

THE DAVID HUME INSTITUTE



The Future of Equalities

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Chair of the Equality and Human Rights
Commission

24 February 2010

Hume Occasional Paper No. 85

The David Hume Institute
26 Forth Street
Edinburgh EH1 3LH

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ISBN 978-1-870482-86-8

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Foreword

All of us at the David Hume Institute were delighted when we were approached by the Equality and Human Rights Commission to see if we would host their Chairman, Trevor Phillips, who wished to make a major statement in Scotland.

While his subject matter was at a slight distance from our more common topics, there was absolutely no doubt in our minds that a talk by Trevor Phillips would be wholly consistent with our approach of evidence-based discussion of a policy-related nature – coming from a sceptical perspective. We rapidly agreed with the EHRC that we would be delighted to work with them and host Trevor Phillips. The seminar was arranged for Tuesday 24th February at the Royal Society of Edinburgh in George Street.

As I am sure all who were present to hear the talk, and now all who read this paper, will agree this was an important and wide-ranging statement by an influential and thoughtful contributor to key debates. We decided to publish the paper because of its lasting value and are now delighted to make this available to our members and others.

We are most grateful to the EHRC for thinking to approach the David Hume Institute and for their support. We are also most grateful to Trevor Phillips for undertaking the talk and answering a wide range of questions; and for providing this text for publications. Nevertheless, at the same time I am required to emphasise that, while the Institute has absolutely no doubt that the topics covered in this paper merit discussion and attention, as a charity it holds no collective view on either the subject matter or the policy implications.

Jeremy A Peat
Director

The Future of Equalities

Good evening.

May I first say how grateful I am to the Director and Trustees of the David Hume Institute, Jeremy and his colleagues for their wonderful hospitality today. It is a privilege for anyone to be asked to speak in these august surroundings.

Such an invitation suggests three things:

- a) that the speaker has something to say that is worth hearing;
- b) is articulate enough to say it in a way that will keep his or her listeners from heading for the door after 3 minutes (as occasionally happens to me when my audience realises that it's Trevor Phillips and not Trevor MacDonald on the podium) and;
- c) that he or she is intellectually qualified to follow in the steps of those who have graced this platform during these past twenty five years.

I am thinking tonight especially of the former Rector of my own university alma mater, Imperial College. Sir Richard Sykes spoke here in 2004, with a characteristic mix of erudition and directness. I'm a bit worried that he's going to look out the text of this talk and send me an annotated copy with corrections and a final mark at the end.

I know from looking at the list of previous speakers that the Institute is internationalist and broadminded in its approach. Many of them were English. Worse still, some were Londoners. This is an institution that recognises that one of the most precious of human rights, freedom of thought and expression, brooks no national boundaries. Our ideas need not be the prisoners of ideology. These are propositions which Hume, who lived here, on the European continent and in England and who fathered empiricism, would surely have considered so obvious they barely needed stating.

But may I also say that your invitation to me marks out the David Hume Institute as no ivory tower. Indeed you are manifestly egalitarian, compassionate and ready to give opportunities to those in society who suffer from severe disadvantages, for which reasonable adjustments should be made. I am a case in point - I am, after all, a journalist.

Oscar Wilde opined that "There is much to be said in favour of modern journalism. By giving us the opinions of the uneducated (people like me, I think he meant) it keeps us in touch with ignorance of the community". I think that if he were able to see many of today's newspapers and some TV - I doubt that he'd have cause to revise that epigram. However, I have been interviewed by Young Scot and by one of the reporters of your leading newspapers, and I have to say that these two encounters were, by some degree, the most intelligent and well informed I have had with journalists in my experience at the Equality and Human Rights Commission, I'm thinking when I go back that policy will be we only do interviews with Scottish newspapers.

I am very conscious that though today's event is discursive, it is also valedictory. I owe my presence here to one person more than any other, my EHRC Board colleague Morag Alexander.

