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Trouble in Paradise—a disabled person's right to the satisfaction of a self-defined need: some conceptual and practical problems

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ABSTRACT *This paper questions the usefulness of the rights-based approach to ameliorating the social situation of disabled people in Britain and advances two criticisms. First, that rights and self-defined needs have been under-theorised by disability theorists to the extent that they have insufficiently appreciated the problems that these approaches pose. The paper suggests that rights to appropriate resources to satisfy self-defined needs will generate vast numbers of competing rights claims and that the resulting tendency of rights to conflict has been under-appreciated. Secondly, that there has been little consideration of how these conflicts might be reconciled.*

The first two sections of the paper look at the concepts of ascribed and self-defined needs, respectively, whilst the final one looks at some of the problems of the rights approach and some of the difficulties of making self-defined need the basis of rights claims.

Introduction

It has become the orthodoxy among British writers in the field of disability studies to put forward their claims to the greater social and political empowerment of disabled people almost entirely in terms of rights (Oliver, 1996; Barnes, 1991). This orthodoxy demonstrates the widespread belief that the way forward for disabled people in the UK should be guided by and would benefit from the civil rights approach employed in the USA as embodied in the Americans with Disabilities Act of 1990 (Gooding, 1994). Britain now, of course, has its own disability legislation which is routinely criticised for its rather narrow scope in the shape of the Disability Discrimination Act (1995). The crux of this criticism is that British legislation is based not upon rights, as in the American case, but upon needs. To be more precise, it is seen as being based upon one particular form of need, namely ascribed need which it is suggested actively hinders rather than helps the empowerment of disabled people. Consequently, a significant majority of British academics and activists see

the way ahead as one firmly rooted in the American rights-based approach. However, this approach too relies upon another conception of need, namely self-defined need.

‘Trouble in Paradise’ refers to what the author regards as the probable outcome of an unreflective dependence upon the concept of rights and the usefulness of attempting to establish a claim for rights on the similarly misunderstood concept of self-defined need as suggested by Michael Oliver in his influential book, *Understanding Disability: from theory to practice*. Rather than representing a metaphorical ‘paradise’ though a rights-based approach may result in something rather more troublesome. I advance two fundamental criticisms of it. The first of these is that the issues of rights and self-defined needs have been under-theorised by disability theorists to the extent that they have not appreciated the practical and theoretical problems that a reliance upon such a strategy poses; the tendency of rights to conflict has been under-appreciated. The second problem is that consequently they have not considered sufficiently how these conflicts might be reconciled to the benefit of disabled people.

In the first two sections of this paper the concepts of ascribed-need and self-defined need are analysed in order to draw out the reasons for the preference of the latter over the former. In the final section, the concept of rights is examined along with the problems that this poses for those who wish to make self-defined need the basis of rights claims.

The Critique of Ascribed Need

In *Understanding Disability* Michael Oliver argues that any hopes for the greater social and political inclusion and empowerment of disabled people will continue to be thwarted by continued attempts at making provision for empowerment on the basis of need. Specifically, he argues that it is one particular conception of need, *ascribed* need, that underlies all current measures in the UK designed to improve the situation of disabled people and that this conception in fact actively disempowers them (Oliver, 1996, p. 52).

Why does Oliver see this conception of need as so inadequate to the task of empowering disabled people? The argument is simple and familiar enough. Oliver argues that the act of ascription lies with persons considered to be expert in their respective fields and who are thus qualified to undertake such assessments (Oliver, 1996, p. 44). So bearing this in mind the stereotypical scenario sees the disabled person being assessed by a number of such experts, who might include at various times and in various situations, local authority community care personnel, and most likely and crucially, a member of the medical profession. It is on the basis of the information that these experts supply that individual disabled people have their needs ascribed to them.

