Transforming Disability into Ability.
A Commentary Based on Recent European Research

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The OECD report makes a major contribution to the cross-national policy debate on promoting employment among people with disabilities. The report provides a comprehensive overview of data on receipt of income maintenance disability benefits, including analyses of inflow and outflow rates and the incidence of recipiency by age and gender. These data are accompanied by concise and insightful explanations of the great variety of institutional and administrative factors that can influence income maintenance disability benefit receipt, including availability of other benefits, linkages between sickness and disability benefits, partial awards, rules on severity of disablement and the impact of contribution requirements and means tests.

The report also contains a number of policy recommendations, particularly about measures which might be adopted to promote employment among people receiving disability income maintenance benefits. In chapter 2, the report defines what it sees as a consensus around the desirability of promoting paid employment among people with disabilities, invoking developments in OECD countries (paragraph 39) as well as supra-national agreements (40) in support of this position.

Policy and Evidence

When there is broad agreement on policy goals, the task of the social scientist is straightforward: it is to explore the empirical evidence in order to map out the relationships between different policies and the outcomes or goals that have been agreed. Of course it is always difficult to come up with firm results in social science. The difficulty that the OECD study faces, and to its credit acknowledges, is that the data do not permit any strong conclusions to be drawn about the effectiveness of particular policies to promote employment among disabled people. Some of the policies favoured in some countries are evidently felt to be successful by national policy-makers, but comparative data on employment rates do not provide
evidence for the success of these policies. The basic reason is that the contextual factors are extremely varied and complex. A particular problem is that disability is defined and assessed differently in different contexts, making comparative statistical analysis very difficult.

The absence of empirical evidence for the effectiveness of particular policies does not diminish the value of the report. On the contrary, the report helps us to understand why the evidence cannot be found, by explaining the multitude of factors which impinge on benefit recipiency and employment rates. However, the lack of empirical evidence means that the policy recommendations, of which there are a number, must be based on something else, and it is quite difficult to identify their basis. For a start, it is easy to be misled by the abundance of data into thinking that the recommendations are based on the data, even though the text of the report makes it clear that this is not so.

The Independence Axiom

The policy recommendations are derived deductively, on the basis of axioms which are not clearly stated, but can be inferred. A key axiom is as follows:

There exists a group of truly disabled people. True disability is a state of affairs which is independent of a person's employment, income, insurance and benefit status (384).

This 'independence axiom' provides a basis for the proposition that disability categorisation and income maintenance benefit receipt could be 'unbundled'. In other words, a truly disabled person could be recognised as such independently of the process of seeking access to particular benefits and services. Furthermore, given the agreed policy goal of promoting paid employment, it is possible to argue that unbundling not only could but should be done. Unbundling is advocated in order to provide a basis for wider access to employment measures for disabled people and to allow benefits to be structured more flexibly for those moving into and out of employment.

The report recognises that unbundling would involve a substantial change in the way disability is currently assessed. There is no single common idea of what disability is, or what it entails, embodied in the legislation of developed welfare states. Understandings of what constitutes disability, and methods of assessment, vary according to a person's employment, insurance (and work history) and benefit sta-
tus, as well as being affected by other factors such as age. Different assessments are done for different social policy purposes. Furthermore, some commentators have argued that this diversity is desirable if social policy categories are to be relevant to their purposes (see e.g. Mashaw and Reno, 1996). In our research for the European Commission, we made relevance a central criterion for evaluating definitions of disability, and argued that relevant definitions would be different for different purposes. This argument was based on a detailed study of how disability was assessed for various purposes in the EU states, but the general reasons for our conclusion can be briefly stated. The fundamental problem is that the environment affects a person's degree of disability. Impairment may be seen as an inherent or person-level attribute, but the extent to which people are disabled by their impairments depends on the environments in which they endeavour to participate.

True Disability

The OECD report acknowledges the difficulty of identifying who is disabled and who is not, and the heterogeneity of the group (394). However, this does not lead to reconsideration of the independence axiom, even though two rather different views are taken about the nature of the true group. First, in chapter 3, survey measures of disability are reported. Right at the start, it is noted that it would be desirable to use objective measures rather than self-reported disability. The definition of disability is that of those reporting a health problem which limits general activities of daily life, and this is used because it is available from surveys in a number of countries. It seems that the OECD does not propose the survey measure as the true measure of disability. However, the data are still used to establish certain key propositions about employment and welfare among disabled people. More problematically, the data on surveyed disability are contrasted with data on disability benefit receipt, and discrepancies are found which are described as 'quite alarming' (84). Disability benefit schemes are characterised as suffering from both inclusion and exclusion error, and much of the commentary assumes that surveys have less error: they might not capture the group of truly disabled people perfectly, but they are assumed to give a truer picture than the administrative data.