As many of you know, Morag will be standing down at the end of her term of office as Scotland Commissioner next month. I know that I speak for all my colleagues when I say that our own emotions are mixed. As friends to Morag, we are happy to see her realise her ambition to get a life - to spend more time with Alan and her family, and to enjoy the adventures she so richly deserves after years of service to amongst_others, the EOC, Turning Point, Children in Scotland, the Scottish Social Services Council, Women in Europe and of course her work to embed equality in the Scottish Parliament and Government. But we will miss her calm and strategic leadership of the Scotland Committee of which, a number of members are here; and her determined championing not just of Scotland's interests, but of the equality and human rights agenda in the UK as a whole.

And if I may add, Morag, I will miss your support and your advice - advice that was not always what I wanted to hear and therefore all the more valuable for it; and the warm friendship which you and Alan have displayed to me and latterly to my partner Helen. We will strive to be worthy of all you have contributed.

Morag has been amongst the forefront of those who have urged the Commission along a path of what might be called constructive modernisation over the past few years. That is to say, a recognition that the huge changes which are taking place in our society will demand new responses from those who sincerely believe in greater equality and the elimination of discrimination. We know that the equality movement as a whole, and the Commission, as the institution at its heart, both have to change; but that we must do so in a way that builds on the past rather than demolishes it. That doesn't mean that we shouldn't acknowledge where we may have made misjudgements or miscalculations; but since, as I will go on to argue, the balance sheet over the past forty years is an overwhelmingly positive one for equality; we need not be afraid of speaking plainly about our failures as well as our successes.

Today our society needs the equality and human rights movement to be successful more than at any other time in our recent history. We live in a moment of global uncertainty. We inhabit a society plagued by anxiety and insecurity. That much all of us can agree on. But there is a view abroad that hard headed reality demands that we put aside our drive towards greater equality at a time of fiscal tightening and economic austerity. Well let me be clear. I totally disagree with this view.

Those who say that now is not the moment to address the issues of equality, human rights and good relations in our society are living in a fool's paradise. We will never recover from this crisis unless everyone in our society feels that contrary to the past, we are all contributing our talents and efforts, and that we are all receiving our due share of dignity and respect.

The clever folk are already signalling their acceptance of this principle, as day by day, supposedly flinty-eyed captains of industry desert their bonuses - before their customers desert them. They know that their commercial life depends on demonstrating some new-found enthusiasm for some old-style values.

In truth, anyone who says that for wealth creators, equality and human rights are tomorrow's luxuries isn't being clear-eyed and hard headed at all; I think they're being short-sighted and bone-headed.

We all worry about the safety of our families and our friends. We accept the need to modify our behaviour at airports and important buildings for example. But we don't accept that the state should be empowered to reduce our freedoms without explanation, or to intrude in our private lives without justification. Yes, we want to return to prosperity and, yes, we need security. But these goals cannot be met at the cost of our fundamental values of liberty, freedom, respect for the individual, and above all fairness. As St Matthew's gospel put it "Man shall not live by bread alone" (Matthew 4:4). And Matthew later addresses our own crisis of values even more pointedly: "For what is a man profited, if he shall gain the whole world, and lose his own soul?" (ibid 16:26)

An analogous question can be asked about a whole society's values. If we are to recover fully from the crisis we need to tackle more than just its financial dimensions. Unless we address the social, cultural, spiritual and the political dimensions of our crisis we could simply be rebuilding an edifice built on clay.

If a society can be said to have a soul, I believe that it lies squarely in the ground occupied by the Equality and Human Rights Commission. We sit at the heart of a furious battle for the soul of our society; it's hardly surprising that the Commission occasionally has to duck the flying ordinance. But this battle - common to most western nations - is fundamentally about what kind of people we want to be. The way in which our society reacts to issues of inequality and discrimination on the grounds of gender, race or disability will define whether the past two years have taught us to value fairness over self-interest.

The manner in which we handle differences across the lines of religion and belief, sexuality, age and ethnicity will show whether our generation will place its trust in civilised dialogue and compromise over the unfettered rule of majority prejudice. And above all nations still struggling to work out how to meet the peril of global terror, are seeing their commitment to human rights, tested day in and day out.

So thank you for giving me a chance to share a few thoughts with you about subjects that our modern day media still find hard to address with the seriousness that they deserve. And I'd like to talk this evening not just about how to defend the gains of the past forty years, but about how we achieve changing this new world. Change that is sustainable and irreversible. Change, not just for today and tomorrow, but for good.

