

Tensions, perspectives and themes in disability studies

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The field of disability studies is now established to the degree that it ought to and in fact is opening up for a more critical and self-conscious approach to ideas imported from other fields. This forms the background for the present article, which discusses some classical tensions within disability research. Building on the discussion of the social model, three such tensions are discussed: between theory and political action, impairment versus disability and between theoretical and empirical research. Two rather recent trends, intersectionality and juridification, are also discussed and the conclusion is that they should be seen as challenges to disability studies to be taken seriously; not just uncritically applied, but tested and challenged in a way that could also be beneficial for the general discussion about these issues.

Keywords: disability studies; perspectives; intersectionality; juridification

Disability studies seem to have different meanings to different people. Roughly I think one can talk about a narrow and a wide definition of the field. The narrow definition encompasses an idealistic and a more materialistic version (Priestly 1998). In the former, disability studies is delineated as a social constructivist and relative approach that sees disability as relative to environments and basically something that we construct through discourses, languages and/or norms (Linton 1998). In the materialistic perspective disability is seen as socially created by socioeconomic factors, barriers and discrimination (Oliver 1990; Barnes, Mercer, and Shakespeare 1999). In the narrow definition disability studies is also seen as tightly connected to the political activism of disabled persons.

In the wider definition disability studies refers to research about disability in the social sciences and humanities. In this wider definition no reference is made to any particular meta-theoretical assumptions or relation to activism. The wider definition is sometimes separated from disability studies by being named disability research. In this article I will use the term disability studies according to the wider definition.

Disability studies has been developed as a distinct field of research over the last two decades and has in many ways become established in several countries during this time. Professorships in disability studies (although to some extent formally not always named that way) have been installed, journals have been established, and regular conferences have been arranged both nationally and internationally, the number of dissertations and other publications have grown enormously. In this

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'establishing phase' the field has tended both to isolate itself from developments in other relevant fields, trying to find its own focus, profile and identity, but at the same time been open to applications of other theories. However, the import of theories and perspectives from other fields has been carried out rather uncritically. This seemingly paradoxical situation has consisted of openness for ideas, but isolation from the context and special circumstances in which they have been developed as well as a lack of critical examination of how those ideas apply to disability studies. Some applications of neo Marxist approaches, like in the social model, the sometimes routinely applied theories of labelling and stigma as well as some applications of postmodernist feminist theories may be seen as examples of that.

My underlying thesis in this article is that disability studies is now established to the degree that it ought to and in fact is opening up for a more critical and self conscious approach to ideas imported from other fields. Instead of applying them mechanically they should be seen as challenges; challenges to how and in what extent they can further our understanding of disability as a social phenomenon as well as posing challenges to the original ideas. Disability can be seen as a testing ground, more than an area of application, for those very ideas.

In the following I will discuss three topics that are being discussed in present day disability studies. I will try to show in what way I consider these to be challenges to disability studies, that each one of them has the potential of being beneficial to disability studies. However, in order for them to be beneficial we have to approach them with a healthy critical distance. I will first discuss some of the tensions that I think are central to the development of the field: research vs. political action, impairment vs. disability and theory vs. empirical research. The second topic is intersectionality. Formed by black feminism and post-colonial critique of white middleclass feminism, intersectionality has been generalized to other dimensions or power axes and is now also discussed in disability studies as a way of overcoming the rather narrow focus on 'just disability'. My third topic is juridification, the tendency in (late) modern individualized societies to regulate conflicts and relations by means of law. In the field of disability this has materialized in the growing interest in rights; 'the rights paradigm'. I will discuss some of the implications of this trend.

Tensions and polarities

Calls for holistic thinking are usually a response to an awareness of some disturbing dichotomies one wants to transcend. Social science is full of such dichotomies and consequently attempts to overcome them: body–culture, actor–structure, and theory–empirical research just to mention a few. These dichotomies also bother many disability researchers. Not least today there is much discussion and attempts to deal with them and claims of overcoming them by developing a more holistic approach.

