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Social Justice and Disabled People: Principles and Challenges

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Social justice is a policy aim of the UK Labour government. This paper considers the applicability of the concept to disability, seeking to establish principles for conceptualising social justice and disability and considering the nature of the challenges for public policy and society posed by this conceptualisation. The paper considers how disability is implicated in two types of claims about the source of social injustice: those concerned with socially constructed differences between people; and those arising from material inequalities. Appropriate values underpinning alternative conceptions of social justice are discussed and tensions in policymaking considered.

Introduction

In much of Europe, the purpose of social policy has been increasingly seen as to secure *social inclusion* for the most disadvantaged people (Room, 1995). In the UK, however, *social justice* has re-entered policy discourse, influenced by the 'Commission on Social Justice' (1994) established by the then leader of the Labour party, by ministers of the Labour government elected in 1997 using 'social justice' to describe their aims, and by the adoption of 'social justice' by the devolved Scottish Executive to describe policy to ameliorate social exclusion and reduce poverty (1999). Theoretical debates about the concept of social justice have a longer history, influenced recently by Rawls' *A Theory of Social Justice*, published in 1971 and by more recent theories of equality, participation and recognition. This paper considers the concept of social justice and its applicability to disability. It seeks to establish *principles* for conceptualising social justice and disability and to consider the nature of the *challenges* for public policy and society posed by this conceptualisation.

Principles in conceptualising social justice and disability

According to Miller, social justice provides a rationale for 'how the good and bad things in life should be distributed among the members of a human society' (1999: p. 1). *What* rationale remains contested and this paper follows Rawls in adopting justice as fairness as its initial approach. This focuses on the fairness of the distributional processes and outcomes that arise from and within the key institutions of society, including families and public services, for example. A number of important distinctions can be made, however, in alternative conceptualisations of social justice as fairness. We concentrate on two, the first of which comprises competing claims as to how social injustice arises,

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who suffers injustice and who has responsibility for securing its amelioration. The second concerns the appropriate values underpinning alternative conceptions of social justice.

The claims of justice and injustice

Fundamental to debates about what is required to secure social justice (Gray, 2000) is what the source of injustice is seen to be. Two sources are frequently invoked: the socially constructed differences between groups such as men and women, disabled people and others and so on and inequalities of income, wealth and other resources.

1. Cultural claims. There is a growing recognition in public policy of the claims for social justice emerging from the 'politics of recognition' (Young, 1990; Kymlicka, 1995; Fraser, 2001). This sort of claim asserts that some kinds of injustice are *cultural* rather than simply material in origin. Injustice exists when cultural norms serve to oppress certain groups within society. For example, such groups' norms, values or practices may not be recognised or valued, or dominant norms may deny the equal status of some people.

Following this approach, cultural factors rather than biological endowments or impairments explain the economic and social position of disabled people. For example, cultural factors influenced the course of the disability movement's campaign to secure access to the built environment, as the paper by Watson and Woods (this issue) illustrates. Further, public opinion surveys show evidence of prejudice; for example, a third of people in a Scottish survey believe that there is a lot of prejudice against disabled people (Bromley and Curtice, 2003).

Lack of recognition features strongly in the social model of disability (Oliver, 1990). However, Shakespeare (1994) criticised the social model for its failure to include culture fully in its analysis. He argues that the cultural imagery associated with disability is overwhelmingly negative and the paucity of writing on this stems from the neglect of impairment. Shakespeare maintains that it is necessary to challenge such representations before a strong cultural politics can develop: 'If the social model analysis seeks to ignore, rather than explore, the individual experiences of impairment (be it blindness, short stature or whatever), then it is unsurprising that it should also gloss over cultural representation of impairment, because to do otherwise would be to potentially undermine the argument' (pp. 283–284). More recently these concepts of culture and identity have attained a much higher profile (see, for example, Corker and Shakespeare, 2002; Priestley, 2003; Riddell and Watson, 2003).

