Towards a Definition of Mental Health & Physical Disabilities

Definition of Mental Health\(^1\)

According to the World Health Organization, a definition of mental health has four primary elements, including:

1. Mental health is a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community.

2. Mental health promotion is an umbrella term that covers a variety of strategies, all aimed at having a positive effect on mental health. The encouragement of individual resources and skills and improvements in the socio-economic environment are among them.

3. Most health care resources are spent on the specialized treatment and care of the mentally ill, and to a lesser extent on community treatment and rehabilitation services. Even less funding is available for promoting mental health.

4. Mental health promotion requires multi-sectorial action, involving a number of government sectors such as health, employment/industry, education, environment, transport and social and community services as well as non-governmental or community-based organizations such as health support groups, churches, clubs and other bodies.

Mental Health Problems\(^2\)

The Mental Disability Advocacy Program (MDAP), Open Society, defines the term “mental health problems” as a broad range of mental and emotional conditions. Mental health problems are different from other mental impairments such as intellectual disability, developmental disability, organic brain damage, and learning disability. The term “mental health problems” is used when an individual’s mental condition significantly interferes with the performance of major life activities, such as thinking, communicating, learning and sleeping, among others. Someone can experience mental health problems over many years.

The type, intensity, and duration of symptoms vary broadly from person to person—symptoms can come and go and do not always follow a regular pattern, sometimes making it difficult to predict when symptoms and functioning will worsen, even when treatment recommendations are followed. Although the symptoms of mental health problems often can be controlled effectively through medication(though some


people experience very negative side effects from medication) and/or psychotherapy, or may even go into remission, for some people the condition continues to cause periodic episodes that require lifelong attention. Consequently, in order to live independently, some people with mental health problems need no support, others may need only occasional support, and still others require more substantial, ongoing support to maintain their independence. Some of the most common mental health problems are anxiety disorders, depression, and schizophrenia.

Physical Disability

The Social Care Institute for Excellence (SCIE)\(^3\) defines physical disability as a person "... with a physical ... impairment, which has a substantial and long-term effect on his or her ability to carry out day-to-day activities."

SCIE defines chronic illness as "... a disease or disorder that continues over an extended period of time and causes continuous or episodic periods of incapacity."

Defining in Selected International Jurisdictions\(^4\)

The prevailing definition of mental and physical disability in member European states is summarized by Social Development Canada as a lack or loss of work capacity or earning capacity. However, the goal of the European Commission is “not to move towards a single standard definition, but rather to develop a framework in which different definitions could be located and compared."

In many European countries, there are general prohibitions on discrimination (in national constitutions, for example) where disability is mentioned but not defined. Some states use broad definitions covering minor disabilities, while others use detailed definitions that limit coverage to people with substantial disabilities. There is an increasing awareness of the fact that the definition determines how social policy and programs are designed, and the type of support persons with disabilities could receive.

The first serious attempt to clarify the concept of disability is the 1980 International Classification of Impairments, Disabilities and Handicaps (ICIDH) prepared by a large international and multidisciplinary team of researchers, disability experts, program administrators and specialists as well as representatives of the disability community. This work resulted in the adoption of the new International Classification of Functioning and Disability (ICF) by the WHO in May 2001. The ICIDH defines disability as a result of impairment, whereas the concept of "handicap" refers to socio-economic and legal

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disadvantages experienced by persons with disabilities when their specific needs are not taken into consideration.

Although many governmental institutions around the world adopted and applied the principles of ICIDH, a number of disability organizations, advocacy groups and academics were critical of this definition for it draws a direct causal link between impairment and disability. The disability community sees disability as a social construct and therefore a social issue, which calls for changes to the social and physical environments.

The ICF was developed with the participation of the disability community and researchers with disabilities, and has therefore integrated the notion of disability as a multidimensional reality, which results from the interaction of impairment and environmental factors as barriers or facilitators. As explained in a recent European study, the fact that the ICF does not require "a definition of who counts as disabled and who does not", no thresholds of disability are required and therefore intra-national, international and across-fields comparisons of disability statistics and information become easier.

