

Section 2: Disability policy at the crossroads

Disability and society

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Learning objectives/key points

- Models of disability policy (welfare/rights), their use and limits
- Disability as a historically constructed policy category/the political stakes and social implications of the choice of a given definition
- Role of wars, social policy traditions and activism in shaping disability policy
- Contemporary framing of disability rights internationally (UN CRPD) and at the EU level

Outline

Models of disability policy

Social welfare vs civil rights model

Models which coexist in practice

Disability policy in practice: the case of France

Wars, social policy and the creation of the first disability provisions

The role of disability organizations in the development of institutions and services

Inventing disability as a policy category: the 1975 laws

Shifting policies, shifting definitions: the 2005 law

Lessons from the French case study

Disability policy at the UN and EU levels

The UN CRPD

Disability policy at the EU level

Models of disability policy

	Social welfare model	Civil rights model
Conception of disability	Disability as an individual defect (medical model)	Disability as social barriers
Target of policy (who/what must be adapted)	Disabled individuals (health care, rehabilitation, welfare)	Social contexts (workplace, education, public transportation...)
Form of policy	Disability as a specific policy sector	Disability mainstreaming/antidiscrimination
Form of citizenship for DP	Exclusion/segregation	Inclusion/Equality

Disability policy in practice: the case of France (Winance, Ville & Ravaud 2007)

Wars, social policy and the creation of the first disability provisions

- Until the end of XIXth century: charity to the « deserving poor »
- 1898 law on work-related accidents: collective responsibility, social risk, collective repair
- WW1: same principle → pension system for injured veterans
- Labor shortage → rehabilitation practices
- 1945 Social security system

→ Shift from assistance to social rights, yet unequal rights depending on the origin of the disability

Disability policy in practice: the case of France (Winance, Ville & Ravaud 2007)

Role of disability organizations in the development of institutions and services

Inter-war period and post WW2: creation of associations for disabled adults and children.

Initial goal= take DP out of hospices and offer proper rehabilitation provisions in view of integration into mainstream society

- Creation of specialized educational institutions, residential homes, workshops
- The state delegated the management of these institutions to « management » disability associations
- Stone and mortar policy
- Segregation

Disability policy in practice: the case of France (Winance, Ville & Ravaud 2007)

Inventing disability as a policy category: the 1975 laws

1975 « orientation law in favor of disabled people »

- Obligation to integrate disabled persons into society
- Simultaneously, a category-based policy, creating the administrative status of « disabled person » → Social rights extended to all persons with impairments regardless of the origin of the impairment

Second 1975 law covers the organization of specialized « medico-social » institutions

→ Integration through segregation

Disability policy in practice: the case of France (Winance, Ville & Ravaud 2007)

Shifting policies, shifting definitions: the 2005 law

Rise of questioning regarding the role of environmental/social barriers
(accessibility, antidiscrimination)

→ Tension between category-based and universalist approach
(medical/social model)

Art. L. 114. A disability, under this law, is constituted by any activity limitation or any restriction to participation in life in society to which a person is subjected in his or her environment due to a substantial, durable or definitive alteration to one or more physical, sensorial, mental, cognitive or psychological functions, or to a polydisability or to a disabling problem of health (Law of 11 February 2005).

A few lessons from the French case

- Disability as a historical, policy-constructed category
- Distinctions according to the origin of the impairment
- Factors of policy change: wars, labor shortages, collective mobilization
- Influence of broader policy context (ex. collective risk as opposed to individual liability in labor law)

Disability policy at UN level

Since the 1980s, very active role of the UN in the development of international disability rights:

- 1981 UN's international year of DP
- 1982 World program of action concerning DP
- UN decade of disabled persons
- 1993 standard rules on the equalization of opportunities for persons with disabilities
- 2006 Convention on the Rights of Persons with Disabilities (CRPD)

The UN CRPD (2006)

- Result of decades of international disability activism
- Inclusion of disabled people's organizations in the drafting process
- Based on the social model
- International human rights instrument
- Civil, political, economic and social rights
- Precise definition of the rights involved
- Monitoring process: states are required to submit regular reports on their implementation of the convention

(Harpur, 2012; Kanter, 2015)

The UN CRPD (2006)

Right to equality and non-discrimination:

- Accessible buildings, schools, programmes and public transport
- Right to live independently and be included in the community
- Personal mobility, freedom of expression and opinion, access to information, protection of privacy
- Political participation, participation in cultural life, recreation, leisure and sports

Right to life and to be free from torture or cruel, inhuman or degrading treatment or punishment

Right to respect for home and the family, to health care, rehabilitation and work

Right to an adequate standard of living and social protection

(Harpur, 2012)

Disability policy at the EU level

Coexistence of 1) traditional social policy measures (social protection, labor market integration), and 2) antidiscrimination policy

1974-79: first EU programme targeting disabled people: focus on vocational rehabilitation

1980-86: influence of UN IYPD

1986-95: focus on labor market integration (HELIOS programmes)

1997 Amsterdam treaty: includes a non-discrimination clause for DP

Since then: focus on equal opportunity and non-discrimination. Proliferation of policy documents on equal rights for DP

2003 European year of PWD

But disability non-discrimination legislation at EU level remains focused on employment.

(Waldschmidt, 2009; Lawson, 2015)

References

- Barnes, C., Oliver, M., & Barton, L. (2002). Introduction. In C. Barnes, M. Oliver, & L. Barton (Eds.), *Disability studies today* (pp. 1–17). Cambridge: Polity Press.
- Hahn, H. (1985). Toward a politics of disability: Definition, disciplines, and politics. *The Social Science Journal*, 22(4), 85–105.
- Harpur, P. (2012). Embracing the new disability rights paradigm: the importance of the Convention on the Rights of Persons with Disabilities. *Disability & Society*, 27(1), 1–14.
- Heyer, K. (2015). *Rights enabled: the disability revolution, from the US, to Germany and Japan, to the United Nations*. Ann Arbor: University of Michigan Press.
- Kanter, A. S. (2015). *The development of disability rights under international law: from charity to human rights*. Abingdon: Routledge.
- Kimberlin, S. E. (2009). Political Science Theory and Disability. *Journal of Human Behavior in the Social Environment*, 19(1), 26–43.
- Lawson, A. (2015). *Towards EU Disability Rights : Inspirations, Implications and Implementations*. Paris: Conference “2005-2015 : quel anniversaire pour les personnes handicapées ?”
- Malacrida, C. (2007). Negotiating the Dependency/Nurturance Tightrope: Dilemmas of Motherhood and Disability. *Canadian Review of Sociology*, 44(4), 469–493.
- Prince, M. (2009). *Absent Citizens: Disability Politics and Policy in Canada*. Toronto: University of Toronto Press.
- Shah, S., & Priestley, M. (2011). *Disability and social change. Private lives and public policies*. Bristol: Policy Press.
- Stiker, H.-J. (1999). *A history of disability*. Chicago: University of Michigan Press.
- Waddington, L., & Diller, M. (2002). Tensions and coherence in disability policy: the uneasy relationship between social welfare and civil rights models of disability in American, European and international law. In M. Lou Breslin & S. Yee (Eds.), *Disability rights law and policy: International and National Perspectives* (pp. 241–280). New York: Martinus Nijhoff.
- Waldschmidt, A. (2009). Disability policy of the European Union: The supranational level. *ALTER, European Journal of Disability Research*, 3, 8–23.
- Winance, M., Ville, I., & Ravaud, J.-F. (2007). Disability Policies in France: Changes and Tensions between the Category-based, Universalist and Personalized Approaches. *Scandinavian Journal of Disability Research*, 9(3-4), 160–181.