Participation in key institutions of society, such as the family and markets, and from local to national and international levels of governance, is a key claim of those who appeal to the need to recognise cultural differences. Three problems can be identified that hamper the development of a strong cultural politics. First is the lack of common interests among different groups of disabled people. For example, some feminist commentators argued that, in its earlier stages, the disability movement was dominated by the voices of middle class white men who were wheelchair users. However, deaf people, for example, have developed a strong cultural position as a linguistic minority (Scott-Hill, 2002; but, in contrast, for other groups see Beresford, 2002; Goodley, 2003; Priestley, 2003). Second, a range of other groups seek to represent the interests of disabled people or they are absent from the table. For example, Drake (2002) noted the dominance of the large national voluntary organisations by non-disabled people, Edwards reported

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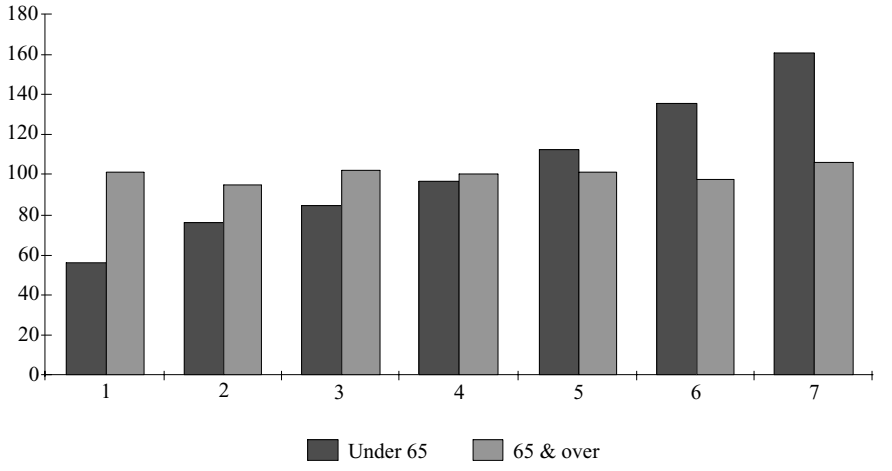


Figure 1. Stroke: standardised mortality ratios (SMR) by deprivation category and age group (1994–98).
Note: Deprivation categories 1–7 are based on the Carstairs index – see above for explanation.
Source: Scottish Executive Information and Statistics Division, 2001.

the absence of disabled people in area regeneration forums (2001, 2002), Barnes (2002) noted the exclusion of mental health survivors and disabled people from local government consultation processes and Parker and Clarke (2002) described the tensions between the carers' movement and the disabled people's movement as both jostle for recognition. Third, there is no easy reconciliation of the simultaneous calls for recognition of difference and recognition of the sameness of all humankind, as Witcher discusses (this issue).

2. Redistributive claims. Gross inequalities exist in the distributions of material resources and social goods such as health in British society. These structural inequalities between groups have been seen as the source of social injustice for many years (Harvey, 1992). A key feature is that such inequalities carry over to other spheres, so that poverty can be implicated in poor health, for example. This effect of inequalities in preventing people from living together on equal terms is a common feature of writing on social justice (Smith, 1994; Walzer, 1983). The politics of class and the welfare state have provided the means to advance claims based on such inequalities. Historically, inequalities of capital or money have been given particular attention, but other inequalities of employment, health or locality, for example, can also feature in claims for attention.