A case in point is the ongoing discussion about the social model of disability. The model was developed in England and its most quoted proponent over the years has been Mike Oliver (1990, 1996). The model is built on a negation of the traditional individual model, which is criticized for its emphasis on the individual, body, rehabilitation, professional power and oppression. The root of the problems for persons with disabilities, it is argued, is not their bodily dysfunction, but an oppressive and discriminating society. While the individual model focuses on impairment, the social model focuses on disability, defined as the result of barriers in society.

The social model has been successful in the sense that it has been widely referred to in research as well as in political action in many parts of the world. Since it was first developed in the 1980s the social model has also to a growing extent been the target of criticism from different angles and with different arguments. Recently this criticism has been summarized in an attack on the model by Tom Shakespeare (2006). There are several dimensions involved in this discussion. I will discuss three of them that I think capture more general problems than whether the social model is right or wrong (which seems to be the question that occupies Shakespeare): scientific theory or political action; impairment or disability; theoretical or empirical research.

Theory and political action

In the debate about the social model one issue has been whether it is a theory or a model for practical action. When developing the model, Oliver (1990) was quite clear that his ambition was to develop a social theory of the middle range. This theory should be an answer to two problems he had experienced. The first one is his experience as a disabled sociologist, where he has been struck by the absence of disability in sociological literature. The other problem is his experience as a disabled citizen when he has faced barriers in society that stopped him from participation on equal terms. The social model can thus be said to have a double purpose: to produce a scientifically valid sociological explanation of the situation and experiences of disabled people and to guide them in their actions for political change. This is not a unique ambition of the social model, rather something it shares with other pragmatic and Marxist theories. Or, as Marx himself put it in Thesis on Feuerbach: 'The philosophers have only interpreted the world, the point is however to change it' (Gustafsson 1965).

Shakespeare (2006) has pointed out that many proponents of the social model when criticized for circularity in logic and false dichotomies tend to defend it by claiming that the model is not a scientific theory, but a tool and guideline for practical action. The enthusiasm with which the model has been embraced by disability movements in many countries may be seen as an indicator that it works as such a tool for action.

The relation between research and political action is a well-known and frequently discussed issue in social science and also within the field of disability research. The social model with its at least initial ambition to be both a scientific theory and a tool for practical action is not unique, rather it can be said to be true to its Marxist roots. This combination of theoretical claims and political action is also typical of the broader range of disability studies of which the social model is part and which has grown and been established over the last decades.

But combining political activism with scientific ambitions often creates tensions and ambivalence. Perhaps this tension is most clearly stated in debates about standpoint epistemology where one side argues that the best researcher is one which is her/himself a member of the researched and oppressed group and thus is best equipped to understand their experiences and to talk on their behalf. The other side argues that such a perspective is denying the possibility of dialogue and the exchange of ideas that is essential to science. Our thinking and the research we do cannot be predicated on grounds that have to do with our personal characteristics or our position in a stratified social system. Waves of this debate have swept through Marxism as well as feminism. Within disability research it has been articulated in the

debate about emancipatory and participatory research (Zarb 1992, Starrin and Söder 2005).

In this context it is interesting to note a striking difference between Anglosachian and Scandinavian disability studies. While disability studies in the USA and UK have been dominated by researchers who themselves have an impairment and often combines political activism and research, this is not the case in Scandinavia. In Scandinavia disability studies have been more closely linked to the welfare state than to radical disability movements. It has, at least in Norway and Sweden, been getting its funding and legitimacy from evaluations of social reforms (Gustavsson and Tøssebro 2004; Shakespeare 2004). In both countries the group that has been in focus of those early evaluation studies was persons with intellectual disabilities, in particular in response to reforms of deinstitutionalization. The rather close links to the state and the focus on a group with problems of articulating their own interest might be one of the reasons behind this difference.