Where are we coming from?

In many ways, the moment is propitious for our mission. Instant communication, cheap travel and better education have simultaneously shrunk our world and broadened our horizons. Fewer of us are content to settle for being what our parents were. For example we are more likely to change jobs or to move home. Three decades ago 13% of Edinburgh's residents were born outside Scotland; today that figure is twenty percent.

This is just one indication that most of us are less willing to accept the destiny laid down by the accident of our birth. All our evidence shows that entire categories of people who had previously felt compelled to suppress aspects of their identity are no longer willing to do so - whether that identity is related to gender, sexuality, ethnicity, religion, or anything else. And in this society, public sentiment has forced change on government, law and institutions on an astonishing scale.

I grew up in a world where signs outside boarding houses saying “No Niggers, No Irish, No Dogs” were commonplace.

Some universities still had explicit quotas for the number of women undergraduates¹: not a minimum they wanted to attract, but a maximum that they would accept. Gay men lived under the constant threat of blackmail or prosecution. Much blatant unfairness was unchallenged or condoned in the law; yet unfairness also operated in subtle ways, shaping people's expectations of what they could achieve with their lives. I was born into a society where everyone knew their place - and knew that they were supposed to keep it.

My father was a postman. When I was a young boy he took me to see where he worked. Most of the uniformed men who worked on the floor were what would then have been described as West Indian immigrants. Most of the supervisors, who wore their own suits, were white. Pointing to one of the men in suits, my father uttered a phrase that has stuck with me my entire life. He said "that's one of the 'governors'". I knew exactly what he meant, 'I'm never going to be one of them, and nor will you.' In my father's case, it was his experience as a first-generation migrant that made the chasm between "them" and "us" seem unbridgeable.

For others, it was socio-economic background, or what we used to call class. For many younger people, it is hard to imagine, from today's perspective, the extent to which deference and the idea of "knowing your place" put a cap on the ambitions of talented and hard-working people. That's because in the past fifty years, we've seen the start of a revolution. On one hand, the law has moved on. Anti-discrimination laws, from the Race Relations Act 1965 onwards, gave individuals the right to obtain justice when they are treated unfairly. Millions have benefited from progressive policies such as the right to maternity and paternity leave. Devolution has empowered Scotland to pursue social justice and progressive legislation at its own pace - one result being that Scotland is now the first part of the UK to have specific laws to deal with hate crime against trans people, having led the way in the abolition of the notorious section 28.

¹ The Oxford quota was in place until 1957 <http://www.oxfordtoday.ox.ac.uk/2008-09/v21n2/05.shtml>

As the laws have changed, so have people's ambitions and achievements. More than fifty per cent of today's undergraduates in the UK and over half of those who graduate with first class degrees each year are women.

Attitudes have shifted dramatically too. Though the headlines might not always give this impression, the hard evidence consistently suggests that Britain is by far the best place to live in Europe if you are not white. Why? Because prevailing attitudes towards race are more liberal and tolerant than elsewhere. Best of all we are no longer an automatically deferential "know-your-place" society. But we are not yet a society in which ambition, talent and hard work are rewarded as they should be.

In some places, attitudes are changing too slowly. It might not feel that things have changed all that much to a woman with mental health problems living in a small town in the Borders, or to a young man coming out in Orkney. And the so-called Scottish Defence League and their like can create an atmosphere which makes life unpleasant for all kinds of people who happen to be different from their idea of the norm, even if their opinions are shared by only a very small minority.

Meanwhile, the evidence of persistent, significant and unacceptable inequalities is abundant. The report of the National Equality Panel, published by Professor John Hills at the end of last month highlighted some of the most striking disparities. The average wealth, including possessions and savings, of a Bangladeshi household is £15,000. The average wealth of a white or an Indian household is over £200,000. At school, Gypsy and Traveller children and boys from white British and black Caribbean backgrounds fare worse than any other groups. And when it comes to work, despite being better qualified, women and people from certain ethnic minority backgrounds end up being paid less than the average.

Now this is a complex picture. We cannot simply equate race or gender with injustice. Often it is a combination of factors or characteristics that give rise to the most acute instances of disadvantage.