There is plenty of evidence that such injustice arises in relation to disability. For example, there are strong links in Scotland between poor health associated with long-term impairment, economic inactivity and poverty, as illustrated by Figures 1, 2, 3 and 4. Figure 1 shows the association between social disadvantage as measured by the Carstairs Index of Deprivation and strokes, which is the major cause of long-term impairment in Scotland. Whereas chances of dying from a stroke do not vary by deprivation category for the over-65s, for people who have a stroke at a younger age there is a very strong association with level of deprivation. Figure 2 demonstrates that poorer people are much more likely than those at the socially advantaged end of the spectrum to contact their GP

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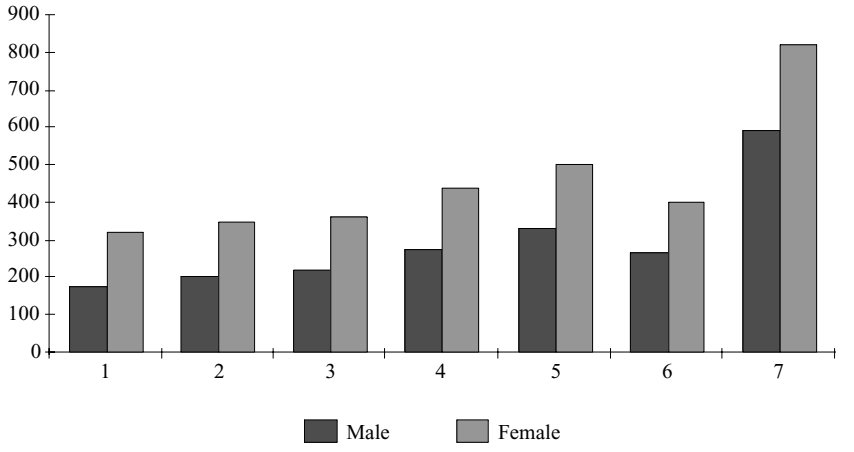


Figure 2. Mental Health: GP contacts (rate per 1,000 population) by deprivation category in Scotland, year ending March 2000.
Note: Deprivation categories 1–7 are based on the Carstairs index – see above for explanation.
Source: Scottish Executive, Information and Statistics Division, 2001.

as a result of mental health problems. Women are also more likely than men in all social categories to visit their GP as a result of mental health problems.

The nature of the causal relationships involved in such statistical associations can be disputed – does poverty 'cause' strokes or is it the other way round or is there a more complex process at work? A series of studies conducted by researchers at the Strathclyde Centre for Disability Research have demonstrated that the onset of a serious illness often leads to the person withdrawing from the labour market. As shown in Figure 3, disabled people are much less likely to be employed than non-disabled people (40 per cent as opposed to 82 per cent). In turn, this means that households that include a disabled person have much lower incomes than those without a disabled person (see Figure 4).

The values underpinning social justice

Conceptions of social justice are based on values, including those that dictate how goods and burdens should be distributed. Disabled people stand to benefit or be disadvantaged, depending on which value or what trade-off between values drives which distributional decision. The value most commonly associated with justice as fairness is *equality* in one form or another (Kymlicka, 1992). However, political philosophers and social policy commentators argue that other values co-exist in the conceptions of fairness commonly found in contemporary developed liberal societies and welfare states (Miller, 1999). As well as equality (in a variety of forms), it is said that *desert* or *merit*, and *need* are also held as appropriate in some distributional processes and these are now considered.

1. Desert or merit. According to this distributional principle, a just distribution of goods and burdens is one in which everyone gets what he or she deserves (rather than what he or she needs, for example) on the basis of their qualifications or accomplishments.

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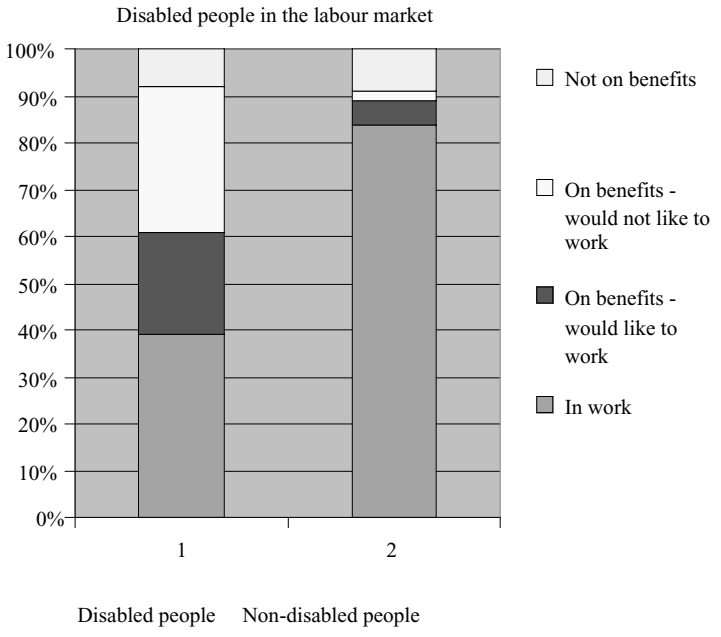


