Editorial

Disability

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The symposium in this issue, on equality and disability, helps to clarify some areas of continuing disagreement in disability studies, but also uncovers substantial consensus. All of the contributors appear to endorse John Harris's statement that "No disability, however slight, nor however severe, implies lesser moral, political or ethical status, worth, or value".¹ It seems safe to assume, moreover, that few if any readers of the *Journal of Medical Ethics* are likely to disagree with this, or indeed to challenge Kate Diesfeld's initial assumption that "Generally speaking, it is both immoral and unlawful to discriminate between people on the ground of disability".²

Some, of course, might challenge Diesfeld's choice of the word "between" rather than "against". What is generally agreed to be both immoral and unlawful is discrimination in the modern sense of treating people unjustly on the basis of distinctions that are not morally relevant to the matter in hand. It is neither immoral nor illegal, for example, for a transport employee to discriminate between members of the travelling public in order to offer some but not others the use of a wheelchair or a wheelchair ramp. Nor is it immoral or illegal for society to discriminate between its members through legislation which offers, to some but not others, special forms of aid or protection, based on the recognition of their respective disabilities.

Legislation designed to protect people with disabilities from unjust discrimination, Diesfeld points out, may have important, but not yet widely recognised, implications for decisions about the medical treatment of vulnerable people. Her paper raises important and in some cases troubling issues, particularly about quality of life judgments made by doctors, and these issues merit wider debate. But her paper, and the others in the symposium, also provoke questions about what is meant by the word "disability", what purposes are served by its use, and whether it will ever be possible to achieve the goal of what Tom Koch calls "a general and unified theory of physical difference/disability".³

The meaning of "disability" and its English cognates has changed over the years, but whether it has developed, evolved, or gained precision thereby, is contestable. "To disable" or "be disabled" are first heard of (according to the *New Shorter Oxford English Dictionary*) around the 14th century, when they refer to being legally disqualified or pronounced

legally incapable.⁴ In the 15th and 16th centuries however, agency is no longer confined to the law: "to disable" is now to make incapable of action or use in other contexts also. Around the same time, on the side of the patient, "to be disabled" becomes associated specifically with being deprived of physical or mental ability through injury or disease, and "to disable" or "pronounce incapable" also comes to mean to "disparage" or "belittle". By the 17th century, a "disability" could still mean an incapacity or disqualification recognised or created by the law (or sometimes just a shortage of money). But increasingly it refers to "a physical or mental condition (usually permanent) that limits a person's activities or senses, especially the ability to work"; and in the 20th century, when the idea of "the disabled" as a class also emerges, this last association appears to be dominant.

What these changes in meaning strongly suggest, is the extent to which perceptions of disability are influenced by historical circumstances and prevailing interests: in the 17th century for example, the need to distinguish, for poor law purposes, those able from those unable to work; and in the 20th, for the purposes of scientific and utilitarian medicine, epidemiology and social planning, the idea of "the disabled" as a class characterised by "disability", and divisible into physical and mental subclasses. By the 20th century also however, the prevailing interests of a society which professed increasingly humane and egalitarian standards, made earlier "disparaging" or "belittling" of disabled persons no longer acceptable, and led in due course to laws such as the Disability Discrimination Act discussed by Diesfeld. The extent to which the meaning of disability had now changed can be illustrated by rephrasing Diesfeld's statement quoted above, in 14th century terms: namely that it is unlawful to discriminate between people on the ground of their legal status.

Any risk of this paradox being perceived in the Disability Discrimination Act, of course, can be avoided by common sense—the act is intended to apply to physical or mental disabilities, not legal ones—and by seeing how the act itself spells this out with reference to "substantial" and "long term" impairments adversely affecting specified normal day-to-day activities.⁵ But precisely because the act does spell things out in this way, it could be argued, its understanding of disability (in which it is the law that ultimately determines what is a relevant

incapacity) is essentially the 14th century one, and renders redundant any attempt to isolate an ahistorical or context-independent concept of disability, which might or might not contribute to a "unified theory of physical difference/disability".

This remark should not be taken as criticism of Tom Koch's important contribution, in his paper, to demonstrating what "medical" and "social" disability theorists have in common.³ It may be tilting at windmills moreover to imply that anyone actually believes in the possibility of isolating an ahistorical or context-independent concept of disability. But given the repeated efforts of many people over the years to come up with a watertight definition of health, one cannot be sure. So it may at least be worth asking what useful purpose is served by a concept of "disability", or *a fortiori* of "the disabled", which many people find unhelpful or even offensive. Clearly it is important, as R B Jones notes in his paper, to recognise the existence of specific impairments or disabilities whose effects may be ameliorated by medical treatment or environmental modification.⁶ But does gathering these different examples together into the conceptual hold-all of "disability", in practice assist, or hinder, their recognition and amelioration in specific instances?

In this context, it is worth recalling Goldstein's observation that "a definition of disease requires a conception of the individual nature as a starting point", and that regaining health involves the establishment of "a new individual norm" (in terms

of the relationship between organism and environment) in place of the former one. "Recovery is a newly achieved state of ordered functioning", he writes, and "being well means to be capable of ordered behaviour which may prevail in spite of the impossibility of certain performances which were formerly possible".⁷ In this respect, some individuals with perceived disabilities may in fact be healthier than other individuals without perceived disabilities—not simply because, subjectively or existentially, they regard themselves as healthy, but also because they have sufficient physiological reserves to be equal to the environmental challenges they face. And that, after all, is perhaps the most that any of us can hope for.

Kenneth M Boyd is Deputy Editor of the Journal of Medical Ethics.

References

- 1 Harris J. One principle and three fallacies of disability studies. *Journal of Medical Ethics* 2001;27:383–7.
- 2 Diesfeld K. Disability matters in medical law. *Journal of Medical Ethics* 2001;27:388–92.
- 3 Koch T. Disability and difference: balancing social and physical constructions. *Journal of Medical Ethics* 2001;27:370–6.
- 4 Brown L, ed. *The new shorter Oxford English dictionary*. Oxford: Clarendon Press, 1993: 682.
- 5 *Disability Discrimination Act* 1995. London: HMSO, 1995.
- 6 Jones RB. Impairment, disability and handicap—old fashioned concepts? *Journal of Medical Ethics* 2001;27:377–9.
- 7 Goldstein K. *The organism*. New York: Zone Books, 2000: 325–34.

News and notes

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