European Disability Policy – Disability Policy in Europe: A German Perspective

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1. Preliminary remark

In my presentation, I discuss ideas from the first phase of a research project on disability policy in Europe that I am currently preparing at the University of Cologne. This paper is for discussion, it contains neither a finished analysis, nor findings from an empirical study of my own nor a detailed, consistent theoretical concept. It should be understood as a sketch, as an attempt to reflect on theoretical aspects of European disability policy and on disability policy in Europe. The aim of this paper is to place disability policy within a social policy context, and to consider specific issues of disability policy in Europe today.

2. Social and cultural issues in the process of European integration

Nearly fifty years after it was begun, the European project remains incomplete. The EU's constitutional process, the outcome of which is still uncertain, has revealed that the European idea is lacking an adequate basis in civil society. In their majority, Europe's citizens have been unwilling to give their "yes" to Europe because they feel that Europe's elites have ignored their concerns about the impacts of transnational economization and culturation. While the economic and institutional-structural processes of integration are already well-advanced, Europe's national civil societies are far from ready to embark on the "adventure of Europeanization" (Delhey 2005).

The constitutional crisis also highlights the importance of European social policy. Social policy involves more than just the social security of the EU's citizens; it provides the opportunity to stabilize the "European house" and, by enshrining common social values and standards, to promote the formation of a European identity. Although various different models of the social state have established themselves throughout the European region – including universalist, liberal and conservative models (Esping-Andersen 1990; Lessenich/Ostner 1998; Schmid 2003; Berthoud/Iacovou 2004), all of these models share a constitutive core – namely, the fundamental conviction that social rights, social compensation and social security are legitimate needs. In this view, equality and solidarity are seen as central values of the European cultural region, and the "social" is one of the central essences of that which is European (Joas/Wiegandt 2005).

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While equality and solidarity, to a certain respect, are part of the traditional European core identity, another cultural value – namely, "diversity" – has just recently appeared in the values debate. With the phrase "united in diversity", which appears in the Treaty establishing a Constitution for Europe (Art. I-8), the EC/EU has set itself the aim of regulating the dynamic spectrum between unification ("unity") and differentiation ("diversity").

Often in the European context, "diversity" is seen only in connection with the transnational level and is understood to mean mutual acceptance of different cultures, religions and languages (for example, Hofmann 2002; Röben de Alencar Xavier 2002). And yet European societies also exhibit numerous instances of differentiation between majorities and divergent socio-cultural milieus, differentiation that brings up the question of whether recognition of diversity could promote social-integrative coexistence more effectively than do hierarchizing differentiation and discriminatory exclusion (European Commission 2004a,b). In actual fact, there are indications that the concept has a universalizing tendency whereby diversity is also transferred, as a principle, to societal structures and areas of action – and thus gains general importance. As a transnational macro-structure, that which is "European" clearly is not constituted solely through external differentiation – for example, against "America" or the "Orient" – but also through dealings with Europe's own minorities and minority groups, i.e. in the framework of national meso- and subnational microstructures.

European anti-discrimination policy takes account of the fact that societal processes of individualization, pluralization, migration and globalization function not only on the level of continuing vertical stratification. Horizontal categories of differentiation as well, such as gender, age, ethnic background, sexual orientation, religion and disability, have become important with regard to social positioning and interaction. European society has become more "colourful"; traditional social structures have lost their sharp outlines and gained multi-dimensionality. To the challenge of increasing cultural diversity, the EU has responded with concepts of its own that have not yet attracted sufficient scientific interest.

The current transformation of "European" culture is particularly well exemplified by dealings with socio-cultural minority groups. The working society is undergoing a fundamental crisis, in that it is increasingly losing jobs for those who have only limited capacity to work and achieve and who do not conform to current market requirements.

In the still-young 21st century, the question thus again arises as to social rights and new forms of cultural participation for large parts of the population. The vision of a "Europe of the superfluous", as a counter to a "Europe of elites", is certainly not desirable, and it highlights the need to redefine Europe socio-culturally. In its self-perception, European society must seek to include those who are existentially threatened by marginalization and exclusion.

That which is "European" thus proves to be not only a specific relationship between that which is "ours" and that which is "foreign" (Wierlacher/Albrecht 2003), but also a relationship between a "normal" majority and "our own foreigners". As a result, the principle of diversity provides a new accent for the relationship between the "normal" majority and divergent minority groups. To the social state's traditional tasks (social welfare, social integration) is added that of ensuring that its own minority groups have cultural spaces in which to live out their differentness. As a result of the process of Europeanization, national levels will be measured in terms of their willingness and ability to recognize minorities as citizens with equal rights – not only in the social realm, but also culturally – and to counter discrimination of minorities.