The second main set of ideas about true disability are most clearly stated in chapter 8, where it is argued that disability assessment should be done in two steps which clearly differentiate biological difference (impairment and functional limitations) from limitations in activities and participation (401). The first step, assessing biological difference, should be done by medical specialists and based on medical grounds. The second step should determine the extent to which the disabling con-

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dition affects a person’s ability to work (402). Disability status determined in this
way would be unaffected by the person’s employment status, unless the medical
condition changes (403). In this sense, the medical step is seen as the fundamental
and stable component of the disability assessment.

The OECD report notes that there are some examples of disability assessments
which are independent of employment status and income maintenance benefit re-
cipient. For example, a number of countries use impairment rubrics for adminis-
tering their employment quota systems. As the report notes, these systems generally
create a registered disability status which is kept irrespective of work status (406).
However, registered disability status does not bring with it entitlement to income
maintenance benefits: it does not provide a unified disability category which is
referred to both for employment service provision and for benefit administration.
The OECD suggests that it could be extended in this way (fn 66).

The EC study shows that there are some important reasons why the use of impair-
ment-based assessments is restricted, and why states impose further and/or differ-
ent disability tests in their income maintenance systems. The oldest-established
impairment rubrics assess the degree of disability directly from the description of
a person’s medical condition in terms of impairment. For example, degrees of loss
of sight or hearing, measured using accepted technical equipment, may be trans-
lated directly into a degree of disability. This ‘direct measurement’ approach is
appealingly simple, but it is hard to sustain because of the difficulty of explaining
why one impairment is more severe than another without referring to its disabling
effects. As a result, the ratings in these impairment rubrics can seem rather arbi-
trary. The ratings are not widely used for benefit administration because they are
not seen as relevant to the purposes of benefit provision.

This example suggests that the OECD-proposed approach to disability assessment
may also fail the test of relevance. Social policy categories which are not suf-
fi ciently relevant are unsustainable. Irrelevant exclusions may mean that there will
be a group of people whose needs and circumstances are suitable for the policy
(e.g. the income maintenance benefit) who are denied access. Irrelevant inclusions
may mean that people are offered employment-related services (for example) which
they do not want and cannot utilise.

These criticisms do not mean that the OECD is wrong to advocate some form of
unbundling of disability status from benefit receipt. To the extent that existing rules
and benefit structures make transitions into work difficult for disabled people, it

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would be desirable to reform them. Few would dissent from the idea that ‘disability should not be equated with inability to work’, although they might question whether this designation is, in itself, an explanation for low outflows from disability benefits (131). However, the report does not explain why a medically-based assessment of work capacity should be determinative, or why a single definition is necessary. (One might argue for a single definition to reduce administrative costs and intrusion, but this argument is not made by the OECD, which advocates more frequent reassessment than is currently done.)

Employment neutrality and employment promotion

The report notes that benefits to compensate for extra costs of care or mobility may be paid independently of employment status and income maintenance benefit receipt (408). However, it is puzzlingly dismissive of the potential role of extra costs benefits in providing a structure for the types of reforms it envisages, asserting that these benefits are ‘often not adequately integrated with any other policy component’. While the discussion is rather brief, I think that the point is that extra costs assessments do not involve any work capacity assessment or evaluation of the potential for vocational rehabilitation or other employment measures. In other words, extra costs benefits are (broadly) neutral with respect to a person’s employment status, but they are not employment-promoting in the way that vocational assessments might be.

Benefits to compensate for extra costs may be paid to disabled people without designating them as unable to work. There are two different implications which might follow from this. One implication is that non-working disabled people might be able or unable to work but the social security administration would not endeavour to determine this question. The other is that a person who is not unable to work would be seen as able to work. The former implication is employment-neutral; the latter is employment-promoting. The OECD report chooses the latter.

The report argues against the use of a disability category to exempt certain people from labour market participation requirements (such as requirements to seek and be available for work) which are applied to unemployed people. However, it recognises that it would be pernicious to impose participation requirements on all disabled people, and therefore advocates a discretionary approach to these requirements rather than the use of a categorical criterion. Administrators should have flexibility in assembling benefit packages and developing return-to-work plans for disabled people (410).
The rejection of a categorical approach to participation could be explained logically as follows. From the independence axiom, we can deduce that a group of truly disabled people exists, and the true meaning of disability does not equate with inability to work. If it is further assumed that the disability categories used in social policy should correspond to the true meaning of disability, it follows that there is no valid disability category which could be used to exempt a group of people from labour market participation requirements. Therefore a discretionary rather than a categorical approach to these requirements should be adopted.

