Welcome to RightsUp #RightNow, a podcast from the Oxford Human Rights Hub. I’m Kira Allmann. In this episode, I’m talking about disability rights in the UK with Dr Marie Tidball, a research associate at the Oxford Centre for Criminology and the Bonavero Institute of Human Rights, and also a Knowledge Exchange Fellow at The Oxford Research Centre in the Humanities.

Happy New Year from RightsUp and the entire Oxford Human Rights Hub team. We hope your year is off to a great start, and if you’ve been enjoying this podcast series, please share it with someone new this year. We’ll continue to bring you fresh episodes of this series to help make sense of contemporary human rights issues in 2018.

Almost exactly a year ago, in January 2017, the UK Department of Education published a report by the Disabled Students Sector Leadership Group, or DSSLG, which offered guidance on how universities and other higher education providers could better support disabled students. In short, the report found that institutions of higher education could do much more to make learning and teaching more inclusive for disabled students. Drawing on language from the UK’s 2010 Equality Act, the report outlines the ways in which higher education providers must make ‘reasonable adjustments’ in order to facilitate learning for disabled students. The Equality Act recognizes disability as a protected category under the law, meaning that disabled persons have a right to protection from discrimination in employment, education, and law enforcement. As in many cases, realizing those rights is challenging in a complex social environment – where different institutional actors must coordinate to implement the law, and where a disabled individual may have more than one disability or his or her disability might intersect with other protected characteristics, like gender. And this intersection of characteristics is commonly referred to as ‘intersectionality.’

In light of the DSSLG’s report, many academic institutions and individuals within those institutions have taken steps to implement the report’s recommendations. And those efforts take many different forms. In this podcast episode, I’m talking to Dr Marie Tidball, a research associate in law in the University of Oxford, who is going to talk us through some of the ways higher education can better accommodate the rights of disabled people. She’s also hosting a conference in Oxford in February on disability law and policy, and we’re going to talk a little about that, too.
So Marie, welcome to the podcast. Let’s start out with a little background. How did you get interested in disability rights and equality. And why did you choose to approach these topics from a legal perspective?

MARIE.

Sure, so my own undergraduate degree was a law degree. And I think one of the reasons that I applied to do that law degree was because even as a kind of fresh-faced undergraduate or a 17-18 year old, as I was at the time, I understood then that law is power, and it has such an important and all-encompassing role on our lives. And as a disabled person – a teenager at that stage growing up in the UK, I recognized that it would have a hugely important role in terms of access to services and the way that I and other disabled people were treated.

So that’s probably one of the reasons that I chose to do my law degree. Um, and then through my law degree became increasingly interested in the treatment of people with disabilities, particularly people with mental health problems, learning disabilities, autism, in the criminal justice system. And that was the area that I began to specialize in. I did my master’s dissertation, my criminology master’s dissertation, on the treatment of people with mental health problems and learning disabilities, particularly looking at the context of antisocial behavior orders. And when I decided to come back to do a doctorate, I was really keen to bring disability front and centre. In the time working in the field in the area of public policy for an autism charity, I became more and more interested in the social model of disability. I’d been to lots of talks and tried to include understandings of the social model in the policy briefings that I was writing. And so I wanted to actually bring that front and centre in my research on the treatment of adult defendants with autism in the criminal justice system because my experience of looking at criminological research was there was a real paucity in actually looking at material from a disability perspective and implementing the social model as opposed to the medical model of disability.

KIRA.

You mentioned the social model of disability. What does that mean?

MARIE.

So the social model of disability is- makes a distinction between impairment on the one hand and then disablement on the other, arising out of barriers that people might experience in society.

KIRA.
So why is now a good time to be thinking about and re-evaluating the way disability is dealt with in the law? What’s been happening lately in this area of law that would make it a good time to really engage with these issues and to host a conference, as you’re doing?

MARIE.

