

Disability Discrimination is alive and well in the UK 2020 Feminist movement.

Introduction

I was shocked to the core when on 2nd of October, in a thread about accommodating the needs of trans people FairPlayForWomen tweeted a post containing the wording

“Great thing is these facilities already exist. There is an excellent network of accessible facilities-set up originally for wheelchair users-but their purpose is now much wider. They are available to anyone who needs an accessible alternative”¹

Wait! What!?! Have we not just spent the last 2 years arguing that the territory, including toilets, fought for by and for women was not in the gift of others to give away? Have we not just spent time arguing that there is provision in the equality act for single sex spaces to be preserved for women and that what women need is enforcement? Have we not mounted campaigns against the misinformation on the entitlement of men to women’s single sex spaces? Have women not highlighted that the very body responsible for ensuring correct, legal advice on matters of equality law The Equality and Human Rights Commission (EHRC) has failed in its responsibilities by publishing flawed information and by not standing up for women’s rights in law? Do FPFW believe only the rights of able bodied women have been allowed to be trampled over?

I (and as it turned out many others) could not believe that FPFW had decided it could direct non disabled people into our hard fought for adapted toilet facilities. Worse, that as far as FPFW is concerned it is absolutely fine to go about spreading misinformation as to the history of the so called ‘network’ of disabled toilets. The signalling of approval for the blatant daily misuse of these facilities was the final insult which left me reeling and shocked to my very core.

“Each time a woman stands up for herself, without knowing it possibly, without claiming it, she stands up for all women.” (Is that ‘except disabled women’ then FPFW?)

— Maya Angelou

¹ @fairplaywomen 17:17 02/10/2020

Part 2.

I am Spartacus

There is an unscripted ritual performed at events that bring multiple disabled people together. At some stage in the proceedings someone will say something along the lines of;

“We must remember we are the lucky ones. We are the ones able to make it here today. We aren't the ones stuck in bed, in our own mess, ringing the bell and no one is coming because its twenty minutes till the shift ends and no one wants to come and help us”.

In a society where decisions are made by those who turn up, those few of us with impairments who can speak, speak up for millions.

That is what I shall now do.

Part 3.

But be reasonable...

The issue of the provision of 'disabled' or 'adapted' toilets is a complex one.

The basic design and building regulations that apply were developed long before there was any legal obligation for reasonable adjustments such as installation of 'Disabled', (or as they are more correctly termed 'adapted') toilets to be made by providers of goods and services (such as shops, cafés, leisure centres, amusement parks, railway trains and stations etc) Legislation in this regard, The Disability Discrimination Act or DDA) was only passed in 1995 with enactment delayed for 2 or more years depending on sub section.

Prior to the 1995 DDA the provision of adapted toilets was generally confined to places where disabled people were warehoused away from mainstream society. Such locations included special schools, hospitals, care homes and venues such as places of sheltered employment such as specialist factories for disabled workers.

The passage of the 1995 Disability Discrimination Act was the end point of a long hard struggle by disabled people over decades to be recognised as people and thus worthy of the rights, respect and consideration afforded to other members of society. Successive governments had played dirty for decades to keep legislation off the statute. In 1992 The Civil Rights (Disabled Persons) Bill, which was the sixth attempt to place anti-discrimination legislation on the statute within a period of ten years, had been talked out on its second reading.

Vested interest ensured that when finally legislation was passed it was weak and difficult to enforce and huge swathes of it allowed for decades of deferment. The requirement to comply with the Access to Goods and Services element of the 1995 DDA was deferred to 1 October 2004, nine years after the legislation was passed while, railways were given until 1 January 2020, a full 25 in which to achieve compliance.

Employers and providers of goods and services were only required to make 'reasonable adjustments' and more often than not, what was felt reasonable was based not on the need of the disabled person but on what the provider was prepared to allow and pay for. The onus was placed on the individual disabled person, literally each disabled person individually, to argue for adjustments or make complaints about lack of provision or lack of maintenance of provision.

In short, not only did we not win the battle for civil rights legislation, we found that a major tool of our continued oppression, that we were making unreasonable demands, was reinforced by the 1995 Disability Discrimination Act.