Oliver suggests that in having their needs ascribed to them in this manner disabled people are being sidelined from a process the outcomes of which have the greatest significance for their daily lives. Disabled people’s opinions about the conditions that they have and on what services, facilities and so on that they consider

necessary to tangibly enhance a feeling of empowerment are rarely, if ever, sought. He continues that although such feelings of disempowerment constitute an experience not unfamiliar to many others in society it is especially true in the case of the disabled who are 'traditionally' viewed as being able to do little, if anything, for themselves as the tragic victims of circumstance (Oliver, 1996, p. 32). In summary the upshot of all this is that:

1. Rather than empowering disabled people and enhancing their autonomy, ascribed need contributes to dis-empowerment by neglecting the role that disabled people should play in planning their own lives on the basis of what they see themselves as needing.
2. Consequently, ascribed need only maintains and enhances society's existing power structures, which oppress disabled people by ensuring their dependence upon others and exacerbating their powerlessness. Moreover, it also tends to reproduce a culture of dependence, from which it is difficult, if not impossible to escape.
3. Consequently, it tends to keep disabled people marginal to the rest of society with all the attendant problems this involves, such as poverty and inferior educational and employment opportunities.

There is a good deal of intuitive appeal to such a critique. Additionally, it raises relevant and important issues that others have also noted concerning the actual outcomes of welfare policies (Pierson, 1991, p. 48). In some general sense, it *is* an appealing idea to assert as much empowerment over our lives as we possibly can. It is quite probably true to say that few people like to be told what to do with their lives too often or how to live them, let alone be told what they need to make their lives liveable and worthwhile. However, it is clearly the case that this is what many disabled people still face on an almost daily basis: living a life that is decided for them by people who are rarely accountable and who primarily act in their own interests (Oliver, 1996, p. 65). Empowerment, *is* clearly compromised to an extent in a process that reduces opportunities for disabled people to choose their own life-plans based on a purportedly objectified conception of need.

Thus, a part of Oliver's concern is to diminish the role of experts in the daily life of disabled people, to do away with ascriptions of need and instead take greater account of the self-defined needs of disabled people. He suggests that it is in this way that autonomy will become more meaningful and result in the greater empowerment of disabled people.

However, it should be said that Oliver portrays empowerment as something of a zero-sum game for *all* disabled people, where *all* the advantages rest with experts and the able-bodied more generally at the total expense of the disabled irrespective of the nature and extent of their impairments. Oliver appears to visualise disabled people's autonomy (or rather the lack of it) against some sort of idealised norm for the able-bodied who are seen as rarely (perhaps even never?) being the recipients of ascription and therefore as possessing an almost immeasurable degree of autonomy. In Mary Ann Glendon's words they (the autonomous able-bodied) appear 'to be completely free, to possess things totally, to be masters of [their] fate' (Glendon,

1998, p. 113). If this is the notion that wants to be conveyed then it is clearly unrealistic. We are all only autonomous to varying degrees, and we are all practically interdependent upon others in all sorts of ways which, if the goal of social inclusion is to make any sense at all, ought to be acknowledged (Reindal, 1999). To talk of social inclusion implies inter-dependence. Instead, Oliver makes little of this and relies upon blunt assertions of an 'all or nothing' conception of autonomy.

It is readily apparent that much of this criticism of ascribed need and the consequent diminution of autonomy recalls Libertarian criticisms of the effects of welfare states. These concerns crystallise around a number of core concepts familiar in classical liberal political theory, the most important of which are the centrality of the self-directing individual within a recognisable private domain (Hayek, 1979, vol. 2, p. 28), and the importance and indeed moral rectitude of individuals as autonomous choosers of their own ends free from the constraints and interventions of government (Barry, 1986). The active Libertarian sees herself engaged in a process of liberation and wages war on all institutions through which a human being's vision of the world is narrowed through conformity to them. Thus, the welfare state is attacked for negating the choices of individuals by imposing a set of values determined by some body other than the self.

Such pre-determination of an individual's ends is anathema to the Libertarian to whom such processes represent the machinations of an interventionist state (Bellamy, 1992, p. 222; Barry, 1987). Thus, to return to the issue of disabled people and welfare provision, a Libertarian analysis would highlight the diminution of autonomy and the coercive imposition of a particular conception of what constitutes need. For many though the issue of need has been central to debates about welfare, however the constraints of space merely allow me to note that importance here without examining it in greater depth (Doyal & Gough, 1991; Braybrooke, 1987; Plant *et al.*, 1980).