So I guess through the research I did for my doctorate, I realized that I was one of the few people at the university actually looking at the materials and looking from a legal perspective at disability from the social model and using some of the intellectual resources in disability studies. And during my time as a graduate while I was doing my doctorate, I began to realize that it was very necessary to increase the inclusion of disability within the curriculum. So we began a campaign called ‘Let’s Get Disability on the List,’ and the idea of that was really to raise the profile of the importance of this research and teaching. And we set up a number of high-profile events, including the Herbert Smith Freehills Oxford Disability Mooting Championship, which was Oxford’s first mooting championship to look specifically at areas of law that intersect with disability.

And when I finished my doctorate, I really wanted to expand this work and kind of solidify it at the University, so spent time thinking about how that could happen and setting up this conference seemed a way to actually bring academics, early career researchers, and students at the University together who are interested in these areas. But coupled with that, there was a report last January by the DSSLG, which is a group of people working across the university sector looking at disability-related policy and work with students and that report was really clear that there has to be much more teaching and pedagogy around disabled students. And so that was really good timing because it felt like there was a really good opportunity for Oxford to show leadership in this area and begin to develop some really definitive teaching and research streams. So the conference really came out of that as a way to really bring all of these fantastic people together in one space and to just showcase the interesting areas of teaching and research but also to create a place where the voices of disabled people and disabled people’s organizations can actually come to the fore and ensure that, you know, there’s the slogan ‘nothing about us without us’, that actually the research and teaching should be led by disabled people themselves as well, so we’re hoping it will bring a number of groups together and be a powerful of kind of setting a direction forward in this area of work.

KIRA.

I guess this next question might be a bit of a preview of some of the conference themes, but where in UK law do disability rights come from? What pieces of legislation have dealt with disability, discrimination and equality?

MARIE.
So there’s a number of different pieces of legislation. You have the Equality Act 2010, which sets out the law around disability discrimination. You also have the UN Convention on the Rights of Persons with Disabilities, which has a slightly interesting status in UK law which at the moment is facilitated by our membership to the EU and EU regulation and directives, in terms of compelling us to apply the UN Convention. You also have legislation kind of across the taxonomy of the law – mental capacity act, for example, which speaks to people with disabilities but doesn’t necessarily incorporate what people would describe as a social model of disability. I’ve mentioned already the Autism Act, which was actually the first disability-specific piece of legislation in the UK to look at one particular disability and see how things could be improved in terms of that group’s access to different services. So there are a number of different areas of legislation – it would take far too long to go through all of them, but they’re probably some of the key ones that people would and should be aware of.

KIRA.

Ok so tell me a little bit about the conference you’re organizing in Oxford. It’s coming up in February, is that right?

MARIE.

That’s right. So we have a two-day conference. The Oxford Disability Law and Policy Conference, which is really an event to launch our Oxford Disability Law and Policy Project, which is a project we’ve been working on over the last year to increase the inclusion of disability in teaching and research at the University.

KIRA.

So what can people expect from the conference? What’s the program like?

MARIE.

So it’s a two-day event, and the first day is really about challenging what we mean by ‘disability law’ and looking at its relevance across the taxonomy of the legal system. So starting off really with setting out kind of where disability discrimination law came from and its roots in the UK disability civil rights movement. And moving through its relevance to, for instance, things like final honor school papers like criminal law, property law and tort law. And then in the afternoon, unpicking some of the theory involved in disability law and particularly looking at the ethics of care and rights for people who receive social care.