The chances in life of Bangladeshi women, or Gypsy and Traveller children, for example, appear to be significantly more constrained than those of their East African Asian or Chinese contemporaries. For those of us familiar with equalities policy, these correlations will not come as a surprise. What the Panel did was to show them in more forensic detail than perhaps any previous work. But it also set out something new which is also something old and this is, in no uncertain terms, the importance of socio-economic background. As the report put it, quite simply, it matters more in our society who your parents are than in other societies.

The extra resources that the comparatively well-off can give – from extra tuition, to the deposit on a house – make it that much easier for their children to increase their own wealth and income in turn. John Hills' brief was all about income - but inequality isn't just about money. It is also about the ability to navigate the intricacies of, let's say, the university application process. Or to pick up an internship, often a key step on the ladder to high-paying and professional jobs. Alan Milburn's Panel on Access to the Professions found that internships tend to go “to the few who have the right connections, not the many who have talent.” To borrow a cliché, it's not what you know: it's who knows your parents.

In other words, the evidence suggests that disadvantage is being passed down from generation to generation. It would be bad enough if this just related to income and to wealth. But the Equally Well report in Scotland, and Sir Michael Marmot's recent review in England, suggest that similar patterns can be seen when it comes to health. Men in the least deprived fifth of the Scottish population can look forward to 14 more years of healthy life than men in the most deprived fifth. And their children can look forward to inheriting their parent's life quality.

Perhaps most worrying, though, of all the evidence about inequality, is the fact that in many cases the rate of progress is so painfully slow.

Take women's representation in Westminster, still at just 20%. If the current rate of progress continues it will be 200 years before we reach parity: just slightly less time that it would take a snail to crawl the length of the Great Wall of China. And surprisingly, female participation in the Scottish Parliament actually declined in 2007.

So what do we do next?

The Equality and Human Rights Commission, then, has a significant task ahead.

Put very simply, it is our job to make change happen: not temporary, not begrudging, nor superficial change, but profound and sustainable change for good. And change, by the way, that doesn't have to wait for the snail to get to the end of the wall.

The job of a regulator is on the face of it, straightforward - to ensure that groups of people and organisations behave in a way that is fair and balances various interests. Where there is unfairness or things get out of balance it is the regulator's job to step in and restore fairness and balance by changing someone's behaviour. The hard part is to know when and how to step in. And when your field of operation as ours does spans every individual in the country and the activities of every organisation it's a mammoth task just to decide on what to concentrate. Actually, to be fair, we don't regulate everything and everybody. We're forbidden from interfering with the work of spies, journalists and politicians, presumably because these three categories of person are implicitly trustworthy.

But all regulators have to have a theory of change of some kind – whether it is OFGEM's view that the key to fairness is the price of energy and gas, or the Audit Commission and the Account Commission's belief that transparency of data will empower citizens to demand better services from local authorities. In our field, equality, the theory of change has evolved over the past half century, and I want to talk a bit about that before I talk about where we go now.

In the 1960s, inspired by the American civil rights movement, we adopted what I'll call the "heroic" theory of change. At the heart of this lies a very American idea - that the individual should be free to act and to seek remedies independently. The principal remedy was that those who were treated badly could sue, in a civil court, in order to demand restitution. Over the years this has enabled tens of thousands of people to obtain justice: people who have been fired because of the colour of their skins, people who have been denied service in a shop because of their disability, people who have been mistreated by public services because of their sexual orientation. At the same time, the fear of being found in breach of the law has actually encouraged some employers and services providers to rein in the most bare-faced and clear-cut examples of discriminatory behaviour. In America, by the way, the development of class actions has multiplied the effectiveness of this kind of remedy, and that unfortunately is an advantage we don't enjoy in English or Scottish jurisprudence.

Even so, individual remedy remains vital today, not least because the evidence shows that straightforward discrimination still persists: the National Equality Panel, for example, drew attention to DWP research which found that job applications with an African or Asian-sounding name were less likely to get an interview than those which sounded white. Yet we now know that the heroic approach to change does carry some real drawbacks.