So, to briefly recapitulate. It is one particular sort of need, ascribed need, that Oliver is critical of and which, he argues, ought to give way to self-defined need. However, it is not his critique of ascribed need that worries me unduly, rather it is his prescription of a greater reliance upon self-defined need and it is to that that I now turn to.

The Argument for Self-defined Need

Oliver suggests that his preferred conception of self-defined need is compatible with and can form the basis of rights claims. In practical terms this translates into the idea that disabled people ought to be more involved than they currently are in needs assessment exercises and that their self-defined needs ought to count for a good deal more than they currently tend to. One can see the merit in this type of prescription and the possible consequences for the increased empowerment and autonomy of disabled people.

However, such an approach presents awkward problems. Oliver is vague about how self-defined-need would translate into practically workable solutions. If ascription has any benefits at all then its claimed objectivity must surely be one of them

inasmuch as it does make policies practically workable despite the drawbacks that have already been identified. However, to go back to our hypothetical stereotypical disabled person for a moment it is illustrative to see how self-defined need might affect the assessment procedure. Rather than the disabled person merely acting as a passive recipient of ascription, the new scenario would presumably see the individual being asked exactly what it is that they require to make their life tolerable and liveable, their answers being used as the basis for action and the allocation of appropriate resources. The individual's autonomy would thus be enhanced on the basis that whatever resources she/he received in return would accurately reflect her/his specific needs.

Oliver leaves us guessing as to whether any ascription at all should form a part of this process, or whether allocations should rest entirely on self-defined need. On the basis of his own words though it appears likely that Oliver favours the latter course. He says that 'it is rights to appropriate [welfare services to meet] *their own self-defined needs* that disabled people are demanding, not to have their needs defined and met by others' (Oliver, 1996, p. 74, emphasis added). Although acknowledging that there have been some benefits of needs-based provision for disabled people Oliver continues that there has been a price to pay. An 'invasion of privacy by a veritable army of professionals', who offer 'services that the state thinks you should have or is willing to pay for, *rather than those that you know that you need* (Oliver, 1996, p. 69, emphasis added). Surely, however, even admitting that many disabled people's lives are constrained in many more ways than those of many able-bodied people interactions with professionals of all sorts cannot be avoided. For although we are able to meet some needs by ourselves there are many more that we cannot, and which thus have to be met by someone or something. For example, by some other individual or group of individuals, or by the state or through market mechanisms.

It is here that problems begin to emerge with the attempt to make self-defined needs the basis of rights claims. First, at no point does Oliver attempt to specify what these self-defined needs might consist in. Of course, he cannot do this for the simple reason that our self-defined needs are personal to us as individuals. In fact, self-defined need in the sense that Oliver seems to suggest appears to be rather too close to our wants or preferences or at least it runs the risk of being interpreted in that way. Indeed, as Jerome Bickenbach points out, 'Needs overlap imperceptibly with preferences, and preferences know no boundaries' (Bickenbach, 1993, p. 199). For the Libertarian, wants and preferences are the only means of distributing resources on the grounds that they have the virtue of being empirically verifiable. As Maureen Ramsay puts it, 'To say someone has a want or preference is to state a fact since what one wants can be shown to exist' (Ramsay, 1998, p. 223). That is to say, that we can discover people's wants and felt-needs, as Ramsay calls them by observing what people do thus dispensing with the metaphysical assumptions that Libertarians believe underpin theories of need.

