

Institution: University of Leeds
Unit of Assessment: 20 (Law)
Title of case study: 3. Shaping and Strengthening European Policy on Disability Equality
<p>1. Summary of the impact</p> <p>Anna Lawson's research into disability equality and human rights has shaped and strengthened the disability policy of the European Union (EU) and Council of Europe (CoE).</p> <p>The research formed the basis of a new EU-wide system for tracking the progress being made by 34 countries in implementing the United Nations Convention on the Rights of Persons with Disabilities 2006 (Disability Convention).</p> <p>Lawson's research also shaped the content of a CoE Recommendation (issued to its 47 Member States) on the political rights of disabled people. In particular, her research influenced the CoE's ground-breaking decision to include an explicit recognition that mental disability never justifies the deprivation of voting rights.</p>
<p>2. Underpinning research</p> <p><i>Tracking Implementation of the Disability Convention</i></p> <p>This research, reported in [1], was conducted by Lawson (Lecturer, Senior Lecturer and Professor at Leeds since 1990) and Priestley (Professor of Disability Policy at Leeds) between 2008 and 2010 as one element of the work of the EU Academic Network of Experts on Disability (ANED). Its objective was to develop a system for monitoring and disseminating the progress being made by countries in the European region in implementing the full spectrum of Disability Convention rights – thereby enhancing transparency and facilitating the identification of good practice. The research was carried out in two phases.</p> <p>Phase 1 consisted of a systematic review of disability-rights monitoring methods previously used by national governments, the UN and civil society organisations. These were evaluated using the 'social model' theory of disability. The research found that many of these monitoring methods, when analysed from this theoretical standpoint, could be criticised for focusing on measuring physical or mental impairment at the expense of disabling social barriers (e.g. inaccessible built environments and information and laws depriving people of the legal capacity to vote or to bring a case before a court). Lawson and Priestley found that a model of disability-rights monitoring, consistent with social model principles, required a focus on the measurement of (1) the existence of relevant laws and policies, (2) the extent of accessibility barriers and (3) the participation levels of disabled people in mainstream activities (such as employment and higher education). They also recommended that data used for disability-rights monitoring in multiple countries should be disseminated through a publicly available on-line database which supported on-going updating and personally-tailored searching.</p> <p>In Phase 2, Lawson and Priestley developed their work further in consultation with others, including other members of ANED and representatives of Eurostat, the World Health Organisation, the Council of Europe and Disabled People's International. They identified a set of qualitative indicators to measure rights in law and policy. These were derived from an analysis of the Disability Convention and were organised into six broad categories – personal and family life; choice and control; access to goods and services; education and lifelong learning; work and employment; and income and poverty. At the same time, another member of ANED, Grammenos (Professor at the Centre for European Social and Economic Policy, Brussels) developed quantitative indicators to measure accessibility barriers and participation levels, taking into account the feasibility of populating these indicators with relevant statistical data for all EU countries. These quantitative indicators were organised in the same way as the qualitative indicators developed by Lawson and Priestley and presented in one combined report. By way of illustration, under the umbrella of access to goods and services, a rights in law and policy indicator was 'Providers of financial services are subject to accessibility requirements in relation to buildings, information and</p>

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communications'; an accessibility indicator was 'Proportion of level access accessible public [transport] buses'; and a participation indicator was 'Regular Internet usage [by disabled people] compared to general population'.

Equalising Access to Political Participation

Lawson conducted this desk-based research [2-5] between 2006 and 2011. It consisted of a socio-legal analysis, based on the social model theory of disability, of the potential of disability equality and human rights law to tackle the socially created disabling barriers which affect people with impairments. The research examined the equality and accessibility requirements contained in the Disability Convention and found that, for most countries, compliance would entail radical legal and policy change. It demonstrated that equality and accessibility obligations in EU countries, particularly outside the employment field, are patchy, inconsistent and often fall a long way short of Disability Convention standards [2]. It also found that people with mental disabilities are often marginalised in efforts to implement equality and accessibility obligations and that particular effort is therefore needed to ensure equality for them [3].