Figure 3. Disabled people in the labour market in Scotland.
Source: Labour Force Survey, Winter 2001 (authors' analysis).

This principle is particularly promoted in education and employment. Yet questions frequently arise as to whether in these fields merit can always drive recruitment or promotion decisions. Can disability, ethnicity, class, religion or gender ever be relevant to distributional outcomes, or should it be only merit?

There is evidence that disabled people are sometimes excluded from the application of merit as the criterion for selection while it is being applied to others in particular situations such as recruitment. The Disability Discrimination Act prohibits *unfair* discrimination only and does not prohibit selection on the grounds of ability, which means that many disabled children and young people are denied access to particular schools and universities. In the field of work, an employer may simply argue that a disabled person was not the strongest candidate for the job, thus side-stepping their obligations to make reasonable adjustments. Equal opportunities procedures for making appointments may mean that the notion of the 'normal job' means that people with learning difficulties are squeezed out of employment (Wilson, 2003).

2. Need. Need exists where people lack the support and resources to be able to participate in society's institutions. Need has been used as a key distributional principle in the welfare state since its beginning, translated into normative judgements about what resources should be devoted to mitigate which needs. Rectifying need can require *unequal* treatment, for example to prevent impairment becoming a barrier. The challenge of finding the resources to meet the commitments implied by normative need makes this a contested issue in welfare debates, since many interest groups vie for limited resources. Normative need is often distinguished from subjective need or *want*, a concept more applicable to

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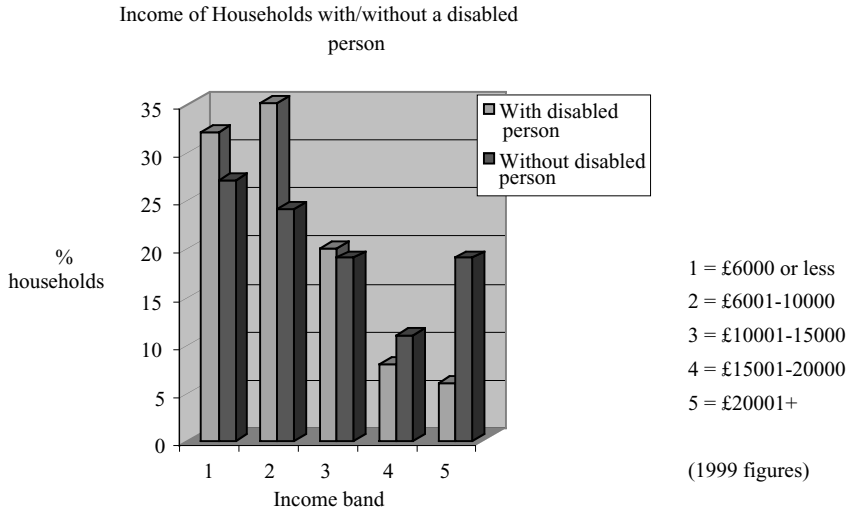


Figure 4. Income for households with and without resident disabled person, Scotland 1999. *Source*: Scottish Household Survey, 1999 (authors' analysis).

markets. However, recent influences on the welfare state, from consumerist and human rights angles, have stimulated attempts to find ways simultaneously to satisfy need and want, as in the direct payments discussed in Riddell *et al*.'s paper (this issue).