Basing rights claims upon our wants and preferences seems dubious to say the least, and risks undermining the concept of rights altogether. To illustrate, one might continually express one's self-defined need to visit friends and family in

Australia, or to dine out three nights a week on smoked salmon and the finest champagne, but to claim these as one's needs to which one ought to have a right to their satisfaction is absurd. Surely this is so even if one could, and one quite plausibly could, mount a persuasive argument that one needs these things for the positive mental benefits that they might bring in terms of feelings of well-being. Admittedly, this is stretching the point to absurd proportions, but the purpose of doing so is to illustrate how self-defined need when asserted as stridently as it is here, appears to be an entirely subjective notion, and sounds uncomfortably close to want or preference. Moreover, in practical terms it may prove difficult to separate and identify want or preference from self-defined need as clearly as Oliver seems to imply is possible without his actually addressing the issue.

A second point thus directly arises out of the first. Namely, that if everyone is demanding the satisfaction of their self-defined needs by right, then how are we to sort out the almost inevitable conflicts that this will generate? How are we to prioritise all of these competing claims, and who will arbitrate between them? Rather than such a right being the means to further the disabled movements agenda, if we are to follow such a strategy we should end up no further forward at all, only finding ourselves caught up in a morass of competing claims. Not only would disabled people be competing among themselves for resources to have their self-defined needs satisfied by right, for example, those of disabled people with cognitive impairments and of those with physical impairments, but they would find themselves competing with the able-bodied who surely have equally legitimate rights to have their own claims to self-defined needs satisfied. This begs the question though, would this be an *equal* right for all, irrespective of impairment or would it be a *special* right of the disabled only?

I now move on to discuss some of the problems that this leaves the argument for self-defined need facing if it is insisted that we attach a rights claim to the satisfaction of such a need.

The Problem of Rights

There is little doubt that many disabled people do face persistent discrimination and some of the worst social conditions in modern Britain (Barnes, 1991; Drake, 1999). It is thus difficult to deny the justice of the disability movement's desire to remedy this situation as far as possible and I should make it clear that I do not seek to deny this at all. However, such is the apparent desperation with which the concept of rights has been grasped that it brings to mind the image of someone drowning clutching at straws. This is understandable in part. It has been argued for example that rights have been beneficial in the advances that women have made over the past thirty years or so in modern societies (Schneider, 1986). However, even a cursory glance at a good deal of disability literature illustrates the apparently widespread conviction, based chiefly on an absence of any real counter-argument, that rights are the last best hope for disabled people, and that to even consider suggesting otherwise would amount to heresy. However, this is in part, and I stress in part, exactly what is being suggested.

As I have already suggested, Oliver does not fully discuss the concept of rights so much as assert it. The concept is adopted uncritically and it remains an open question as to whether or not such a reliance is well founded or whether it can 'deliver the goods'. It should be clearly stated then that this paper doubts the efficacy of rights to achieve the ends that are expected of them by the disability movement. This in itself is nothing new and I acknowledge the work completed on the subject of rights by feminist writers in particular (Smart, 1989; Wolgast, 1980). However, these doubts have not been as widely dispersed in the disability movement as they have been in the women's movement. The author's own doubts rest on what he sees as the confused understanding among many writers as to what rights actually are. A good example is the use of the term rights itself. The terms basic human rights, equal rights and legal rights are frequently used interchangeably as if they amount to one and the same thing. Thus, we are left to speculate what sort of rights are considered specifically suited to the satisfaction of self-defined need; will they be rights that last in perpetuity, perhaps of the sort commonly known in the advanced liberal democracies as civil and political rights; or will they be 'special' or compensatory rights, a temporary measure to correct past injustices done to disabled people, which when rectified will be nullified? and which have sometimes have been lumped together under the heading social and economic rights.

Talking of civil and political, and social and economic rights though doesn't get us much further here; we need to outline an even more basic distinction that allows us to identify different types of right. In Anglo-American philosophy, as the prominent Italian theorist Bobbio reminds us, rights are seen as falling into the two broad, yet distinct camps of moral and legal rights (Bobbio, 1991, p. 56), or if one prefers things that 'ought to be' rights and things 'that are' rights. Bearing this in mind we can see the fundamental difference between Human Rights, as universalised moral claims, and which include civil, political, social and economic rights on the one hand, and legal rights as specific legal instruments established by the political systems of nation states enshrining these human rights as positive law on the other. However, it is in terms of fundamental human rights that the majority of rights claims are made and this is particularly true for those previously unrecognised claims that seek formal recognition, for example that of Shakespeare *et al.* (1996) concerning the sexual rights of disabled people. Appealing to human rights is an understandable strategy for it has the effect of imbuing the claim with authenticity, legitimacy and a sense of overwhelming importance as Carl Wellman has suggested (Wellman, 1999, p 2). However, it is this sense of overwhelming importance, typically expressed in terms of strident demands, which is increasingly being attached to a growing number of rights claims. Such a strategy threatens to pose considerable problems.