The research addressed equality and accessibility in various policy domains, one of which was political participation. Barriers preventing people with impairments from voting were identified in [5]. These included accessibility barriers, (eg polling stations which are physically inaccessible to people with mobility impairments) and legal barriers (e.g. statutes depriving people with mental disabilities of the right to vote because they are declared incapable by a court or because they are under guardianship). Legal barriers were particularly common because in 1996 the UN Human Rights Committee (in General Comment 95) stated that laws permitting courts to deny voting rights to people with mental disabilities were consistent with UN human rights treaty law. **Lawson's** research, however, found that such laws were discriminatory on grounds of disability and therefore, she argued, contrary to the Disability Convention 2006. She recommended in [5] that access and legal barriers to political participation should be addressed through the imposition of equality and accessibility obligations and through the repeal of discriminatory laws.

3. References to the research (indicative maximum of six references)

[1] **Lawson, A.** and Priestley, M. (2013) 'Potential, Principle and Pragmatism in Concurrent Multinational Monitoring: Disability Rights in the European Union', *International Journal of Human Rights* (advanced access online at <http://www.tandfonline.com/doi/full/10.1080/13642987.2013.834494>). Available on request from the University.

[2] **Lawson, A.** (2010) 'Reasonable Accommodation and Accessibility Obligations: Towards a More Unified European Approach?' *European Anti-Discrimination Law Review*, 11: 11-21. <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/DGD7102010.aspx>. Available on request from the University.

[3] **Lawson, A.**, (2008) 'People with Psychosocial Impairments or Conditions, Reasonable Accommodation and the Convention on the Rights of Persons with Disabilities' 26 *Law in Context* 26: 62-84. Listed in REF2 and available on request from the University.

[4] **Lawson, A.** (2008) *Disability and Equality Law in Britain: The Role of Reasonable Adjustment*. Oxford, Hart Publishing. Listed in REF2 and available on request from the University

[5] **Lawson, A.** (2007) 'The United Nations Convention on the Rights of Persons with Disabilities: New Era or False Dawn?', *Syracuse Journal of International Law and Commerce* 563-619. (see, in particular, pages 567, 572, 576-577 and 606). Available on request from the University.

The research was funded by a number of grants which were awarded after open competition:

- PROGRESS initiative VT/2007/005 (€1.5 million)
- JUST/2011/PROG/PR/01/D3-30-CE-0450002/00-88 (€1.95million)
- Arts and Humanities Research Council, research leave January-June 2007 (£26,000)

4. Details of the impact

(i) *Shaping the EU System for Tracking Implementation of the Disability Convention*

The research described in Section 2 and reported in [1] was initiated by a request to ANED from the European Commission. ANED, which is funded by the Commission, was established to conduct policy-relevant research and provide the Commission with an evidence base for its legislative and policy-making activities in the disability field. It is co-ordinated by Leeds' interdisciplinary Centre for Disability Studies in partnership with a Dutch management consultancy firm. Priestley has been its scientific director since 2007, since which time **Lawson** has also been a member of its co-ordinating research team. The Commission was regularly updated on the progress of **Lawson** and Priestley's research on disability-rights monitoring (described in Section 2) and provided with reports subsequently published on the ANED website. The impact of the research was thus grounded on a strategic partnership between the researchers and the research-users.

In 2010 the European Commission adopted a strategy to guide its work for the next decade - the European Disability Strategy 2010-2020. This includes an express commitment to adopt the monitoring approach developed by **Lawson** and Priestley as the "general principles for monitoring and evaluating the Strategy" [A, page 40].

In addition, the Strategy set out plans for building on the recommendations of **Lawson** and Priestley by developing an online tool to assist in monitoring disability policy instruments in the 34 ANED countries [A, pages 55-58]. The online tool was developed by ANED and, after consultation with the EU High Level Group of States representatives in the disability field, launched in 2012 as the 'Disability Online Tool of the Commission' (DOTCOM) [B].

DOTCOM is a publicly accessible database which is regularly updated by ANED members and contains more than 1,500 entries. It includes indicators of rights in law and policy, broadly based on those suggested by **Lawson** and Priestley and described in Section 2. Currently, however, the statistical indicators are reported separately on the ANED website. Against each of the 43 DOTCOM indicators, information is made available in DOTCOM for each of ANED's 34 countries and also for the EU-level about the existence, content and location (through web links) of any relevant law or policy. Searches may be conducted by indicator or by country. DOTCOM thus equips EU and national policy-makers, researchers, disability-rights campaigners, and others with a convenient means of locating information essential for mutual learning and for tracking progress towards implementation of disability rights.