Tensions are often evident when the delivery of services is ostensibly based on an assessment of need, but some other value drives events. This may not be a value justified with reference to social justice at all. A common example is a clash between need and economy, for example in the field of special education needs, or in the medical treatment of some impairments, as Shakespeare discusses (this issue). Similarly, questions have been raised about the cost of including children with special needs in mainstream schools and of implementing the Disability Discrimination Act. In the same way, employers complain about the cost of making reasonable adjustments, and unreasonable expenditure remains one of the factors that may be used to justify a failure to make such accommodations.

3. Equality. The most frequently invoked principle of social justice is equality (Kymlicka, 1992) of which three types are commonly distinguished: equality of procedure, equality of outcome and equality of status (Miller, 1999). Equality of procedure is favoured by those who consider that the application of identical procedural rules and methods is sufficient to secure social justice (for example, Nozick, 1974). However, it can be seen that such equality is often subverted in practice by unequal resources and by cultural differences that prevent people from attaining what is their due. In other words, procedural fairness may produce unfair outcomes.

Equality of outcome (Sen, 1992) may be seen as a more appropriate goal in seeking to overcome the barriers imposed by an unequal society on disabled people. A key question is therefore what level of resources would constitute social justice for disabled people (Rawls, 1971; Miller, 1999)? Figures 3 and 4 demonstrate disabled people's exclusion from the labour market and the poverty resulting from dependence on benefits. There is

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insufficient equality to prevent the disadvantages of impairment and cultural barriers from carrying over into employment and income levels.

Third, equality of status is seen by some commentators as the key type of equality. Disabled people clearly do not have an equal place in the social, economic and political processes of society (Lister, 2000; Fraser, 2001). Such equality of status could be seen as the only criterion of social justice, but that would carry the danger of neglecting material inequalities (Fraser, 2001). The dilemmas involved in recognising difference and sameness have already been mentioned (see Witcher, this issue). Self-advocacy and the disability arts movement may have particularly important roles to play here (Goodley, 2003).

In summary, three 'social justice' values are commonly used to justify distributional processes: need, desert/merit and different types of equality. One key question about them is what are the circumstances in which each should be applied. However, we have seen that the problem for disabled people can be that socially just values are not applied at all or are undermined by a trade-off with other values or by the exemptions granted by law to employers and other key institutions in relation to disabled people.

Challenges for public policy

A number of challenges for public policy arise from what has been said so far. But before addressing these squarely it is useful to consider how far *public policy* is to be held responsible for rectifying social injustice. Certainly, the key question of how social injustice should be rectified was answered in the post-war period with reference to the role of the state. However, recent debates have focused on what combination of action by the state, the market, 'communities', families and individuals is required to produce social justice (Roche, 1992; White, 2003).

This is illustrated in the field of employment, for example, where the 1944 Employment Act placed a duty on employers above a certain size to ensure that 3 per cent of the workforce was disabled. The quota system, still used in some European countries, was never enforced and was eventually replaced by the Disability Discrimination Act. Under this legislation, employers and providers of goods, services and education are not allowed to discriminate against disabled people. Discrimination is defined as providing less favourable treatment for a reason related to a person's disability without justification or failing to make reasonable adjustments. In relation to the provision of goods and services and education, anticipatory adjustments must be made. If it is believed that discrimination has occurred, the onus is on the disabled person to bring a case to court or Tribunal.

There has therefore been a marked shift in understanding about who has responsibility for taking action so that the state is seen as acting as regulator, individual disabled people are given a role in enforcing their rights, and employers are expected to meet expectations set down in law. The Government enjoins employers to fulfil their social obligations to employ disabled people and maintains that there is a business case for doing so. However, it is perhaps not surprising that research suggests that many employers are unenthusiastic about offering work placements or jobs to disabled people (see, for example, Riddell *et al*., 2002).