The evaluative tradition is not without problems. Researchers run the risk of being caught in the reformer's perspective to the extent that more scientifically relevant questions are not put on the research agenda. The research on integration and normalization for persons with intellectual disabilities is a case in point. The ideal of integration was a person with disability that engaged in spontaneous, voluntary interaction with others who were non-disabled. As Tøssebro (1992) has pointed out this excludes relations with other persons with disabilities, staff and relatives. The fact that many persons with intellectual disabilities have frequent and rewarding relations to their own family, staff and others with the same disability did not count in the evaluations that focused on the ideal typical type of relations (Bogdan and Taylor 1989). A majority of research projects about the social situation of persons with intellectual disabilities were thus focused on the type of relations favoured by political reformer. In that way the critical distance necessary for innovative research might have been lost when researchers became too close to the state and its political ambitions.

But no research that allies itself with persons with disabilities, rather than with the welfare state, is free of problems. These have been discussed in a rather lively way over the years by disability researchers. The frontline has been drawn between those who demand that researchers have a responsibility to choose sides, either for persons with disabilities or for the establishment on one side and those who argue for a freer role for research whose basic commitment should be to the ethics and standards within the research community on the other. Taking the first approach, Barnes argues that 'What is more difficult to understand, however, is the way in which some academics continue to argue for the idea of the "independent researcher" without qualification. In my view this is a strategy that is, at best, naïve and, at worst misleading' (Barnes 1996, 107). He goes on to state that university-based researchers are far from independent from influences and external control, most typically from external financing sources, and that upholding the myth of the free and independent researcher underlines their uncritical production of results for the academic community in itself.

The other position is taken by, for example, Shakespeare (1996) and Bury (1996), who share the critique of the idea of researchers as objective truth seekers, but at the same time warn that research cannot be subordinated to any external interests. The relation between research and political interest should rather be seen as a matter of division of labour, where research has to be accountable first of all to academic

values of critical reflexion (including self criticism) reflexivity and adequacy. This does not exclude working in partnership with persons who are being researched, but that partnership has to be founded on an acceptance of the different roles of the parties.

This discussion is, of course, not unique to disability studies. It has been central in discussions of, for example, critical theory and emancipatory research (e.g., Hammersley 1992). Social research is embedded in a field where there are many interests that make claim as to what should be researched, by whom and in what way. Researchers are known to deal with this in a multitude of ways.

The discussion referred to previously clarifies a basic dilemma in disability studies. The shape this has taken in the Scandinavian countries is a growing critique of a social engineering type of approach from a growing movement of young researchers with disabilities. They question the traditional way of research working in close alliance with the state and argue for disability studies in a more Anglosachian sense, working closely with disabled persons themselves. In a polarized but simplified way this can be seen as a strategy to substitute research 'from above' (the Scandinavian example) with a strategy 'from below' (disability studies). A plausible forecast is that this tension between research and action will not be overcome in the future but will continue to be dealt with in different ways and heatedly discussed not least in the Scandinavian countries.

Impairment and disability

At the heart of the discussion of the social model lies the distinction between impairment and disability. The individual model, it is argued, has only focused on impairment and interpreted all the problems disabled people experience as a result of their impairments. In contrast, the social model tends to explain those problems as a result of the environment. In that sense disability is seen as socially created. The distinction has been criticized by feminist disabled researchers, where the central argument has been that their lived experience cannot be interpreted as solely a result of societal oppression and barriers. Morris (1991) pointed out early on that although environment plays an important role in forming the experience of disability, this is not the whole truth. Impairments in themselves cause pain and restrictions. It cannot be reduced to environmental factors alone. French (1993), based on her experience as visually impaired, makes a similar point in arguing that some of the problems she experienced would persist even if most environmental barriers were removed.

Wendell (1996) is not arguing (and to the annoyance of British social modelists not even referring to) the British social model in her analysis of 'the rejected body'. Her criticism is mainly directed towards postmodern feminism and their project of relativizing and subjectifying the body. Her experience of her impaired body cannot be changed by seeing it as a creative expression of her subjectivity. It is a reality that limits her freedom and put restrictions on time as well as space that are available to her activities. But at the same time, she argues, the subjective dimension of that experience is denied her by the cognitive authority of the medical profession. Her body is objectified by 'the medical gaze' that discards her own interpretation of what the body means in her everyday life. In that way the meaning of impairment is not objectively given. Impairment means different things in different contexts and within different discourses. Or, as Shakespeare (2006, 35) has put it: 'If disability is defined as social, while impairment is defined as biological there is a risk of leaving

impairment as an essentialist category, impairment is not a pre-social or pre-cultural biological substrate’.