3. People with disabilities in Europe - European disability policy

Turning to people with disabilities, one finds that they, presumably, form the largest social minority group in the EU. Shortly before the recent EU enlargement from 15 to 25 members, it was estimated that some 38 million people, including all age groups, in the European Union live with a chronic disease or a disability (Schulte 2003, 46). For 11 EU members, the OECD (2003, 48) gives an average disability prevalence of over 15 percent. In light of demographic trends, and of the close correlation between age and health problems, the number of EU citizens with disabilities can be expected to grow.

In the Treaty establishing a Constitution for Europe, the EU has taken account of the large numbers of EU citizens with disabilities by giving "disability" basic-rights status in two ways. On the one hand, disability – along with other horizontal differentiation categories such as gender, ethnic background, etc. – has been included in policies for combating discrimination and promoting equal opportunity (Art. II-81, III-124). On the other hand, the EU has explicitly recognized that people with disabilities are entitled to

integration, to which the EU links aims such as safeguarding of independence, social and occupational integration and participation in community life (Art. II-86). In other words, the constitutional treaty defines "disability" in two ways, within the sense of the problem description provided in the first part of my paper: firstly, as a dimension of cultural diversity; secondly, as a social problem.

These constitutional provisions thus define a minority-group policy that moves throughout the spectrum between traditional rehabilitation policy (an area in which public-health, poverty and labour-market policies overlap) and new civil rights policies (ie. equal opportunity policy). From a systematic perspective, a total of three "policies" can be identified in disability policy. While these policies have or involve different histories, aims, addressees, institutions, strategies and players, they are closely interrelated:

- The policy of income security focuses on providing services that transfer welfare and social security to persons who are unable, or only partially able, to earn income. It stands in a line of tradition with poverty and employee policies.
- Rehabilitation policy, which dates from the late 19th century / early 20th century, focuses on restoring and protecting the ability to earn an income. It promotes social participation primarily via integration within the labour market and provision of specific compensations for impairments.
- The most recent policy, born in the late 20th century, is civil rights policy, which seeks to guard against unfair discrimination and disadvantage. Protection of equality under civil rights aims at safeguarding the social recognition, inclusion and participation of people with disabilities.

While such systematization is certainly helpful, from a theoretical standpoint it is still unclear how, and why, the policy area we refer to as "disability policy" took shape. Does disability policy fit within the general logic of social policy? Does it simply reflect such policy, or is there friction between the general framework and the sub-system oriented to persons with disabilities and chronic ailments?

My overview has revealed that no political-scientific analysis of disability policy has been carried out to date, i.e. there has been little systematic study of the relationships between general social policy and special social policy aimed at specific groups – relationships which are much more likely to be characterised by conflict than by

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harmony. I also cannot advance a completely detailed theory of disability policy at this time. In the following, I would simply like to consider two approaches that could be helpful in developing such a theory.

4. A German attempt to formulate a disability policy (Christian von Ferber 1977)

One attempt to understand the basic issues of disability policy dates from 1977. It was put forward by the German medical sociologist Christian von Ferber. His arguments may be summarised as follows: Social policy for people with disabilities must overcome social resistance that can be broken down into six main problem areas:

- Lower social strata face greater risk of being affected by disability. The
 combination of diminished social options and reduced individual life opportunities
 constitutes a "state of critical endangerment and, thus, of special need" (Ferber
 1977, 616).
- The social principle of performance-based competition contradicts with the principle of solidarity. Stigmatizing and exclusion occur even in family units. Solidarity obligations must therefore be assumed by social institutions (Ferber 1977, 616).
- 3. The group of people with disabilities comprises various sub-groups, each with different problem situations and needs. The following must especially be differentiated:
 - a) People with impairments resulting from one-time disasters and, thus, with claims to compensation (such as war victims)
 - b) People with acquired or inborn impairments that occur with certain statistical frequencies in the various phases of life (such as chronic illnesses)
 - c) People with disabilities that tend to meet with strong social defences and aloofness (especially mental and psychiatric problems)
 - The great diversity of the group in question brings up problems with respect to defining the group, determining what assistance is adequate and organizing the assistance. (Ferber 1977, 617)
- 4. Assistance for people with disabilities is provided by many different institutions and via bureaucratic procedures. The assistance system's thresholds and

- complexity, in combination with inadequate counselling, tend to lead to overtaxation of primary social networks. (Ferber 1977, 617f.)
- 5. Like poverty policy, disability policy faces the paradox situation that assistance holds the risk of socially demeaning the group of persons who is to be helped. (Ferber 1977, 618ff.)