Part 4.

Transport

Yeah but no but yeah but no but...

The lag times between the passage of the 1995 DDA and the enactment of the different elements of the Act were to allow organisations time to plan and prepare for the changes required in order to comply. Many organisations though, and even government departments often saw this lag time as a period of 'exemption' rather than preparation. Hence, two years before the rail industry was to become fully compliant, and 23 years after the passage of the Act part of the franchise agreement with the Department for Transport allowed TransPennine Express to introduce trains of a design inaccessible to wheelchair users.² If government fully isn't committed to supporting the rights of disabled people to be fully integrated in society this not only reduces the opportunities that disabled people reasonably expect, it signals to the wider community that we remain second class citizen whose needs remain not equal to but subordinate to the needs of the mainstream population.

The situation disabled people find themselves in regarding bus transport is equally shameful. Accessible buses were only introduced after disabled people gathered en-mass in Whitehall in the early 1990's. Disabled people demanded to be able to get on buses and when this was refused blocked the movement of traffic in Westminster. Some wheeled themselves into the road. Some chained themselves to buses; some

² <https://www.disabilityrightsuk.org/news/2018/may/transpennine-express-run-rail-services-no-wheelchair-spaces>

lay down in the road. The police had no idea how to handle the situation so arrested anyone they felt they could. This prolonged the disruption as those arrested were largely the personal assistants and carers of the protestors. The latter were left outside in the London drizzle while the able bodied were entertained indoors by the police.

This day of action and other such protests changed the mindset of London Transport who in due course rolled out a fleet of accessible buses with space for wheelchairs. This victory was short lived as the accessible spaces on buses so hard fought for by disabled people were invaded by parents with buggies and again, disabled people were let down by the legislation which as mentioned above, placed the onus on the disabled person, each disabled person, to complain on each occasion that they had not been able to access each bus where this occurred.

Eventually the duty of a bus company to intervene and require a non disabled person to move from a space needed by a wheelchair user was tested in court. The resultant Supreme Court Judgement was

“ FirstGroup’s policy requiring a driver to simply request a non-wheelchair user to vacate the space without taking any further steps was unjustified. Where a driver who has made such a request concludes that a refusal is unreasonable, he or she should consider some further step to pressurise the non-wheelchair user to vacate the space, depending on the circumstances”.

FirstGroup Plc (Respondent) V Paulley (Appellant) 18/01/2017 ³

Clearly this ruling was and is of little practical help to either disabled passengers or to bus drivers. It once again illustrates how our society does not accept that disabled people need special legal protections on grounds of disability which are in addition to those afforded to all other citizens.

It is worth stating here that I have yet to come across a single account of a non disabled parent of a non disabled child joining any demonstration by disabled people for access to transport. Nor have I seen accounts of any able bodied movement or such demonstration by such parents for access. Where were you sister/brother?

³ <https://www.supremecourt.uk/cases/uksc-2015-0025.html>

Part 5

Signs and signifiers.

Look at this image. Consider what you think it signifies. Write that down.



Look at this image. Consider what you think it symbolises. Write that down.



When looking at the first image did you think something along the line:

‘That sign means gents and ladies toilets or changing rooms’?

or did you perhaps think

‘The image on the left means this space is reserved for men in morning suits and or males without belts whose jeans are worn low, and the image on the right means only dress –wearing monopod women may use this facility?’

When looking at the second image did you think

‘That sign means ‘for wheelchair users’ ‘

or

‘That sign means’ for wheelchair users’ if around, but if I can’t see a wheelchair its open access’

Or

'That is the symbol for disabled people. It denotes that this space is set apart for the use of disabled people in our society'.

Disabled people in the UK don't require non disabled people to know that the stylised image of a person using a wheelchair is the International Symbol Of Access (ISA) or that it was created in 1968 by Susanne Koefoed a Danish design student. What we do expect is that spaces bearing that symbol not be invaded by non disabled people and that non disabled people do not set themselves up as adjudicators as to whether a toilet or other facility is vacant and available for use by non disabled people. In particular we expect non disabled people to acknowledge that only some 8% of disabled people are wheelchair users and that none of us look like the 'person' in the ISA!