This line of thought is also articulated by Thomas (1999) in answering to some of the feminist critique of the social model. Basically, in defence of the model she wants to supplement it with ‘impairment effect’, admitting that the lived experience of persons with disabilities cannot be reduced to experiences of the environment.

With the ambition of transcending the distinction of impairment–disability Shakespeare (2006) looks at the World Health Organization’s International Classification of Function, Disability and Health (ICF) as an interactional model that can overcome the division. The ICF is based on a bio-psychosocial model that leaves room for the interplay of factors at different levels. At the same time he advocates a critical realist approach. In such an approach casual mechanisms to observable phenomenon are sought in the complex interplay of factors at different levels. But there might be some doubts about to what extent ICF is really representative of such an approach. In the bio-psychosocial model the biological is taken for granted as objectively given and at the risk of being essentialized in much the same way as in the social model. As Flygare (1999), himself taking a critical realistic approach, has pointed out, in spite of its holistic ambitions, the bio-psychosocial model tends to give priority to the biological seeing factors at other levels as determined by biological factors. Shakespeare’s enthusiasm for critical realism thus seems a little bit difficult to reconcile with his positive evaluation of the ICF.

The discussion of the relation between impairment and disability mirrors a more general growing interest in the body within disability research, an interest that most likely has been influenced by postmodern feminism as well as the establishing of ‘sociology of the body’ as a sub-discipline within sociology. This more general interest in the body has been inspired by the development of capitalism from hard work, disciplining the body to a consumer-oriented society with its emphasis on life styles and hedonism, where the young and beautiful body becomes part of the life project. Another reason is probably the second wave of feminism with its fight for abortion, against men’s control of their bodies (Kumlin 2006). Present-day discussion within disability studies can, in that perspective, be seen as a late parallel to this more general discussion, where disabled persons claim their right to their bodies in much the same way. They are claiming the right to interpret and master their bodies against the objectifying influence of medicine as well as in protest to the idealization of young and physically perfect bodies. Ironically, some of the alternative models proposed, most notably the social model, do so by totally neglecting the body by defining it away through the distinction between impairment and disability.

More ambitious attempts within philosophy have had the ambition of transcending the distinction between nature and culture, the biological and the social. Not least has this been the outspoken purpose of some poststructuralist thinkers (Kumlin 2006). This discussion has, to my knowledge, so far had little influence in disability studies. Much of the discussion about the body within disability studies seems to be less occupied by the poststructuralist ambition of transcending the distinction between the biological and the social. When it has been referred to it has, according to Samuels (2002), been so in a rather naïve and uncritical way.

The present and growing interest in the body within disability studies can perhaps be seen as a fight about the interpretation of the body. The criticism is then focused on the dominant reductionism of the medical paradigm and the celebration and

idealization of the perfect, strong and beautiful body. The body in this way becomes an arena for the battle between different ways of theorizing and understanding disability.

Theory and empirical research

The debate about the distinction between impairment and disability relates to the question of whether the individual and his/her characteristics or environment and its characteristics should be the focus in disability studies. In regard to that question there is a divide between research with an empirical interest and research with a theoretical orientation. The former, and most obvious researchers with a quantitative empirical orientation, tend to emphasize the need to distinguish between persons with and persons without impairments, while the latter is more theoretically oriented and emphasizes the importance of how disability is constructed/created in relation to environment.

The discussion in the UK between social modellers and medical sociologists can also in this controversy be seen as illustrative. The former are critical of medical sociologists for using an individualistic approach, often exemplified with epidemiological studies where persons with disabilities are separated from persons without disabilities by diagnostic criteria or functional ability. This, the argument goes, is to reproduce the traditional individual model at the expense of barriers in the environment (Barnes, Mercer, and Shakespeare 1999). Medical sociologists on the other hand argue that information on the situation of persons with impairments can only be achieved by comparing them with persons without impairments and in order to do that individual criteria have to be used. The social model has not so far come up with any real alternative (Grönvik 2007a).