And then our second day really is looking more at the contemporary policy issues, so the UN Convention on the Rights of Persons with Disabilities and its relevance to UK law and then focusing in on some very specific areas. So that piece of legislation looks very carefully
at multiple discrimination faced by, for example, women with disabilities and children with disabilities. So that panel is very much an intersectional panel. Looking at the way disability cuts across other protected characteristics and how those different equality areas interact together. We then move on to discussion about the treatment of people with disabilities and their access to adult social care services, which is something that’s kind of increasingly becoming prominent in the mind of the general public as well as there are issues around funding costs and resources. And then one of the final panels in the afternoon is actually looking at an area that’s closer to my own research – so, the intersection between the criminal justice system, adult social care and mental health law and how people with disabilities kind of move through those systems. And very often there’s been a very siloed approach to looking at those individual areas of law, and in my experience, following adult defendants with autism through the court process, what you tend to find is that a lot of the lawyers working in that field don’t really understand social care law and sometimes try to seek criminal justice outcomes when actually they could be looking at working with the individual and the local authority in terms of looking at social care options. And then finally, we reflect on the concluding observations of the UN committee which examined the treatment of disabled people by the UK government, and so we have our plenary session on that and really looking at what’s next. So how should the UK government respond to those findings, and what more can disabled people’s organizations and disabled people as individuals do to actually understand the implications of those findings and improve the treatment of people with disabilities in the UK?

KIRA.

I understand that one of the goals of the upcoming conference is to lay the groundwork for the creation of a taught master’s course in disability law and policy here at Oxford. Why is a taught master’s course a good way to start integrating more disability-specific themes into the law curriculum?

MARIE.

So actually, interestingly, the UN Convention on the Rights of Persons with Disabilities kind of really encourages two approaches in terms of building consideration of disability in to the, um, across the legal system, and one is mainstreaming the rights of people with disabilities across the board, and the other is where necessary, developing specialisms to make sure that actually their individual lived experiences are properly reflected. And I – that paradigm really is what we’ve applied in this context, that we both need to mainstream consideration of disability across the curriculum here at Oxford and also look at where there’s opportunities for specialism so that we can really focus in on the areas of law that affect the lives of people with disabilities. And I think in the context of austerity and the context of Brexit, that’s going to become increasingly important over the coming years.
And it’s also increasingly important, one of the arguments I’ve made, that we’re educating people that are going to go on to be lawyers, that are going to go on to be decision-makers, civil servants, to understand the lived experiences of people with disabilities and have the skills to think critically about that in terms of making their decisions and actually in terms of properly representing people with disabilities themselves as they bring cases to court. So a hugely exciting opportunity in terms of teaching and in terms of upskilling people that may be representing disabled people but also in terms of having more scholars with disabilities coming through. I know to my great chagrin a number of really brilliant undergraduates who have gone off to other universities to study, to do disability studies elsewhere, because Oxford doesn’t offer anything like that here. And that means that actually we lose the opportunity to bring more young people through the academic system here in Oxford for themselves to then become academics, so the opportunity of a master’s course means that you create an impetus for more of those individuals to choose to stay here and to specialize and hopefully then to choose to become academics themselves.

KIRA.

It’s likely that many lawyers, regardless of their specialism, would encounter disability issues over the course of their careers, so this is probably a case for mainstreaming disability law as well...

MARIE.

Absolutely. I mean we have 13 million people with a disability in the UK, which is a really large proportion of our population, and that’s why it’s important that it’s mainstreamed as well as developing specialist teaching courses and research. And not just lawyers, either, and I think the opportunity of having increased teaching at the university means that our medical students, our psychology and psychiatry students, and sociologists can be exposed to this as well because very often they are having to operate in an area where law affects the kind of decisions they have to make every day in their practice and actually having the opportunity to think critically about that and understand those decisions from the perspective of disabled people in a more embedded way is really important. You know, one of the findings of the UN Convention on the Rights of Persons with Disabilities was the gap for disabled women and girls in terms of accessing sexual health and gynecology advice that suits their needs and is accessible to them. So, actually, this is an opportunity for other professionals and students at the university that are going on to become doctors and psychiatrists to learn about areas that will affect their decision-making and their interactions with the service users and people that they work alongside.

KIRA.
You’re an academic who’s really out there, in the world. You’ve got your scholarly life and research, but you’re also involved in policy discussions. You’re an Oxford City councilor… is this an area where there’s a particular responsibility, do you think, as an academic to get involved in the community, or is this maybe something we should all just be doing better as academics?