It might be argued that this new deployment of responsibilities accords more respect to the disabled person who is enabled to be active in defence of their rights. This might be seen as consistent with the civil rights approach, in that it marks a shift away from

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a traditional charity model. But its success depends on the ability of the individual to take action. The diversity of disabled people's identities and experiences and the material inequalities that impact on their participation in the institutions of society have meant that collective action and voice have been difficult to achieve. Clearly some disabled people, as a result of their economic, social and cultural location, are better able than others to take on the new burden of responsibility to take action to ensure their rights are secured. The state still seems to be essential to achieving social justice, although its limits are perhaps better understood.

Turning to the challenges for public policy, how these are framed or answered depends on the conceptualisation of social justice adopted. Fraser argues that it is not necessary to choose between the two approaches – cultural and distributional – discussed here and that social justice today requires both (2001). Further, if attention turns to the values to adopt in distributional processes, we suggest that procedural justice is not sufficient and that equality of outcomes and status must be attended to.

Participation as equals in social life is essential to securing social justice for people marginalized by structural inequalities as well as those oppressed by 'misrecognition'. Disabled people, as we have shown, can often fall into both categories but considering them separately enables us to see that different remedies may be required for different sources of injustice.

If we adopt the cultural approach we will see that the task of policymakers is to seek to ensure that key institutions, such as government, the NHS, business and civil society, reconcile the development of positive social identities for disabled people with efforts to treat everyone with equal respect. This requires a challenge to the negative representations of impairment and disability in society as well as ensuring respect for the common humanity of all. This challenge exists particularly in relation to groups, such as people with learning difficulties and mental health problems, who have experienced particular stigmatisation. We can also see that it is not up to government alone and that the actions and attitudes of employers, educational institutions, and so on are implicated.

If, however, the challenge for public policy is considered with reference to the effect of the material and other inequalities in society, then the emphasis is likely to be more on redistribution. There is little sign that this is being tackled effectively. In a Green Paper on employment (DWP, 2002) the Government expressed a commitment to restricting access to long-term incapacity benefits and encouraging participation in work-focussed interviews and employment programmes. However, if the poverty experienced by disabled people is to be tackled, there is a need to review the level of incapacity benefits, including Disability Living Allowance, which is intended to help meet the additional costs of having an impairment.

It must be acknowledged that implicit or explicit in UK public policy is recognition of both the 'cultural' and 'unequal resources' approaches to social justice. Policy seeks to reduce poverty and recognise difference. It seeks to rectify the disadvantages created by unequal access to health, education and other services and prevent disadvantage in one sphere from affecting life chances adversely. Further, equality, need and merit are promoted in public policy as appropriate values to adopt within distributional processes. However, we have seen that despite some substantial advances, many challenges remain. Disabled people suffer from inequalities arising from the way that disadvantage in one sphere carries over to another. The principles of merit, need and equality are frequently subverted or abandoned in favour of other, unjust principles or in deference to budgetary

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constraints. Powerlessness has not been tackled effectively and the voices of disabled people are not often heard in society's major institutions (Young, 1990; Edwards, 2001, 2002).

Conclusions

We have seen that social justice provides a basis for identifying that certain people are not getting what is due to them. Claims to receive social justice are therefore not the same as claims to receive humanitarian or charitable treatment. However, social justice remains a disputed concept, and one which, by its nature, cannot be defined in a simple manner. Key distinctions in conceptions of social justice as fairness concern the emphasis to be placed on material inequalities and other types of inequalities. From either vantage point, disabled people suffer social injustice. Many challenges for public policy therefore remain. Rectifying material inequalities, and meeting the calls for recognition and participation are as relevant today as in 1995 when the Disability Discrimination Act was passed by a reluctant Conservative Government, two decades after sex and race discrimination legislation was achieved. However, the idea of social justice requires continuing discussion, since there is a need for continuing effort to understand the nature of what a socially just society would be and how it would handle disability issues and needs.

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