The Head of the Disability Unit in the European Commission, confirming the impact of the research described in Section 2 on the Commission's disability policy development, observed that: "In particular, ANED's work on data collection and dissemination as well as the development of relevant indicators has strengthened our approach to disability rights monitoring" [C].

In 2012 the EU Agency for Fundamental Rights (FRA) began working on disability-rights monitoring and data collection. The research carried out by **Lawson** and Priestley for ANED has shaped FRA's approach to this task. In the words of FRA's Head of Equality and Citizens' Rights Department, it has made an 'important contribution' to the development of the Agency's data collection strategy in the disability field' [D].

(ii) *Strengthening the Council of Europe's Recommendation on Political Participation*

In 2009 the CoE established a sub-committee - the Committee of Experts on the Participation of People with Disabilities in Political and Public Life (CAHPAH-PPL) – to evaluate and promote the participation of persons with disabilities in political and public life. In March 2011 **Lawson** attended a meeting to advise CAHPAH-PPL. She presented her research on the equality and accessibility obligations of the Disability Convention [2-5], and their implications for the particular policy domain of political participation. She explained her research finding that compliance with the Disability Convention requires action to ensure that disabled people are not prevented from voting by discriminatory laws (including laws denying voting rights to people with mental disabilities on the basis of a court ruling or loss of legal capacity). She also used her research to demonstrate that the Disability Convention requires the progressive dismantling of accessibility barriers (e.g. in

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physical structures and information) associated with voting and elections.

The Committee agreed to take account of **Lawson's** research and advice, as is indicated in the following quote from the minutes: "The Committee ... decided to take account of her comments and opinions when drawing up recommendations." [E].

Committee members agreed that a draft Recommendation should include strong provisions on improving accessibility but there was initial reluctance amongst some members to condemn the practice (endorsed by the UN Human Rights Committee in 1996) of depriving people with mental disabilities of voting rights on the basis of court rulings. However, after further discussion, and also lobbying from civil society, CAHPAH-PPL drafted a 'recommendation' that fully incorporated all of **Lawson's** arguments. This was accepted by CAHPAH-PPL's parent committee, the CoE Committee of Experts on the Rights of People with Disabilities (CAHPAH) and, on 16 November 2011, it was formally adopted by the CoE's Committee of Ministers as 'Recommendation CM/Rec(2011)14 of the Committee of Ministers to Member States on the Participation of Persons with Disabilities in Political and Public Life'. Since then DOTCOM [B] reveals that Lithuania has introduced new accessibility obligations for elections; and that the Lithuanian equality ombudsman has issued guidelines on the topic.

According to the then Chair of CAHPAH-PPL [F], **Lawson's** research 'helped the Committee to realise the need to have a strong set of recommendations that would focus on issues like accessibility and legal capacity' and was 'of paramount importance to help frame the Committee recommendations and to bring consensus to the group of experts'. According to the chair of CAHPAH (also then a member of CAHPAH-PPL), **Lawson's** work with CAHPAH-PPL (particularly on the issue of voting rights for people with mental disabilities) 'led to' the recommendation [G].

5. Sources to corroborate the impact (indicative maximum of 10 references)

[A] European Commission, 'Commission Staff Working Document Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe' SEC (2010) 1323 final at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2010:1323:fin:en:doc> in relation to [i]

[B] The Disability Online Tool of the Commission (DOTCOM) at: <http://www.disability-europe.net/dotcom> in relation to [i]

[C] Letter from Head of Unit: Rights of People with Disabilities, European Commission (DG Justice) dated 14 February 2013 in relation to [i].

[D] Letter from Head of Equality and Citizens' Rights Department, European Union Agency for Fundamental Rights dated January 2013 in relation to [i].

[E] Confidential report of the 5th meeting of the European Co-ordination Forum for the Council of Europe Disability Action Plan 2006-2015 (CAHPAH), Committee of Experts on participation of people with disabilities in political and public life (CAHPAH-PPL), 25 March 2011 in relation to [ii].

[F] Letter from the 2011 Chair of Council of Europe Committee of Experts on Participation of People with Disabilities in Political and Public Life (CAHPAH-PPL), dated 27 January 2013 in relation to [ii].

[G] Letter from the 2011 Chair of Council of Europe Committee of Experts on the Rights of Persons with Disabilities, (CAHPAH) and member of CAHPAH-PPL dated January 2013 in relation to [iii].

All letters are available on request from the University of Leeds.