MARIE.

I absolutely think we should do this better across the board. I think there are- because the disabled people’s movement has always had at the heart of it, ‘nothing about us without us’, and I think that in a lot of university institutions actually the opportunity for those groups to feed into academic courses and perhaps shape research has been limited. I think also what, in my experience, has also been limited is the accessibility of research methodologies, so one of the things that I’ve worked on in my own doctorate research was looking at how to make my participants’ materials more accessible, so how to develop easy read materials, for example, how to understand informed consent, and ensure that I’m always assuming that the person has mental capacity unless proved otherwise. And I think actually a lot of researchers, even in terms of looking at defendants more generally, so not just defendants with any kind of disability, there has been a limited examination of actually the fact that those individuals very often within our prison system we know that literacy levels are lower and that still a huge amount of support needs to be done there.

And so a lot of it has been, I think, because there’s been barriers in terms of inclusive research – not across the board, there’s always some really good examples – so I think that disability draws a spotlight on that very sharply. And that’s another reason that I think focusing on disability research and how you can develop inclusive research methodologies is an opportunity actually across those of us who do qualitative and quantitative field research, but also those of us who just do book-based black letter law as well in terms of understanding how we access the experience and how we work with collaboratively with groups of people that are affected by the areas of law that we write about.

KIRA.

And having disabled people involved in research is important because those research projects often lend themselves to policy recommendations, right?

MARIE.

Yeah, absolutely. And I think that’s actually also a good point as well – that you’re including people with disabilities across the research process, so in terms of dissemination, too, how do you make those research findings accessible so that people with disabilities who perhaps don’t have a legal background, many do and many have to because they self-advocate an awful lot, but how do you make sure that
when you disseminate those research findings that that is accessible to them and that they have a space to help push those policy changes forward? I’ve done a lot of work in the past around upskilling people with autism in particular but other disabilities as well in terms of being involved in policy change, so it’s really important to spend that time working with the group so that they understand how a process works. For example, at a local government level, how scrutiny committees work, how they can contribute to that. Then how they can kind of analyze the findings of that particular local or national government body. Might be that something’s gone to a select committee, for example, and what else they can do. So the kind of things that might make sure their member of parliament listens to what they have to say, how they ask their member of parliament to make an oral or written question to government. Giving people with disabilities all those skills in terms of being part of the research findings and dissemination and then moving things forward in terms of changing the legislation.

KIRA.

So registration for the Disability Law and Policy conference is open… it’s free to attend… so how can people sign up if they want to?

MARIE.

Sure, so the conference is taking place on Friday the 23rd and Saturday the 24th of February. It’s something like 9:30 til 4 on the Friday at the Bonavero Institute of Human Rights at Mansfield College, and then a bit more of a reasonable start on the Saturday – 10, going on a little bit later, so it’s 10 til 6:30 on the Saturday, and people can sign up on our Eventbrite link online, so if they just search Oxford Disability Law and Policy Conference, they will find that on the Eventbrite page, and they just click to register, and it’s free.

KIRA.

And who should attend? What’s the target audience for the conference?

MARIE.

So we were very keen that this was a very inclusive event, which is why we’ve worked hard, and we’re very grateful for the financial support that we’ve had to run the event. It’s open to academics, to students, at this university and elsewhere, but it also very much is open to disabled people’s organizations, people with disabilities themselves, and members of the public. You know, there’s – one of the things we haven’t talked about today is that actually many people’s experience of disability is because they have a family member who perhaps has a disability, and they’re a really important voice at the table as well, so very much open to all of those groups and people that are just generally have a professional interest in disability as well.
Well thank you very much, Marie, and we hope many of our listeners will sign up for the conference and be there in February.

Thank you very much for having me. It’s been great.

[Theme music.]

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[Theme music ends.]