First, it relies on individuals having the energy and courage to make a complaint, and the sheer determination to stick with it for the months and sometimes years it can take to reach a conclusion (including appeals). Bear in mind what we are talking about here is not just talking to a lawyer. You launch a discrimination case, it's not just your employer who may be cross with you, but many of your fellow employees, many of your colleagues. People who work next to you, at your factory or at your desk will be saying: why are you making so much trouble for the rest of us? Sadly we know of equal pay cases where some of the people bringing cases have passed away before the case finished. It's not equality if you have to put yourself through the grinder to get it.

Second, individual remedy usually requires one person, with limited means, to go up against the might of an organisation which may well have reserves of cash, time and legal expertise that none but the wealthiest individual can access.

Third, the individual remedy may be effective in cases of gross discrimination, where the detriment is so substantial that the victim can no longer tolerate it, and where the hurt will be obvious to a court. But what it can't always deal with is what Samuel Johnson once called a thousand small acts of unkindness - each too small to be actionable but together making up a pattern that is in aggregate an act of cruelty or discrimination.

So after the heroic theory of change came what is best described as the bureaucratic theory. The idea was that instead of waiting until things went wrong, public bodies should be obliged to measure the effect of their actions on different people, and to take steps to prevent anyone being treated unfairly in the first place. This is the essence of the public sector duties introduced from 2000 onwards in relation to race, disability and gender. Like individual remedy, this has encouraged public bodies to begin vital and beneficial reform: from local councils that have boosted the appeal of enterprise drives to women, to NHS health boards that have involved disabled people in the design of new premises to make sure they offer a decent service to everyone.

Yet again, like individual remedy, the bureaucratic theory of change also has some significant limitations. As regulators, the Equality and Human Rights Commission, like its predecessor organisations, has only a very blunt tool to assess compliance with the duties. It boils down to a bureaucratic assessment: namely, have you written a decent equality strategy? As regulators we looked, and continue to look, for hard evidence that organisations have given serious consideration to the implications of their decisions on different categories of person. When organisations haven't been able to produce that evidence – as, for example, the National Offender Management Service in England could not last week in relation to their decision to transfer foreign prisoners from one place to another – we can hold them to account for it.

As an approach it is not without merit. It captures those organisations who are most cavalier about their responsibilities. It is easy to test for compliance.

Yet you can imagine an organisation that produces a beautiful equality strategy, full of rational analysis setting out good intentions, which in the real world makes almost no practical difference to the experience of people who face disadvantage. A local council might produce an eloquent and well-argued race strategy while relationships between Gypsies and Travellers and other local people grow more fraught, school results for Black Caribbean boys sink lower and Bangladeshi women become more and more divorced from the labour market.

Currently there would be relatively little the Commission can do to compel change on the relevant body. And even if we could, does anyone seriously believe that we can monitor upwards of 40,000 public bodies across Great Britain – including more than 150 in Scotland alone?² And in the unlikely event that the duty were ever extended to the four million plus businesses that employ 80% of people in England Wales and Scotland, is there any realistic prospect of being able to investigate them all fairly and completely and thoroughly without a Commission several times the size of the Chinese Red Army? I think not.

We need, therefore, a new, more realistic theory of change which builds on what we've learnt in the past forty years. And here is where David Hume's approach is immensely helpful. In his *Treatise on Human Nature*, Hume argued that meaningful engagement with the world needed first and foremost to be based on “experience and observation.”

As a Commission what we care about, and what we should be able to test for, is what actually happens in real people's lives. The real-world effect of an equality strategy, not its good intentions. And we have to be sure that most people or organisations which need to change will do so without the Commission having to twist their arms all the time.

² <http://www.scotland.gov.uk/Topics/Government/public-bodies/simplification-programme>

In a sense we have to find a way of making sure that everyone sees change as being in their own interests - preferably for positive reasons, but at the very least because they know that there is a serious chance of enforcement action if they don't. At present, according to a survey we conducted two years ago, some four out of five employers for example think that they would get away with some form of discrimination, presumably because they think that their employees are unlikely to go to law.

I wanted to christen this new approach the light bulb theory, based on the answer to the old familiar question "how many psychiatrists does it take to change a light bulb? Only one - but the light bulb has to really want to change". But I know that this speech may be read in Westminster and Whitehall, and since down there, if you want to be taken seriously, jokes aren't allowed, forgive me if I introduce the same idea by another route.