The danger of stigmatization brings up two questions for social policy:

- a) How can stigmatization resulting from society's processes of definition and exclusion be reduced?
- b) How can stigmatization that is tied to social-policy assistance be combated?
- 6. Finally, Ferber urges that social policy be reoriented in the direction of the socalled finality principle (1976, p. 623f.)

This principle implies two social-policy tasks:

- a) Assistance should be based primarily on need, rather than on membership in a specific organisation that provides social services
- b) For each addressee, a final state should be determined toward which assistance should be oriented.

In light of the fact that the cited essay first appeared in 1977, i.e. nearly thirty years ago, many of its conclusions are still surprisingly accurate – not only for Germany, but also in the European context. Overall, the essay leaves a rather unsatisfactory impression, however. The main reason for this is that the author fails to establish any links to the general social-policy debate that was already well in progress at the time he wrote his essay - i.e. the mid-1970s.

5. The perspective of comparative social welfare state theory (Gøsta Esping-Andersen 1989)

By establishing a connection to the general debate on the social state, I would like to move a step beyond Ferber. To this end, I would like to use the comparative typology of international welfare models developed by Gøsta Esping-Andersen, a Swedish theoretician of the welfare state (1998¹, especially 43ff.), at the end of the 1980s. First of all, however, a brief outline of his well-known and controversially debated framework concept:

¹ First published in 1989

Esping-Andersen differentiates three types of state welfare regimes. These differ in terms of

- a) what socio-politically defined problems they select (risk selection),
- b) of what population groups they include (type and extent of inclusion) and
- c) of the degree to which their relevant services depend on recipients' positions within the labour market (de-commodification of work).

The *universalistic* model, which is practiced primarily in Scandinavian countries, places equality at the top of social-policy priorities. This model provides non-discriminatory access to social and care services, and it aims to harmonise distribution and stabilization of individual life opportunities. It also seeks, via institutions, to safeguard an orderly compromise between capital and work, with the aim of achieving full employment. Social services are tied to nationality or duration of stay in the relevant country, and they are largely financed and organized via the state. Social and other services are designed to accord with the middle class' standards. All classes and strata are integrated within a single, universal insurance system; at the same time, payment levels are oriented to the recipient's previous income. This model seeks to achieve equal opportunity by eliminating under-privilege and special burdens. *Summary:*

Emphasis on the state's overall social responsibility – high degree of decommodification

The *liberal economic* model, which was originally developed in the U.S., Canada and Australia, and which is now applied primarily in those countries and in the UK, New Zealand, Denmark and Switzerland, is the result of a regulatory approach that calls for social policy to be subservient to the logic of market economies. Consequently, individual, private insurance plans, voluntary memberships, qualifying periods, tightly limited services and services provision by private companies all play important roles. Tight limits are placed on the state's intervention, by contrast. A large share of services are need-based, and subordinated to market-conformal, family-based social security. The state promotes the market – either passively, via minimal services provision, or by subsidizing private forms of social security. It is oriented mainly to strictly subsidiary, rather stigmatizing poverty relief, on the basis of the principle of need. The model is socially selective in that it excludes certain needy population groups from services, either partly or completely, or in that it erects major barriers to access. As to incentives

for socially just design of living and working conditions, these are provided only in the framework of workplace rationalities. This model does not give separate attention to reducing social inequality; indeed, it promotes class dualism between recipients of public assistance and the majority of all citizens who obtain security services via the market.

Summary: Trust in market forces – low degree of de-commodification

The conservative-corporatistic model, which is practiced primarily in continental European countries such as Germany, Austria, France and Italy, is oriented to broad protection against standard employment-related risks, along the lines of status reproduction and protection of privileges of specific occupational groups. Its ideological foundation combines state-oriented and company-oriented paternalism with Catholic social teachings or the Protestant work ethic. In Germany, where this model was introduced earliest, or most completely, Bismarck's initiatives were aimed primarily at establishing an interventionist state that would ensure each individual's subjugation and his loyalty toward the state and his employer. The conservative model provides rights and services in keeping with occupationally related hierarchies, with the aim of preserving such hierarchies. Services provision is organized in a mixed economic fashion; the most profitable sectors in each case face privatization pressures. In the overall security system, this model finds institutional expression under the state's oversight and via primarily income-dependent contributions. In Germany, for example, social insurance schemes are administrated jointly by capital and work representatives, in accordance with status groups, occupational areas and, in part, companies. Via the insurance principle, the model seeks to achieve solidarity compensation between the various relevant occupational groups and strata, which are usually combined to form communities of insured persons. Labour-market-dependent differences of status play an important role in services provision. Private insurance schemes and additional company services, on the other hand, are only of marginal importance. In addition, corporatistic regimes are typically defined via the church's influence and an emphasis on families' capacity for self-help: the "subsidiarity principle" plays a major role. This model influences the structure of social inequality by means of formally equal opportunities for access to social services and, in phases of reform and prosperity, via active policies oriented to specific life situations.