However, before looking at some of these problems I want to let two prominent liberals, Jeremy Waldron and Ronald Dworkin, illustrate the potential effectiveness of a human rights-based strategy and the overwhelming importance of claiming something by right. For Waldron, 'Rights express limits on what can be done to individuals for the sake of the greater benefit of others; they impose limits on the sacrifices that can be demanded from them as a general contribution to the general

good ... Rights are designed to pick out those interests of ours that are not to be traded off against the interests of others' (Waldron, 1993, p. 209). Dworkin echoes Waldron's sentiments in his well-known representation of rights as 'trump-cards', which are to be played only in the last resort to protect the basis of our freedom and well-being (Dworkin, 1977, p. XI).

The idea of ring-fencing areas of our lives is certainly seductive as I have previously suggested, even more so for disabled people in the face of the repeated invasions by experts. The sort of right that is being talked about here in this context is a 'freedom from' right, that is to say freedom from the unwanted intrusions of experts—a classical liberal moral right and one with which most Libertarians would feel comfortable. Libertarians would however be troubled by any kind of right to 'appropriate welfare services' (Oliver, 1996, p. 74). This is a 'freedom to' have or do something right, which to recapitulate suggests a degree of government intervention to bring the right about. It potentially requires more than the forbearance of others. Oliver's argument then pulls in both directions and tries to encapsulate both a right to something, and a right from something [within the one claim]. The waters are muddied further though by the introduction of the concept of self-defined need which, as I have already suggested, has a closer affinity with preference than with objective need so that to suggest that one has a right to a preference sounds profoundly odd.

Nevertheless, the presumption continues to grow on the part of many groups that moral rights of these sorts ought to be translated into legal rights if the social situation of the group is to be ameliorated. Two possible practical problems emerge though if increasing numbers of 'new' moral rights are translated into legal rights. First, as Cranston suggests with reference to many social and economic rights that these discredit and undermine moral rights and that their moral force is weakened (Cranston, 1967) and, secondly, that their ever increasing number will exacerbate conflicts of rights (Wellman, 1999, p. 2).

Bearing this in mind I return to the idea of making resources for the satisfaction of the self-defined needs of disabled people the basis of a rights claim. This is a strategy that requires closer examination. Its probably true to say that disabled people's impairments often differ quite considerably and that this is also the case where people have the same condition but with different degrees of severity. Thus, the needs that each specific condition generates will often be specific in nature. Thus, given the vast range of impairments and the vast range of needs that are generated it seems that if we accept the idea of attaching a legal claim for resources for the satisfaction of all of these needs then the number of separate legal claims that are generated is potentially limitless. Additionally, if this right is to be an equal right for all disabled people then all of these legal claims to the resources to satisfy self-defined needs will be of equal weight and validity, and presumably if such a right were to be universalised then it would extend to the able-bodied as equals? Failure to universalise the right would make it a special right, acknowledging that somehow the self-defined needs of disabled people are different and to be accorded a higher priority than those of others.

Adding self-definition to the claim only adds further difficulties for underpin-

ning the argument for the self-definition of need seems to be the notion that disabled people know (absolutely and completely) what they need to enhance their life choices and chances. However, the evidence that individuals do always know what they need is sketchy as Maureen Ramsay illustrates when she states that, 'We may be in need of something without being aware that we need it, we may not know what we need' (Ramsay, 1998, p. 229). Indeed, she goes so far as to suggest that, 'We may be ignorant or mistaken about what we need, or think that we need something' (Ramsay, 1998, p. 229), and that 'needs cannot be inferred from what people say they need or from what people actually do' (Ramsay, 1998, p. 229). 'I can only need something', she says, 'if it is essential to survival and health' (Ramsay, 1998, p. 230).