Let me tell you a quick true story. Five years ago when I was still Chair of the Commission for Racial Equality, the Government took the admirable decision of publishing its employment statistics by ethnicity and by government department. The CRE then used the information to compile a quarterly league table of which departments had the highest and lowest proportions of non-white senior staff. The reaction to the first quarter's league tables was absolutely amazing. I found myself being called up by Cabinet ministers who had been too busy to speak to me for months. Obviously there was a sort of inverse proportion to the speed of the call and its anguish, depending on where you were in the league table.

There were seminars and pledges and action plans spinning out all over the place. Well, the reaction to the second set of figures was even more striking, though less encouraging. They were last such set of statistics to be published: today, the Cabinet Office still produces the information, but now aggregated across all departments, so the compilation of league tables for the public is now impossible. If this tiny sliver of transparency so unnerved this employer, then a logical corollary must be that openness could be a powerful lever for change.

This of course is the idea behind much new equality law - that change can be driven by showing a demonstrable case for it based on robust data; and that the evidence should be specific enough to show where and how change should happen.

What's the shorthand for this approach? Well, if you can't take the light bulb seriously, let's call this the analytic theory of change.

I think a successful analytic theory of change needs to contain four key elements: context; a forensic approach to the use of evidence; agency; and levers. Let me explain.

First – Right Moment

First, any regulator hoping to make change happen needs to match its actions and interventions to the prevailing context, values and mood of the day. It is vital to choose your moment. As I was saying earlier; that moment is now.

When it comes to equality and human rights, that moment is now. There are two great imperatives which make the Commission's work crucial to today's society.

The first is demographic. British society is changing at an unprecedented rate and you are seeing that more clearly in Scotland than anywhere else in the UK. We are becoming more diverse than ever before. Some of these changes are more evident than others. In Britain, nearly one in ten children is growing up in a mixed-race household. In as little as 20 years' time, half the population will be aged over 50. Some changes are perhaps less evident: while we can all expect to live longer than our parents and grandparents, we are also more likely to spend more years with a disability. Too many of ways of thinking about the world around us – from the way we plan town centres and public transport, to the way we structure our workplaces – are still designed to meet the needs of the population of 40 or 50 years ago. Buildings without disabled access. A pensions system that relied on many more people being in work than in retirement. We won't flourish as a society if we cling on to preconceptions and assumptions that are no longer matching the world we live in.

The second reason that the case for equality is now irresistible is economic. Already, barely a quarter of the workforce fits the old standard model of being white, male, under 45 and non disabled. Smart employers know that their alternative to a brilliant woman employee who takes maternity leaves isn't likely to be a bloke - it'll be another brilliant woman - who will become, in many cases, pregnant one day.

Yet British workplaces still cater first and foremost to the needs of that standard model. In many places there's still a stubborn insistence that a part-time job can't have serious responsibilities and commensurate rewards. Despite the proliferation of remote technology, there's still a notion that if you're not at your desk from 9 to 5 you're not pulling your weight. As the economy begins (ever so gingerly) to go from recession to recovery, it is vital that we unlock the full potential of every member of the workforce, without arbitrary bars or constraints. This kind of reform is essential to building a more sustainable economy in the long term: otherwise recovery could simply turn out to be a climb back to the narrow, precarious ledge where we stood before, dependent on a small highly-skilled part of the labour force diminishing in size and much of which is highly mobile anyway.

Second - Evidence

If the first element of an analytic approach is understanding the context and choosing your moment, the second is a forensic approach to the use of empirical data. The reasons for putting data, evidence and analysis front and centre are threefold.

First, if we trust to our own instincts, and not the evidence, we may end up fighting the wrong fights. Take, for example, the recent study by University College London into English juries. We might have imagined that juries, consciously or not, maliciously or not, would show some racial bias against people who are different to them. Yet the UCL research found, in so many words, that juries are more or less fair. This is one study. A scientific approach demands that we consider multiple sources of evidence. But this one source should at least give us pause for thought before assuming that this element of the criminal justice system should be at the top of our priorities.