However, the use of individual or environmental criteria is not just an issue that divides researchers with different orientations. It is often an issue in concrete research where many disability researchers expose diffuseness and confusion. Tøssebro and Kittelsaa (2004) and Söder (1999) have pointed out inconsistencies in the way researchers define their research object. In the introduction and theoretical positioning they often take a relativistic and environment-oriented perspective. But in their empirical research they often adapt individualistic criteria: ‘...many disability researchers tend to support the environmental perspective on page one, and then proceed incoherently disregarding their proposed stance onwards on page two’ (Tøssebro and Kittelsaa 2004, 23).

This is obviously a problem and a dilemma in disability studies which has been with us for a long time, but in spite of heated terminological discussions has not found any practical solution. In a study of how concepts are used in some classic text about disability, Grönvik (2007b) has shown that this inconsistency is rather the rule than exception and this is so whether the text is theoretical, quantitative or qualitative in its empirical methods. Tøssebro and Kittelsaa (2004), who discuss quantitative research of living conditions for persons with disabilities, recommend that we realize the dilemma and try to deal with it by admitting that we do not have any means to be strictly consistent. But in order to avoid confusions we should not pretend that we are measuring disabilities when we in fact are stuck with measuring impairments. Grönvik (2007a) also rejects the idea of finding one single conceptual way of dealing with the problem at both a theoretical and empirical level. He

recommends that researchers should be more reflexive in constructing their research subjects and argues for what he calls ‘case construction reflexivity’.

Several commentators have noticed that disability studies tends to be under-theorized (e.g., Shakespeare 2006). Maybe we should add that it is also in some ways under-methodologized, not least when it comes to relating theory to empirical research in a consistent way. The situation is amplified by the way disability researchers tend to be divided into empirical researchers, and their need to identify persons with disabilities, on one hand and on the other hand theoretically oriented researchers criticizing the individual focus this leads to, but uninterested in developing an alternative empirical approach.

Intersectionality

The concept of intersectionality has become quite popular in recent years, especially in research concerned with different marginalized groups. The concept aims to capture how different categories (power axes, dimensions, variables – the terminology differs with different methodologies) interact in forming life conditions and identities of these groups. Women are not only women, but have a class position, ethnicity, sexual orientation and so on. An intersectional perspective means analysing how these different dimensions cross (intersect) with each other in influencing the living situations of women.

Intersectionality is not an articulated theory. Nor does it imply the use of particular research methods. It can perhaps best be seen as a perspective that emphasizes the importance of taking different structuring conditions into account. The concept as it is used today originates in the 1970s when the anti-racist critique of feminism was developed. The dominating feminist thinking was accused of being biased in favour of white, western and middleclass women. In the USA this critique was articulated by Black Feminism claiming that this bias made the situation of black women invisible, thus reproducing the majorities’ view of them as deviant, strange and different (Crenshaw 1995; Collins 2000). Similar arguments were voiced in post-colonialism, in the critique of western dominance that portrayed non-western women as subordinated and inferior (de los Reyes and Mulinari 2005).

With some simplification the discussion about intersectionality can be said to depart from two different, though sometimes overlapping, perspectives. The first is a structural one and the second a subjectivist one. The structural perspective focuses on power and stratification. Gender, ethnicity and class are seen as axes of power that structure populations into those in power and those without power, oppressors and oppressed. The ambition is to understand how the positions on these different axes combine in forming the stratification of society and thereby the situation of marginalized groups.

In the subjectivist perspective the focus is on identity. In this perspective one is not talking as much about power axes but of categories. Each individual belongs to several collective categories. The categorical belongings form the building bricks for the person’s identity and the general research question is to find out how identity is constructed by using those building bricks.