Ramsay's criteria is stringent and if applied to the earlier example of the Australian holiday finds it clearly lacking as a case of need even though it is clearly self-defined. Indeed, although expressed in terms of a need the Australian holiday is more properly understood as a preference or a want. Attaching a rights claim to it does nothing to enhance its credentials for it clearly does not meet the criteria of Waldron or Dworkin either. On the other hand, we could apply Ramsay's argument about knowing what we need to a case suggested by Plant of a person who has diabetes and yet is unaware of it to illustrate how undesirable it could be to sideline the concept of ascribed need entirely (Plant, 1991, p. 201). Without *some* external assessment of need the person with diabetes may well remain mystified at the symptoms they are experiencing, and ultimately they may suffer irreparable harm from the failure to take insulin as directed by a medical expert.

One is faced with an old dilemma in the debate between ascribed and self-defined need, for there are times when one wants things that one does not actually need and there are other times when one needs things that one does not want. An example of the former would be my 'need' to dine out three times a week and an example of the latter might be Plant's example of the individual with diabetes reluctant to take the insulin that they know they need to survive. As Michael Freedman has said 'a right to what individuals need is not the same as to what they desire or want' (Freedman, 1991, p. 49). However, although these needs are different, it is easy to drift from the one into the other, so that self-defined need = need = want. To suggest, as Oliver does, that these two conceptions of need are, if not mutually exclusive, then at least clearly definable avoids complex realities (Bickenbach, 1993, p. 199). We frequently hear people asserting that they 'need a holiday', for example, or young children claiming that they 'need' chocolate bars. Indeed, they may. However, can we proceed from this to stridently assert a right to a holiday, to dine out three times a week, to a Mars Bar or even to a loving and fulfilling sexual relationship? This risks conflating preference with need.

The practical problems of recognising such absolute claims as legal rights based entirely on the individual's definition of need poses questions about such an approach in terms of avoiding and/or ameliorating conflicts of rights. As Richard Dagger suggests the more we appeal to rights the less likely it seems that we will find mutually satisfactory solutions to social and political problems (Dagger, 1997, p. 3). Beiner, goes further still when he states that 'part and parcel of rights discourse is a tendency towards forms of social life that are exclusively adversarial, litigious, and

geared towards modes of self-assertion, whether individuals or collectivities' (Beiner, 1992, p. 147). Wellman illustrates this notion with the well-known example of the abortion debate in the United States where, as he says 'The absoluteness of legal rights' has 'intensified and frozen [the] conflict' (Wellman, 1999, p. 4), and has 'infected our personal interactions by making them more confrontational' (Wellman, 1999, p. 168).

Rather than consider such outcomes though Oliver presses the case for comprehensive 'legislation which emphasises civil rights rather than individual needs' (Barnes & Oliver, 1995, p. 114). The intention here is clearly to press for legislation that establishes a legal right to resources to meet disabled people's self-defined needs, which can only mean *individually* self-defined needs if it is ever to mean anything in concrete terms.

Oliver asserts that disabled people are denied the rights that other citizens have long taken for granted and he uses T. H. Marshall's influential model to illustrate the evolution of political, civil and social rights and disabled people's exclusion from them (Oliver, 1996, p. 44). Marshall saw rights as progressively integrating larger and larger numbers of the population into the citizen body. It seems that Oliver wishes to convey his agreement with Marshall's general point about the integrative and positive function of rights, most especially social rights, with reference to disabled people; however the strident nature of such claims works against this and rights appear to take on the level of importance and absoluteness that Libertarian writers such as Robert Nozick (Nozick, 1974, pp. 28–33; cf. Rand, 1964) attach to them. Despite outlining his argument against the background of Marshall, Oliver's conception of rights based upon the self-definition of disabled people's need appears to be one where once they are established the rights are hermetically sealed against any attempt to interfere with them. Consequently, they resemble Libertarian infeasible rights of non-intervention.