The second reason that data and evidence matter is that they help us understand the true causes of patterns of disadvantage in more detail. For example, we know that low-income white boys and black Caribbean boys both tend to see their academic performance decline, compared to the average, throughout secondary school. Some analysts have argued that the evidence shows us that, whatever the differences between these two groups, there is a single common factor: their parents are less likely to be in work. If the roots of disadvantage do not – as some suggest - lie primarily in ethnicity, it may be faulty reasoning to assume that the remedy in turn is to be found by concentrating on ethnicity.

I came across an example of this just two days ago when one of my colleagues, who had been studying a particular large company in London, based in London, or headquartered in London I should say, which has branches all over the UK, told me that they had been looking at the data and they had a terrifically sophisticated system for seeing where complaints about bullying and so on came from. They had another system which looked at racial incidents. They had a puzzling spike in one particular branch, which is in the south, and the senior official who is responsible for this went to have a look. She came back, having looked and talked to people, trying to understand why this spike in complaints, bullying and conflicts and so on had gone on, and she ran the numbers through the computer in a slightly different way, and what she discovered was this. The way that they had always thought about their racial incidents pattern was all about conflict between black and white workers, brown and white workers. But that didn't show up at all in this particular place, but they had this spike. What she then did was correlate the relationship, the complaints by balancing -- comparing black and brown, and what she actually discovered was that the problem they had was a racial problem but it wasn't the one they assumed they would have, actually. They are now able to do something about it because they know what it is. Had they gone along with the normal hypothesis they would have spent vast amounts of time sending people off to race awareness training and so on, but they would be sending the wrong people for the wrong reasons.

Third, and perhaps most importantly, in an age of constrained budgets, time and attention should not go to those who shout the loudest: it should go to those who can present the most compelling case. If you can't prove there is a problem that needs to be remedied, you are very unlikely to be able to persuade people, whether the public at large, or providers of funding, that you merit their support.

Well, today, the Commission is carrying out work on a number of fronts to amass a reliable and comprehensive evidence base. Here in Scotland, we are carrying out a project on “Significant Inequalities”, helping us to identify what the most pressing problems are and the things that need most immediate action. Many people in the room have already been helping us form a picture and we are grateful for that, and let me say that I found this afternoon's workshop enlightening. The evidence is going to help us influence the Scottish Government as they define their own plans for fighting inequality in the years to come.

In parallel, looking at Britain as a whole, we are preparing to draw up our first ever “Triennial Review.” This will present the facts about the chances and outcomes in life of people from a whole range of different demographic groups and protected strands. It will draw on the work of the National Equality Panel, of the Marmot Review in England and of “Equally Well” in Scotland, and what they say about income, wealth, and health. But we will also add information about the other capabilities and freedoms that matter: the ability to take part in civic life, to go about one's daily business free from fear, to feel at home in one's neighbourhood.

Our ambition is that the “Triennial Review” and the Significant Inequalities project should provide a state of the nation snapshot: authoritative, clear and incontestable. It will give us – and all other organisations who care about equality and diversity - a lodestar for our work.

The Right Agency

The third element of a successful theory of change is identifying the right agent of change. And this of course is what we aim for the Commission to be.

The Commission aims to be a modern, sophisticated regulator. It has a big bag of tools to encourage change. Some of those are hard-edged. Where it is necessary we can intervene in legal cases, require compliance, demand information, and take organisations to court. For example:

- We took the decision to intervene in the Coleman case, which helped establish the right of carers to be protected from discrimination at work.
- In our inquiry into sex discrimination in the finance sector we were able to demand that banks and other related firms provide us with data about their gender pay gap. This has given us a sound base as we work with the industry to address that huge gap.

But in most circumstances we see it as our first responsibility to guide, encourage and inspire. That's why, for example:

- We have provided tailored guidance for small businesses on equality and diversity.
- We have held a workshop with employers both public and private to explain what positive action is and how it could work for them; and;
- In the next year, our inquiry into human trafficking led here in Scotland by Lady Kennedy will, we believe have a profound impact on public attitudes to this contemporary slave trade.

We are not a common or garden, everyday regulator, with greatest respect to all the others. Our wide remit and extensive range of powers, give us the freedom to seek different and innovative ways to create a productive public debate about equality, diversity and human rights.