In the structural perspective certain positions are by definition subordinated and the combination of subordinated positions is seen to add up to more subordination. Some authors have discussed that as a ‘double jeopardy’ or even ‘triple subordination’, but today most researchers acknowledge that the relation between different

power axes is more complicated than that, arguing that it is not the sum of subordination along some power axes that is of importance, but rather the intersection of those axes (Traustadottir 2006).

In disability research, as in research in general, gender research is the field in which research on intersectionality has been most initiated and developed. The perspective has mostly been a subjectivist one, focusing on how disabled women form their identity (see, e.g., Barron 2004). In the subjectivist approach one is more open to the possibility of positive combinations than in the structural one. Being an old, homosexual, middle-class woman, for example, might very well provide positive opportunities that would not be within reach for a younger heterosexual woman. Helmius (2004) provides an example from her studies of women with mobility impairments. One of her informants grew up in a rural neighbourhood in the 1950s where the traditional way was for women to marry and take the responsibility for children and household. As she was assumed not to be able to do that because of her impairment, she was sent to Stockholm to get an education in office work that would make her self-sufficient and independent. What in the short term looks as a disadvantage due to her impairment, in the longer term turns into an advantage. She got a good job and can be seen as a forerunner of the wave of women reaching independence through wage-earning 10–15 years later. The combination of a disability and being a woman thus provided her with positive opportunities.

The arguments of what power axes or categories should be included in an intersectional analysis point to some ambivalence when it comes to disability. Most authors want to include gender, class and ethnicity as the central dimensions. Age and sexual orientation are sometimes included, but seldom disability. This exclusion of disability is often done without any substantial argumentation. However, de los Reyes and Mulinari (2005), in a much-quoted book, are an exception on this point. They apply a structural perspective and ask themselves what characteristics of the power axes should be included in an intersectional analysis. They identify four such characteristics. The first is that it should be stable over time. The second is that it should be inexorable or un-escapable. You should not be able, or at least not easily able, to change your position on the axis. The third characteristic is that it should be antagonistic. What is good for the oppressors is bad for the oppressed and *vice versa*. The fourth, finally, is that the relation is of an exploitative nature. The antagonism involves that the subordinated group is being exploited. In this respect they make a distinction between exploitation and stigmatization. The low-paid working class is, for example exploited, but it does not need to be stigmatized. If they behave according to the norms of the capitalistic system they do not provoke any counter reactions. Only to the extent that they provoke and question the system will they be stigmatized as norm breakers. For other groups the situation is the reverse. They belong to a category that is devalued and stigmatized in society because they break some central norms, but they are not exploited. According to de los Reyes and Mulinari (2005), persons with disabilities (together with those who are breaking the hetero norm when it comes to sexuality) belong to the group that is stigmatized but not exploited. Their situation can better be analysed in terms of discourse and identity, but not as part of an intersectional perspective that focuses on the intersection of power axes where positions are subordinated in asymmetric exploitive relations.

I am convinced that many disability researchers would oppose this analysis. Many of them have noticed similarities between the situation of ethnic minorities and

women, but often without really analysing the similarities and differences between the groups. However, disability research is full of statements of disabled persons being subordinated and oppressed, if not exploited. They have been described as oppressed by the capitalistic system (by their marginalization in the labour market), by professional groups (as an obstacle to empowerment) and the political system (by minimal representation). It is, however, also a fact that disability researchers have not been very active in theoretically exploring this oppression. This was noticed early on by Abberley (1987), who posed the question of, given that disabled persons are oppressed, who the oppressor is; but his question was never answered in any theoretically convincing way.

Some authors that discuss what power axes or categories should be included in an intersectional analysis state that this is a question that can not be given a general answer, but is dependent on the nature of the research question which makes some dimensions more relevant than others (Grönvik 2007a). Even so, the analysis of de los Reyes and Mulinari (2005) poses important questions to disability research about the nature of the subordination of persons with disabilities in society. When it comes to class, Marx provides us with a theory of surplus value that gives us a theoretical instrument to understand exploitation of the working class. Feminism has its theory of patriarchy. In the intersection of gender and sexuality queer theories have developed a theoretical understanding based on the hegemony of heterosexual norms. All of these have been applied in disability research but, as pointed out in the introduction, in a rather uncritical way, with little sensitivity to the question of to what extent these theories really capture the situation of disabled persons.

