In short, dignity and respect are important levers to achieve fairness of treatment.

Secondly, I recognised the power of human rights as a tool to reach negotiated solutions without resort to litigation, threats or violence. The human rights tests of proportionality and necessity will be an important basis for the exercise of the good relations powers given to the CEHR.

Thirdly, human rights are about humanistic values – respect for the dignity and worth of the individual. Human rights are such a powerful idea. They go beyond the boundaries of the law and legislation. They are about we think about the rest of society.

It is also important to realise that human rights are recognised internationally. At a recent Commonwealth conference that I attended, I was struck by how issues of human rights inform all the work of the Commonwealth. What unites the Commonwealth today is not just a common language, not just a history of colonial rule. It is a new set of international values, based on human rights and new frameworks for development.

There is clearly a strong relationship between access to fundamental rights and participation in society. As we search for new ways to enhance and strengthen our democracy, the connections between human rights and civic participation are an extremely important area to explore. The importance that those who are working with a human rights perspective actually give to working in partnership with civil society is very striking. The Equality Act setting up the CEHR creates a new duty of consultation over the development of the strategic plan. I have no doubt that working out strategies to engage and work with civil society will be absolutely key to the CEHR's success.

So there is everything to play for and an enormous range of ideas and issues to discuss. We have the publication of the Discrimination Law Review, the Commission on Integration and Cohesion, and the imminent opening of the CEHR. I hope they will all play in to a new discourse where human rights come out of the courts and into our communities, our workplaces, and our public institutions.

Katie Ghose, BIHR

I posed two questions this morning – can we have our human rights without equality? And can we have greater strides in equality without our human rights?

I said that I hoped today would be just one part of that conversation. I think it has been a fantastic day of conversation and discussion and debate. I am delighted that there have been differences of opinion, with some controversy, because that is one of things that human rights can bring to the table – the space to have those discussions.

Thank you to our speakers and chairs, to our sponsors, and to all of you for attending and for your contributions today.



5. Recommendations

During the plenary and workshop discussions, delegates raised a variety of points and made recommendations for action. Recommendations made by delegates are grouped here under common themes that emerged during the day. These have been compiled from records from group discussions and also from forms which delegates were provided with so they could note down their ideas, views and suggestions. The common themes are further elaborated on in the 'key issues and recommendations' section earlier in this report.

Human rights belong to us all

- There needs to be an inclusive debate about human rights, involving a far greater range of individuals and groups than ever before. It needs to recognise that there can be a huge gap between people who are currently involved in debating or promoting human rights and those whose rights are most at risk and who are most in need of protection
- If a debate takes place that is truly participative it will help counter views that human rights are only useful for minorities or those who can afford a lawyer
- This debate should incorporate an international perspective and acknowledge that outside the UK, human rights are a unifying set of international values. For example, in many countries human rights are seen as a way of overcoming fears that other groups will 'take your gains'

Human rights as a lens for equalities issues – providing extra 'bite'

- The use of words like dignity, fairness and respect can be powerful – they are concepts that everyone can relate to
- If human rights law is to be used to provide extra 'bite' for equalities challenges and meaningful redress, people need to be aware of the full range of options open to them. Adequate legal support and representation are also essential
- It is vital for the CEHR to take an integrated approach to human rights and equality in both its internal and external work

Healing fractures – human rights as a force for unity

- More work is needed to join up human rights, equality and community cohesion in policy and practice. These three areas are in many ways facets of the same agenda. For example, incorporating economic and social rights in domestic law and using them to combat poverty could have a positive impact on community relations
- Those working to promote good relations are looking to see for themselves how human rights can be used in practice as a conflict resolution tool – leadership and guidance is required
- Specific rights like the right to free speech could be used to empower people whose voice might not otherwise be heard

Changing the balance of power: the potential for human rights to empower people and engender greater participation

- We need to ensure that the most marginalised, including those affected by poverty, know about their human rights and how to claim them in the UK. This process should be about empowering individuals themselves to make change happen in their own lives and communities
- Although voluntary and community sector organisations are key to engaging marginalised people, they cannot do this without proper resourcing and capacity building

Developing human rights practice

General

- Practical tools and guidance are required including:
 - human rights impact assessment tools (encompassing human rights positive obligations, which are poorly understood)
 - human rights indicators set by the people themselves who experience or are at risk of human rights abuses
 - pilot projects demonstrating how human rights are relevant to different sectors
- Meaningful and resourced partnership work and education between the voluntary and community sector and public sector is required to achieve a culture of respect for human rights in relation to service delivery

Public sector

- What is meant by a 'human rights based approach' in relation to public services needs clarification and the actual impact must be measurable
- There is a huge need for further resources and training on human rights. This needs to be made available for different groups. For example, Council leaders and chief executives need resources and training so that they can incorporate human rights as part of the 'core business' of local government. Staff in local authorities should also raise awareness among local residents of their rights and responsibilities
- Inspectorates in particular need to work together to embed equality and human rights in an integrated way in their assessment processes, for example Comprehensive Area Assessments. The Discrimination Law Review consultation process should be an important mechanism for exploring some of these issues

