

THE JUSTICE PAPERS

The Bar Council

Fighting for Rights

for me, for you, for everyone



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The fight for our rights may never fully end, but without the law social justice would all just be wishful thinking, writes Ali Harris.

‘We are all born equal in dignity and rights’. This fundamental truth lies at the heart of our common humanity and our legal system.

Human rights are the basic rights and freedoms that we all exercise every day. And, like air, we often take them for granted.

Privacy in our own home, expressing an opinion, having an education, being paid for the work we do, having a decent place to live, protection from discrimination and abuse – these things and many others are all our human rights.

These rights are the hidden foundations that help us live together freely and fairly. Our human rights are based on the values we hold dear – things like dignity, fairness, equality, and respect.

It’s also true that there’s often a gap between our rights according to the law and what happens in people’s lives.

Marie de Silva, a zoology student at Hull University and wheelchair user, recently hit the headlines because her lecture halls are inaccessible, leaving her isolated from other students and unable to see the screen.

The university has apologised and promised to do better. They should do: access to education is a long-standing right. The duty to make reasonable adjustments so disabled people can fully participate is the law, not rocket science. The university will be managing much more complicated things every day without any problem.

So why are so many universities and colleges still failing to uphold students’ rights? Not just to provide access to education for disabled students. To tackle other serious equality and human rights problems. To do more to stop men perpetrating sexual violence against women students. To prevent on-campus racism, which is so common it’s currently the subject of an investigation by the Equality and Human Rights Commission.

At the heart of the law-reality gap is power. It is striking that Marie said she feels ‘stripped of her power’ at the university (in stark contrast to other areas of her life).

There are public bodies, employers and service providers who want to do the right

thing, follow the law, and in many cases do better than the law requires them to do.

But organisations will also often rely on their power to get away with ignoring the law. They'll do the bare minimum to comply, or give empty promises if they get caught out. Sometimes they don't even know what the relevant law is. They rely on people feeling too powerless to challenge them.

Social change has always come about through people using their power and fighting for their rights. Rights become protected in law and the law in turn has a normative effect – it changes how society thinks and acts towards each other. Equal marriage is a great example of that. The first hard-won step was the Partnership Register in London back in 2001, which caused uproar at the time.

That's why the rule of law is so important. Without it, we're entirely dependent on the good will and benevolence of others. Good will and benevolence are wonderful things, but they're not enough. Without the law, social change is just wishful thinking.

Even with laws in place, there will always be people and organisations who ignore or break them. That's why it's vital for people to get back their power by knowing about the law.

Knowing we have the law on our side helps us stand up against abuse, and hold authorities to account when things go wrong. If we know enough about the law – both our rights and our own responsibilities – we can use the law positively as an essential tool that empowers us to create a better world.

The Equality Act 2010 (the 2010 Act) is one law everyone should know about. Along with the Human Rights Act 2008, it makes our rights practical and useable. It protects us all from discrimination and harassment, and can make the systems and structures that shape our lives fairer and more equal.

Before the 2010 Act, there were lots of different, separate laws. These worked in different ways, and gave different levels of protection to different groups. There were nine main equality laws and over 110 related pieces of legislation.

Those different laws were the product of battles for rights fought and won over many years. Each was a victory, a step towards greater equality for the people who were covered by the law. But overall our equality laws were confusing, complex, and inconsistent.

This made it hard for people to know what their rights were, how to assert them, or what to do if things went wrong. It made it hard

for people who were meant to implement the law – businesses, employers, schools and colleges, hospitals, local authorities and charities – to know what they were meant to do to do the right thing.

The 2010 Act brought everything together in one law, and levelled up protections across nine different personal 'characteristics': race, sex, sexual orientation, gender reassignment, age, disability (including mental health and long term health conditions such as MS and cancer), marital or civil partnership status, being pregnant and a mum.

That matters not only as an issue of social justice, but also because our identity is made up of many parts. At any point in our lives we're all protected by the 2010 Act for at least four of our personal characteristics.

How much we're able to achieve our rights is not just about who we are. It's about how others - individuals and institutions

- respond to who we are. The law makes clear that people should treat us fairly, not discriminate against or harass us because of who we are.

Just as important is how we treat each other. Claiming our rights while trampling the rights of others isn't ok. And when there's a potential conflict between our rights and those of others, our equality and human rights laws help us understand that there's no hierarchy of rights. They help us make sense of what's what, and find a reasonable, proportionate way forward for everyone.

The law isn't perfect. Nothing in life is. But the law is necessary. It's essential to making equality and human rights real in the UK.

2020 is the tenth anniversary of the Equality Act 2010. We have to celebrate it. And continue to fight for it. For me, for you, for everyone.