The relative dominance in disability research of a subjectistic perspective can be seen as a sign that analyses in terms of power and resources to a large extent have lacked a theoretical instrument to deal with power relations in a distinct way (Söder and Grönvik 2008). Intersectionality can be seen as a challenge to do just that.

Juridification

Like intersectionality, juridification is a term that has come to be more and more used within social sciences. But while intersectionality is a perspective that the researcher adopts in order better to understand society, juridification is assumed to be describing an empirical reality where law expands its domain as a way of regulating relations and conflicts. The process is often described as a result of globalization and individualization. Globalization makes the national state lose power and because there is no global political level, international treaties and conventions are used to accomplish different aims. Individualization in this context refers to the weakening strength of collective action and national state welfare programmes and a tendency to rely on individual rights to protect marginalized groups.

The concept of juridification lacks any generally accepted definition (Blichner and Molander 2005). Some authors who have written about the subject agree that law and the logic of juridical thinking tend to expand to new areas in society and encompass conflicts and human relations that were earlier regulated by other means (Bertilsson 1995). Some argue that applying juridical ways of thinking (sometimes referred to as 'the juridical model') means simplifying and making complex relations superficial. Østerud (2000), for example, argues that politics and democracy are losing ground to markets on one side and to law on the other. This development is,

according to him, a result of conscious choice as well as forces in late modern society that politicians can do very little to influence.

With no ambition of giving a full description of research about juridification, I will focus on two themes related to juridification and disability. The first theme deals with the effects of juridification for caring relationships. The second discusses implications of what has been called 'the rights paradigm', that is, the growing emphasis on rights for persons with disabilities as a way of bettering their situation.

Several authors have articulated that juridical thinking and rules of law tend to be applied to areas that traditionally have been regulated by ethics. Bertilsson (1995), for example, suggests that law has taken the place of ethics in legitimizing social order in general. Wolfe (1989) argues that juridification tends to instrumentalize ethical conflicts, thereby undermining the role of ethics as a ground for solving conflicts. Much in the same spirit, feminist writers have pointed out that care work, and in particular care work with persons who are dependent, has a strong moral dimension that tends to get obscured in a society celebrating individual autonomy, with a liberal contractual view on social relations (Kittay 1999; Wendell 1996). Kittay (2002) describes 'dependency work' (care for persons who are heavily dependent on the help of their care providers) as a multifaceted activity composed of labour as well as an attitude and a virtue, a description that is in line with other writers on the issue of 'an ethic of care'. In Scandinavia, Wærness (1984) has articulated this ethic as a form of rationality, 'rationality of caring'. The rationality of caring, she argues, is contextual, relational and builds on a moral responsibility and, thus, basically different from instrumental rationality. Tronto (1993) contrasts such internal and concrete ethics of care with 'ethics of rights' and finds that the latter threatens the rationality of caring by atomizing individuals and dichotomizing social relations into 'right or wrong'. Or as Shakespeare (2006, 135) writes:

... the assumption of a hypothetical being – usually male, unencumbered, physically and cognitively intact – enables an elaboration of patterns of rights and liberties which may bear little relation to the realities of life for the majority of citizens.

Juridification can in this perspective be seen as a threat to caring and other reciprocal relations built on moral responsibilities.

Handegård's (2005) study of the implementation of a Norwegian law to regulate the use of force in services for persons with intellectual disabilities can illustrate this point. The need for rules to regulate the use of force against persons with intellectual disabilities came in focus in connection with a deinstitutionalization reform.

From her study of five group homes where the law was applied, Handegård concludes that the context in which the law is implemented has strong influence on how it is applied. In group homes with a history of behaviouristic training and applying strict schemes, the rules for application are followed in a stereotypical and impersonal way. In group homes where care work is impregnated by the rationality of caring, the rules for using force are much more flexibly and sensitively applied. The hypothesis Handegård proposes is that the regulation by law tends to facilitate and favour steering by rules and developing stereotyped routines that, although strictly in accordance with the rules tend to marginalize the space for rationality of caring. Juridification in the form of regulating concrete relationships thus undermines the flexibility that we associate with good care.