Clearly it is possible to avoid this conclusion by rejecting the postulate that the disability categories used in social policy should correspond to the true meaning of disability, in favour of the relevance criterion. This suggests instead that social policy categories are constructed for particular purposes: in particular, to facilitate the efficient allocation of resources while avoiding intrusive and burdensome administrative enquiries. We can note that one of the purposes for which disability categories have been constructed in social policy is to exempt certain people from labour market participation requirements. It is arguable that the notion of disability has, in the past, given legitimacy to this exemption. However, the use of the exemption has, in practice, raised a lot of issues about the meaning of disability: in particular, the extent to which age, labour market conditions and other social factors should be taken into account in exempting people from participation. It is clear that governments have manipulated the disability category for political and financial reasons, seeking sometimes to allow more exemptions and, at other times, wanting to extend participation.

It would be possible to detach disability from its problematic connection with participation exemptions in several ways, of which the OECD proposal (expectation of participation with discretion) is one. Another approach would be to base participation exemptions on other grounds. An obvious candidate is age: people over the old age pension age are already exempt from participation, and many states do not impose participation requirements on older unemployed workers long before they reach pension age.

One objection to this is that states are generally trying to raise retirement ages, not lower them. The OECD report notes that contestation over disability classifications in social security is liable to increase rather than diminish as early retirement provisions are eliminated and access to old age pensions is delayed (448). The report argues that the appropriate policy response is to adopt employment-promoting policies and participation requirements, backed by the clear delineation of the dis-
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ability category on medical grounds. Clearly, it is possible to draw the opposite implication: that disability classification will become even more of a minefield in the future than it is today, and that other approaches which do not rely on contentious distinctions need to be found.

One approach is to try to promote employment through choice rather than through administrative intervention. The report points out that benefit structures often deter employment, whether because of the difficulty of earning more than the out-of-work benefit entitlement, or because of high in-work costs, or because of the risk of losing future entitlement by giving up a hard-won disability classification. These deterrents could be removed by changing benefit structures: in particular, by allowing the income maintenance component of benefits for older workers to operate like a basic income. For people with disabilities that impose extra costs, additional benefits to meet these costs could be paid regardless of employment status (as noted above).

A number of states have old age pensions which, with the easing of retirement (labour force exit) conditions, provide something very like a basic income to people over pension age. It would be possible to de-link policies on the pension age and the retirement age, allowing the age of access to a basic income to be lowered while also promoting extension of working lives by allowing work and benefit receipt to be combined.

One possible objection to paying unconditional income maintenance to older people is that it is desirable to establish an expectation of participation in order to motivate the search for effective employment-promoting policies and to encourage governments to provide adequate resources for them. The problem with this argument is that there is a risk that the expectation of participation could have adverse consequences for the fair and consistent treatment of social policy clients. In particular, hard-pressed administrators may develop their own low-level categories of disability based on clients’ employment prospects, without these categories being subject to explicit definition and public and political scrutiny.

Conclusion

Implicit in the OECD policy recommendations is a view that there is a ‘true’ cohort of disabled people who should rightly be the target of social security and employment policy, while current measures have constructed a partially ‘false’ cohort whose presence on the benefit rolls is due to the adverse labour market
conditions facing older workers and to policy decisions to promote exit among these workers. This discussion has shown that there are considerable problems in characterising the ‘true’ disabled. The OECD proposes a medical and work capacity-oriented approach to disability. The findings of research done for the European Commission raise questions about whether this approach is consistent with the criterion of relevance which, in our view, should guide the construction of social policy categories.

Zola (1989) famously put forward the case for a ‘necessary universalising’ of disability policy. He argued that the different disabling effects of different environments resulted in contingent and ever-changing experiences of disability. While his analysis did not rule out using disability categories in social policy to identify particular groups with relevant needs, it highlighted a number of possible problems. Many disabling conditions have complex patterns of progression and remission, implying frequent reassessment and adjustment of provision. Zola advocated more flexible universal policies. These might include not only changes to building and transport design, but also workplace policies allowing flexibility in hours and productivity, provision of benefits which would function as a non-categorical basic income, and so on. The OECD has advocated an approach which is flexible in the sense of being favourable to employment, but the policies it proposes leave little to individual choice and envisage a high level of administrative engagement which could be both costly and intrusive.

Note

* Brunel University recently hosted a research project on Definitions of Disability, funded by the European Commission and involving national reporters from all the EU member states except Luxembourg, along with Norway. The project report will shortly be published by the European Commission. Information about the project is available from the website: http://www.brunel.ac.uk/healthpolicy/disability.html. (Final report available from David Matthew's website.)

References


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