(NB In case you were wondering, the first image was not a unisex/mixed sex toilet sign because there is a dividing line between the two 'people'.)

Part 6

It's always the fucking toilets!

Returning now to the claim published on Twitter that disabled toilets "...are available to anyone who needs an accessible alternative"

It took an act of Parliament to establish in law the principle that mainstream society should make reasonable adjustments to accommodate disabled people. Only after the passage of the 1995 DDA were we disabled people liberated from our urinary and faecal leashes. To gain ANY mainstream provision of public lavatories that were accessible to and suitable for the majority of disabled people was a huge victory but it came at a cost. We had to accept that the bare minimum of provision would be considered a 'reasonable adjustment' and thus compliant with the new law. Demanding the universal provision in mainstream society of single sex adapted toilets and / or toilets fitted with electric hoists would have scuppered any chance of getting legislation passed.

And, as with transport, no sooner had space been set aside for use by disabled people, people without impairments moved in, and again, the onus fell on the disabled person, as an individual, to challenge this abuse on each and every occasion it occurred.

The first major incursion was by and for non disabled parents of non disabled children. This group sought places to change babies' nappies that could be used by parents of either sex. When that space was offered within the area allocated for disabled people did they object? Did they say 'I'm not going to change my baby in a room set aside for the use of disabled people'? Did they say 'This space would not exist were it not for the hard work and campaigning of generations of disabled

people and their representatives; without the efforts of countless MPs and members of the House of Lords who worked tirelessly over decades to get a bare minimum of equality of freedom to move in society for disabled people accepted as a fundamental given. I demand to find an alternative venue to accommodate me and other parents'? Did they fuck! The most insulting aspect of the placing of baby changing facilities within disabled person's toilets is that *none of them are accessible to disabled parents!*

And so we arrive in the second decade of the 21st century, 25 years since the DDA was passed into law and we find able bodied people arguing on the one hand that men should not be allowed into women's spaces and on the other that the spaces belonging to disabled people are open access to all!

In the competition to claim the title of the most impoverished, excluded, oppressed, marginalised, harmed, sexually, physically and emotionally abused, disabled people win by orders of magnitude that exceed the imagination of non disabled people. No one should presume to tell us to give way to non disabled people who have a baby to change or who can't be arsed to queue for a toilet. Absolutely no one has the right to direct other people to use our toilets. No one should be giving away what is not theirs to give, to a tiny minority of individuals who may be 'feeling' emotionally 'uncomfortable' in a single sex toilet appropriate to their biological sex. NO ONE!

Part 7.

Can we count on your support?

There are **14.1 million disabled people in the UK.**

8% of children in the UK are **disabled**,

19% of working age **adults** are **disabled**

44% of pension age **adults** are **disabled**.

Over half the disabled adults in the UK are women.⁴

Many carers of disabled people are also disabled.

If, after reading to this point, you still believe that an apparently unoccupied adapted toilet can legitimately be regarded as open access to non disabled people then I will leave you with this. If you are currently not a disabled person then you are almost

4

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/874507/family-resources-survey-2018-19.pdf

certainly merely a TAB (Temporarily Able Bodied). The older you get the more likely you are to become disabled.

“Disability, measured as Limitations on Activities of Daily Living (LADL), affects 40% of older people aged 60, and 75% of those aged 80 and above.”⁵

Supporting disabled people in maintaining the boundaries of adapted facilities for the sole use of disabled people will help ensure they are still there and available when the day comes that you have need of them.

In conclusion

Feminist or not, if you feel it OK to undermine the ongoing struggle disabled people and their carers face every day when attempting to access the world beyond their doorsteps, if you genuinely feel we have no right to seek the preservation of the miniscule amount of space set aside for our sole use or if you feel your moment to moment judgement of a situation carries more weight than the decades of work put in by countless others to establish points of principle and then fight for physical changes to the environment in line with these principles, then you are part of the disabling society.

@amaryllisalpha 08/10/2020

⁵ https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/equality-and-human-rights/rb_may16_cpa_rapid_review_diversity_in-older_age_disability.pdf