These remarks should not be all that surprising if we recall those I made earlier concerning Oliver's critique of existing welfare arrangements. The critique is clearly reminiscent of Libertarian arguments for overhauling welfare states that came to prominence in the mid-1980s. On this reading rights are primarily seen as protective devices rather than the enabling injunctions of Marshall's thesis. If this is so then the tendency of rights is to exclude and to limit rather than to integrate. This, as Michael Freeden has commented, will reflect an ideology of conflict in which people are potentially hostile to one another (Freeden, 1991, p. 55).

I do not think that exclusion and conflict are outcomes that Oliver seeks at all and yet given any lack of systematic theorising on the concept of rights such outcomes are real possibilities if legal rights are asserted as stridently as they tend to be. Moreover, given Oliver's antipathy to expert interventions exclusions and conflict might be regarded as in some sense a functionally desirable strategy. However, expert interventions are not easily dispensed with. Assuming Oliver and Barnes are as committed to legal rights as appears to be the case then it seems unavoidable that disabled people will be as dependent upon another group of experts that most of the rest of society is dependent upon when it comes to disputes concerning legal rights; legal professionals, in their many guises.

Finally, there also need not necessarily be any friction between ascribed need and self-defined need either. For example, one can visualise instances where disabled people are involved in a deliberative approach to the assessment of need *with* experts negotiating over the two conceptions in an attempt to reach a point where the disabled individual feels as if their self-defined needs have been duly taken account of, and that they have been appraised of the basis upon which any ascriptions have been made. In his discussion of rights Jerome Bickenbach offers a realistic, if rather stark conclusion on a solely rights-based approach,

it is extremely unrealistic to suppose that any of the rights of disabled people will be absolute, or extrinsically *unconditional* rights, rights that must be satisfied whatever the costs or consequences. Compromise is inevitable. (Bickenbach, 1993, p. 230.)

Rather than advancing the debate about the further empowerment of disabled people in Britain any such strident claim to a right to the satisfaction of self-defined seems to pull too far in the other direction risking conflict, rather than conciliation thus opening up the distinct possibility of 'Trouble in Paradise' in the process.

Conclusions

I am not suggesting that rights ought to be abandoned. They are, and indeed ought to remain, a part of any strategy for political empowerment for the language of rights is too valuable and forceful to be dispensed with (Minow, 1990, p. 307). What concerns me is an over-emphasis upon them and given what I have already said about the satisfaction of individually self-defined needs, and the multitude of individual claims that I believe that this would generate I remain sceptical of a rights-based strategy for advancing the aims of the disability movement in any solidaristic fashion. Progress will remain partial and episodic.

In a recent article Allison Drewett (Drewett, 1999) describes the practical problems of the British welfare state in meeting the requirements of disabled people on the current basis of ascribed need by right in the face of continued financial retrenchment on the part of government (Drewett, 1999, pp. 119–123). Although Drewett does not discuss self-defined need, she is concerned with the issue of rights, the problem of their practical effectiveness and the misinformed nature of the debate and its lack of theoretical content (Drewett, 1999, pp. 126–127). In the light of what I have said previously one cannot help but wonder precisely how self-defined needs will be met and financed by right in a world where the financial retrenchment of governments is now characteristic. Here, then, I have sought to illustrate her latter concern by highlighting the degree to which various sorts of rights, namely 'freedom to' and 'freedom from' rights are used by one author in particular in such a way that it is difficult to see how they could be operationalised by attaching them to the rather slippery concept of self-defined need. This combined with the over-use of the language of rights only serves to weaken the concepts moral force and undermines its practical effectiveness.

Lastly and all too clearly, this is not an exhaustive inquiry into the area of rights

and of how much can be expected of them. However, it might provide a starting point for a debate within the field of disability studies in the UK that begins to question far more closely than has formerly been the case what might be called the dominant ideology of a rights-based approach to bring about social change for disabled people.

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