Voluntary and community sector

- Voluntary and community sector organisations need to explore for themselves the potential for human rights and 'human rights based approaches' in their equalities work. The lack of funding for human rights work in the voluntary and community sector in particular needs urgent attention
- Voluntary and community sector organisations are in a unique position to 'connect people with government'. They have a key leadership role to play in relation to human rights
- The voluntary and community sector is key to engaging and involving people, especially the most marginalised, in claiming their rights as well as developing human rights as a tool to influence policy. However, for the sector to be able to achieve this, significant resourcing and capacity building is required

Talking about human rights

An over-arching recommendation that emerged was for a 'massive' awareness-raising campaign and associated action to address the myths about human rights in the media. For this type of campaign to be successful the following actions were thought to be necessary:

- Finding ways to popularise debates about values such as dignity, justice and fairness, all concepts which are central to human rights but are relevant more widely as well. The 'dignity in care' agenda is an excellent example of how this can be done
- Demonstrating how human rights relate directly to people's lives through case studies and practical examples of how human rights have been used
- Using more simple, accessible language in communications about human rights – legal jargon must be avoided
- Consistent, sophisticated, targeted and positive messages from the CEHR and the Government
- Focusing on 'what unites us' rather than 'what divides us', recognising the degree of consensus that exists about the basics we should all have access to. The CEHR will play an important role here



- Finding ways for a range of people to engage in tackling media bias 'head-on', for example via radio phone-ins, on-line blogs, and letters to newspapers

Developing knowledge and understanding about human rights

- Human rights education, training, awareness-raising and capacity building programmes are required
- Education is essential, in schools and in communities, both formal and informal. There is a huge need for resources to make this happen
- There is a need for targeted education towards key groups, including the judiciary and lawyers, for example through legal journals, websites and legal bulletins

Filling the leadership vacuum

- Politicians should promote consistent messages about human rights and be prepared to be unpopular in exercising leadership about human rights. Community and other leaders also need to show leadership
- The CEHR has an important role in explaining human rights to wider society. It also must explain the extent of its human rights duties and powers, as there is currently considerable confusion
- The Government needs to take a lead in mainstreaming human rights, especially in the public sector (the private sector generally falls outside the scope of the Human Rights Act)
- A statutory duty to promote human rights across the public sector should be seriously considered, to reinforce the huge potential for human rights to help engender a proactive approach rather than bare compliance

Expanding human rights protection

- The issue of which organisations are defined as a public authority for the purposes of the Human Rights Act needs to be resolved as a matter of urgency
- We should look to incorporate economic, social and cultural rights into UK law. There is a strong move towards incorporating these rights in Northern Ireland. A Bill of Rights could help to achieve this, but only if it is clearly premised on expanding on the rights contained in current law
- There needs to be far more engagement, from the public and politicians and people whose economic and social rights are particularly restricted, in key processes relating to these rights. For example, the UN Committee on Economic, Social and Cultural Rights is about to produce a report on the UK – and the process should be much more public and visible

The role of the Commission for Equality and Human Rights

- The division of responsibility between the Ministry of Justice, as the human rights lead within Whitehall, and the CEHR needs to be clarified
- The CEHR should avoid working in 'strands' and should integrate human rights and equality both internally and externally
- Concerns were raised about the CEHR's legal powers and duties in relation to human rights. A point was made that it is unfortunate that the CEHR cannot provide legal assistance for individual human rights cases that do not have an equality dimension
- Positive communications activity by the CEHR is important so that key stakeholder groups, particularly the public sector, are influenced, although delegates said that this task should not lie with the CEHR alone. Positive, sophisticated and targeted messages could make a real difference to the outcomes achieved by the CEHR
- The CEHR will play an important role in ensuring that debate about human rights is practical and 'real', reflecting the fact that there is far more consensus about the basics we should all share than about theoretical frameworks. It should also play a key role in clarifying what 'human rights based approaches' look like in practice

Appendix: BIHR conference delegates, 18 June 2007

Dominic Abrams	Professor of Psychology	University of Kent
Shamima Akhtar		Commission for Equality and Human Rights
Emilie Altot	Project Manager	Commission for Equality and Human Rights
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Nony Ardill	Legal Policy Adviser	Age Concern England
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Frances Butler	Vice President	BIHR
Baroness Jane Campbell	Health and Social Care Policy Adviser	CEHR Commissioner
Ted Cattle	Professor	Institute of Community Cohesion
Donna Carroll	Human Rights Promotion Manager	Ministry of Justice
Paul Carter	Reporter	Disability Now
Roisin Cavanagh	Development and Training Officer	BIHR
Robin Challis		Equality Challenge Unit
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Maria Cheshire	Equalities and Inclusion Manager	Age Concern Cymru
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Tabitha Collingbourne		
Clare Collins	Director	Elborough Consulting Ltd
Eddie Colman		Ministry of Justice
Angie Conroy		Rape Crisis Network
Kevin Coutinho	Director	Windsor Fellowship
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