What I've been describing so far are ways in which we, by and large, achieve change of behaviour without being hands on with individual organisations, except where enforcement action is necessary.

This perhaps is analogous to what Einstein called “spooky action at a distance” - for example to describe the way that the gravity of the sun or the moon makes a difference in our world without touching us directly. In most cases I'd like us to be seen more as a helpful, smart doctor or resourceful problem solver - more Dr Gregory House or the CSI team than the X-files I hope.

But sometimes we do need to be directly involved, and that more often than not is when we the commission may not have a view ourselves but, can help others to resolve problems simply by bringing them together.

And I want to take as an example the current debate about human rights and religion. The Pope and other religious leaders have raised concerns about the UK's equality legislation and what it means for religious organisations. Some commentators have gone so far as to suggest that there is a fundamental tension between religious freedom and human rights, based on the reading of legal cases that involve what constraints employers may place on those they employ, or the rules that schools may impose on their pupils, for example.

I don't want to address these substantive issues tonight other than to say this. I think that any reading which places faith, equality and human rights at odds with each other utterly ignores both the moral origins of equality and human rights laws, as well as the many examples of equality and human rights law protecting people of faith. Having said that, I do think we could manage public discussion of these issues better. I thought that Archbishop Rowan Williams, in his remarks to the Synod earlier this month, spoke wisely when he said that the manner in which we speak to each other about these matters must be part of the way in which we resolve them.

Some people – on both sides of this debate – seem to think that the best way to draw the line on sensitive cases is to head to court, all guns blazing. I don't agree. While case law will inevitably have an important role in setting boundaries, I don't think it needs to be the first recourse. Nor will the public exchange of increasingly strident and entrenched views contribute much towards providing any practical resolution.

And as in any other aspect of our good relations mandate, I think that it would be a dreadful mistake to allow the debate to be framed and dominated by the self-interest of those who hold extreme views on one side or another.

It surely makes more sense to find a common place where people of different opinions, who are genuinely interested in hearing and understanding each other can discuss them in a civil manner without gratuitous point-scoring. It is the Commission's ambition to help provide that common space.

So far we have worked with representative groups with an interest in religion and belief through what we call a “consultative group”, a set-up which we inherited from government. Its chair Barney Leith has, in my view done an exceptional job in allowing different points of view to be heard in the discussions of that forum. But we think – and I think members of the group would agree - that this forum, which has its drawbacks as well as its strengths, should be seen as a starting point, not the limit of our ambitions. We are committed to working with those groups and individuals with an interest in religion and belief to find ways of broadening and deepening our dialogue.

As a first step, we will be making the offer to help broker a discussion that helps deliver a consistent mechanism for defining which jobs might legitimately be exempted under the Equality Bill. After the Equality Bill is passed, we will be inviting religious employers to get round the table to share views on what we think the Bill will mean in practice, and to outline the advice we will be making available through guidance. In this way, we hope to generate a little more light in the debate, and a little less heat.

Right Levers

The fourth and final element of a successful analytic theory of change is using the right levers. This is why we set so much store by the Equality Bill and the arrival of a new Equality Act. Our immediate priority is to see the Bill become law. Having reached second reading in the House of Lords, it is guaranteed to go into wash-up, at least – the process of tying up loose ends at the legislative session – and that is some reassurance.

But of course what's important is that the Bill, when it becomes law, makes real change happen. We have already begun the process of drawing up comprehensive guidance that enables organisations and individuals to understand their rights and responsibilities under a new law. We have begun a process of consultation, inviting people to give their views on that guidance and we welcome any and all comments. With that assistance we can make sure the guidance genuinely does its job.

Conclusion

Now, I began by saying we were at a unique juncture of economic and social policy. For the first time we can see various different elements coming together:

- the right moment to push for progress in equality and human rights;
- better evidence than ever before to guide that progress;
- a powerful champion in the form of the Commission and it's stakeholders, and;
- a new lever in the form of the Equality Bill.

What happens next is in all our hands. The past forty years have seen significant change. Over the next forty, I think we can take things further and faster, guaranteeing every individual the chance of being treated fairly, with dignity and respect; bringing about meaningful, lasting change. And that change should be change for the better, and change for good.

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