Summary:

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A paternalistic state manages interaction between the market and labour – low degree of de-commodification

That is as much as I wish to say about the framework concept. I also do not plan to discuss the reception and criticism of this typology (cf. in this regard Lessenich/Ostner 1998). In my presentation, I'm interested primarily in the heart of the underlying argumentation. Pursuant to Esping-Andersen (1998, 36), the construct that we call the "social state" is oriented to the following three principles:

- 1. Providing social rights, which mainly involve de-commodification of the individual's status with respect to the market
- 2. Shaping social stratification, and thus also levelling / cushioning the competition between social nationality and economic class situation
- 3. Providing an interface between the market, the state and the family

In my presentation, I would like to discuss one aspect in particular – namely, so-called "de-commodification". Esping-Andersen considers this aspect to be the most important criterion for the social state.

What exactly does "de-commodification" mean? Esping-Andersen (1998, 36) states as follows in this regard: "As goods offered on the market, and with regard to their well-being, workers are completely dependent on their own market price. The question of social rights is thus one of de-commodification, i.e. the provision of alternative, non-market-based means of welfare production. De-commodification can be oriented either to provided services or to a person's status, but in any case it stands for the degree to which distribution issues are de-coupled from the market mechanism."

Or, more concisely: "As an objective of social policy, de-commodification can be defined as the extent to which individuals and families can maintain a normal and socially acceptable standard of living regardless of their market performance". (Esping-Andersen 1987, 86; cited from Lessenich 1998, 94)

Elsewhere, Esping-Andersen (1998, 38) develops a vision of "de-commodifying welfare states": "Under a minimalist definition of such states, their citizens would be able to leave their employment relationships, without being hindered and without facing the risk of losing their jobs, their income or their overall well-being, whenever they considered it necessary to do so, for reasons of health, family or age, or for reasons of their own

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continuing education; i.e.: whenever they felt it was necessary with regard to their appropriate participation in the social community."

In the remarks that follow, I do not wish to touch on the debate, now underway for 15 years, about the concept of "de-commodification", i.e. to discuss its implications, advantages and weaknesses, as has already been adequately done (cf. as a overview, Lessenich 1998). Instead, I would like to confine myself to enquiring into its value for the theory of disability policy.

6. The significance of "(de-)commodification" in disability policy

The following question, namely, arises with regard to disability policy: Is this area of policy – like social policy in general, as Esping-Andersen claims – primarily concerned with de-commodification? I.e. with the individual's independence from the labour market? Or is it concerned with the individual's freedom – as described in the above quotation – to leave his work temporarily without having to fear that he will lose his job permanently?

Needless to say, various types of disability policy can be studied in terms of the degree to which they provide social security completely independently of recipients' positions within the labour market. What is more, integration within the labour market is of course at the heart of disability policy – as is indicated by the great importance of medical and occupational rehabilitation within the rehabilitation system. But the fundamental disability policy issues at work here seem to me to be somewhat different than those behind other "social policies" that are not oriented primarily to people with disabilities.

In my view, disability policy is focussed less on temporary or partial *de*-commodification, and more on establishment of commodification as such, as well as on *re*-commodification, on *quasi*-commodification and, finally, on *permanent* decommodification. In other words:

The recipient groups for disability policy include children and young people with disabilities for whom risks of future commodification are assumed and who are thus considered "in special need of support" in kindergarten, school and vocational training. The social policy aim of special and/or inclusive education is

- to qualify people for the employment market, ie. to guarantee their commodification.
- In addition, disability policy is focussed on adults with acquired "impairments" who once had a "market value" as workers and, following accidents or a serious illness, need to be reintegrated into the labour market under their new health circumstances. To ensure their successful (re-) integration within the labour market, such people are thus given state support in the form of retraining and work-promotion services (in Germany, on the basis of Social Code III [SGB III "Arbeitsförderung"] and of the law pertaining to persons with serious disabilities [SGB IX "Rehabilitations- und Schwerbehindertenrecht"]). The aim for this group is thus re-commodification.
- Thirdly, all those who are considered employable to a limited extent, but who are hardly able, or unable, to enter the general labour market, receive state-supported employment opportunities. Such opportunities especially include sheltered workshops and work centres for people with learning disabilities and psychological problems. In Germany, at least, employees in such work centres do not have the status of employees; instead, they are considered "employee-like persons". The tasks of disability policy thus include offering quasi-commodification, in special labour markets, to people with significant, permanent "impairments".
- Fourthly and finally, disability policy is focussed on those who are considered incapable (no longer capable) of working and thus not (no longer) marketable, persons whose opportunities for, or rights to, commodification are negated: so-called "severely disabled" ("schwerstbehindert") people, persons permanently unable to work and elderly people with disabilities. Permanent decommodification for such people is achieved via basic social benefits, pension payments and / or care services.