Another way in which juridification is relevant for disabled persons and disability research is the growing tendency to protect and benefit disabled persons by

stipulating individual rights. In that context a distinction can be made between positive rights and negative rights. Positive rights have the form of entitlements, stating that the rights bearer can claim certain goods or services from the state. Negative rights have the form of outlawing negative treatment (discrimination) of persons with disabilities.

There is a potential conflict between positive and negative rights. Entitlements as a positive right are distributed to persons judged to be eligible on the grounds of disability. But being treated on the ground of disability can at the same time be seen as a form of discrimination. What in some disabled persons' eyes may be seen as positive special treatment may be seen by others as discrimination.

The rights perspective that has come to dominate internationally is one emphasizing negative rights, most obvious in anti-discrimination legislation that has been adopted in several countries. In some western countries the introduction of such legislation is positively valued as a means to protect disabled people from autocratic welfare professionals and bureaucracies. Strengthening the individual is a way of counterbalancing 'charity and welfarism' and is thus positively embraced by many disability activists.

However, at least to Scandinavians, the dichotomy between positive and negative rights and between welfarism and rights should be taken seriously. The focus in disability politics runs a risk of buying too much into a neoliberal view of the free autonomous individual who is best served by freedom from the intervention of welfare bureaucrats and professionals. The point is indirectly made in an article by Canadian researchers where they argue against 'welfarism' and welcome the rights perspective as a way out of dependency on the welfare state (Devlin and Pothier 2006). But their experiences so far are negative. They find that what the rights revolutions has achieved is giving disabled people 'formal rights', but not actually changing their situation. Therefore, they argue for 'substantive rights', rights that lead to 'equality in outcome' and not only equality of opportunities and treatment. 'Equality of outcome' has often been described as a hallmark of the welfare state as opposed the liberal 'equality of opportunity'. In a somewhat paradoxical way the authors thus end up pleading for the welfare state that they started to criticize, thus showing the possible shortcomings of the focus on negative rights inherent in the rights perspective. North American scepticism towards welfarism thus seems to end up with a plea for just that.

From a somewhat different perspective the rights paradigm has been criticized for having been taken over by professionals in the 'rights industry' alienating disabled persons and their organizations. Rights should not, according to Oliver and Barnes (2006), be seen as accomplishments in themselves, but be judged according to what extent they really affect the situation of disabled people. In their opinion this has not been the case.

Juridification, with its emphasis on disabled people as strong autonomous actors in their own right is thus not a single solution to the problems that disabled people face today. However, disability activists have long been committed to the rights paradigm. Given the close relationship between research and activism earlier described, that also tends to be the case for many disability researchers. A critical research agenda that does not take the rights perspective as undecidedly good is needed to be able to scrutinize what consequences juridification in general and the rights perspective in particular will have for disabled persons.

A new phase?

As I stated at the beginning of this article, disability studies has gone through a process of expansion and becoming established during the last decades. In doing so it has paradoxically been at the same time closed to external influence and, when such influence has been obvious, tended to adopt perspectives, concepts and theories in a rather uncritical way. In my opinion, the establishing phase is now over. It is time for a more reflective and critical distance to other theories as well as some of the problems that up till now have often been discussed as matters of political correctness.

Tensions such as the ones between research and political action, impairment and disability, theory and empirical research will not be solved in the foreseeable future, but they can be dealt with in a constructive dialogue that promotes pluralism and creativity. Perspectives such as intersectionality could be used to raise basic questions about disability and disabled persons relation to a societal context in a way that can make important contributions to the general discussion about such perspectives. Manifestations of general societal changes such as globalization and individualization and juridification could be the subject of critical analysis where its consequences for disabled persons become a matter of analysis rather than ideological positioning. Disability studies have the potential of accomplishing that and thus have an exciting and engaging future.

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