We thus see a reversed constellation, as it were, in disability policy: While in general social policy, the conflict concerns the degree to which the individual's dependency on the market (specifically: the compulsion to sell his own work capacity) is increased (employers' interest) or decreased (employees' interest), disability policy is concerned primarily with establishing the conditions of commodification: i.e. the marketability of

those whose work capacity is considered to be of "lower quality" (Wolfgang Jantzen). This is also the purpose served by measures that tend to imitate commodification rather than assuring it under real conditions. What is more, the de-commodification options offered to people with disabilities are usually linked with stigmatization and exclusion. For such people, freedom from the labour market proves to be less than a right, for such freedom comes at a price – namely, reduced social participation, along with loss of status, both symbolic and factual.

From these theses, it may be concluded that the fundamental conflict in disability policy is that the state and the market tend to push people with disabilities toward decommodification (which often involves stigmatizing effects), while disabled people themselves, along with their lobbies, push for (re-)commodification, which they see as the basis and means for de-stigmatization. Even when their jobs do not provide any guarantee of complete social recognition, disabled people still want them, because they want to be part of the working society – at least that!

Consequently, disability policy can be understood as the result of social struggle for economic participation. As a compromise, all European countries have created graduated systems of job opportunities, to facilitate (re-)integration within the general labour market, i.e. "normal" commodification, as well as to provide special job markets – i.e. to simulate commodification. And this is occurring, as specific studies could surely demonstrate, in keeping with the relevant market requirements and with individual work capabilities.

One could also say that the social struggle in disability policy is concerned less with disabled persons' freedom from the labour market, and more with their right to be marketable "work capacity", to be part of the workforce in which all other market participants take part. This perspective also leads to a critical examination of the underlying theory.

It is a clear oversimplification to assume – as Esping-Andersen does – that commodification and de-commodification are irreconcilable opposites. In actuality, they are interrelated: there can be no commodification without de-commodification – and vice-versa! (cf. Lessenich 1998, 94). On the one hand, the welfare state is based on the market's organisation of working conditions; on the other hand, it limits and constrains market forces' impact on individuals. In this manner, it assures – precisely via de-

commodification! – the smooth operation of the production system. In light of this context, the general welfare-state function of disability policy becomes easier to understand.

A second problem is that Esping-Andersen's concept focuses on "normal" people, i.e. those who are healthy and capable of working and functioning normally, and it implicitly assumes that such people are able to sell their work capacity – and thus will seek to avoid commercializing themselves completely, i.e. will struggle for "de-commodification". In this light, it becomes clear why the social-state debate concentrates on the aspect of de-commodification – and why it tends to ignore "non-normal" life courses. And yet it can be shown, using the example of people with disabilities, that the necessary condition for de-commodification is commodification, i.e. the possibility and the obligation to be part of the marketable work capacity.

A third criticism may be levelled at the concept's normative dimension. Esping-Andersen views the potential of de-commodification and provision of social rights as two sides of only one coin. This tends to lead to closure of the social-policy field. In this view, one cannot conceive of any social-rights realm that could be accorded to people without commercializable work capacity. The example of people with disabilities thus provides a touchstone for determining the extent to which social policy may be framed independently from market constraints, as well as the extent to which social-policy players are willing to grant welfare and social rights even to those who are no longer able (or who were never able) to sell their work capacity – and to do so without providing welfare and rights at the price of discrimination and social isolation! In this respect, disability policy tends to be resistant, and analysis of disability policy proves illuminating for the entire debate on the social state.

7. Summary

In closing, I would like to offer the following six theses:

- The social question plays a central role in the process of European integration at least on the level of civil society.
- "Diversity", as a cultural value alongside "equality" and "solidarity", is of importance with regard to Europe's dealings with social minority groups.

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- There is still no theory of (European) disability policy.
- The example of disability policy shows that commodification and decommodification are interdependent.
- Social-state theory and practical policy begin with the "normal" person, i.e. a
 person who is able to sell his work capacity.
- The example of people with disabilities shows that social rights (must) involve more than simply de-commodification.

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