In 2002, the OECD distributed a draft version of its comparative study of policies to promote work and income security for persons with disabilities in 20 countries, entitled Transforming Disability into Ability. Two other major studies focused on the definition of disability in the European context. The first study Assessing Disability in Europe - Similarities and Differences is the result of a three-year research project (1997-2000) financed by the Council of Europe. The report describes the role of multidisciplinary teams in determining the allocation of allowances and personal assistance and, more particularly, in evaluating the person's potential for professional and social (re)habilitation and (re)integration in the community and the economy. The study highlights the need for more research, cross-border communication and further harmonization of disability assessment methods in Europe in order to move towards greater homogeneity of systems and calls for a coherent policy for persons with disabilities in Europe.

The second study, entitled Definitions of Disability in Europe: A Comparative Analysis, is the result of a two-year research project that was published in September 2002 under the auspices of the European Commission. The Commission's interest in the definition of disability stems from, among other things, "the regulations governing the cross-border claiming of social security benefits and access to welfare services" and regulations governing public procurement and state aids in the area of subsidies and restrictions on competition relating to the operations of sheltered workshops. The Commission is also interested in the creation of common space where common methods of collecting and analyzing data related to disability can be established to share information:

The Commission specifically mentioned that its goal in commissioning the research was not to move towards a single standard definition, but rather to develop a framework in which different definitions could be located and compared. It discusses the definition of
disability in the four following areas: 1) assistance with activities of daily living (ADLs), 2) income replacement, and 3) employment provisions, and 4) antidiscrimination legislation.

**Assistance with Activities of Daily Living (ADL)**

Given the nature of needs requiring assistance with ADL (e.g., eating, moving and personal hygiene, home help, disability or health-related extraordinary expenses), most member states of the EU define disability in this area in terms of the needs to be met. For example, under the *Austrian Federal Allowance Act* (1993) eligibility for assistance is determined on the basis of "permanent need for support and care as a consequence of a physical, mental, emotional or sensory disability that is expected to last for at least six months." Under the *Constant Attendance Allowance* in Ireland, to qualify for assistance with ADL, an applicant must be disabled to the extent that she or he requires "full-time care and attention." In Italy, the accompanying grant which was legislated in 1980 provides assistance to a person who must be classified as having 100 percent invalidity and must be unable to walk or undertake any ADL without the aid of a companion. In the UK, the *Disability Living Allowance* targets people "who have difficulties getting around" and those with "care and supervision needs". In Belgium, the *Flemish Fund for the Social Integration of Persons with a Disability* defines disability as a person's limitation in the ability to live independently.

Many countries specify certain types of impairments that qualify for assistance with ADLs, namely blindness and deafness (e.g., Austria, Denmark, France, Italy, UK, and Ireland), HIV (Portugal), intellectual impairments and mental dysfunction (Sweden), speech impediments and difficulties using public transportation (Finland). Other countries such as Belgium, Germany, and Netherlands do not specify any impairment for assistance purposes.

Another issue relates to the use of different activities that qualify as ADLs. While in many states ADLs mean the ability to sit, lie down and get out of bed, others include incapacity to maintain personal hygiene and to dress and eat, some include "mobility and transportation-related activities and 'social' activities (e.g., housework and household management, communication and aspects of social participation

**Income Maintenance and Income Support**

All member states of the European Union and Norway provide cash benefits for people who are unable to work due to disability. Many states have two benefits: 1) contributory insurance benefits which provides a flat-rate or earnings-related benefit, and 2) non-contributory benefits which provides basic income support, which may or may not be means-tested.

In most member states of the EU, work incapacity is the first criterion for establishing eligibility for income replacement benefits. Some states, including the Netherlands, Sweden and Germany have adopted the concept of "partial disability", in recognition of
regular part-time work. However, in practice, few recipients of partial benefits do in fact work, so the system operates more as a way of awarding lower benefits to less severely disabled people (if household income is sufficiently low as a result, benefits may be supplemented with social assistance). The definitions of disability used for the benefits in Europe are based on lack or loss of work capacity or earning capacity.

Programs concerned with the reintegration of applicants in the labor force tend to evaluate the work inability in which options for medical and/or vocational rehabilitation and other return to work opportunities are explored.

Under the "capacity profile" approaches, some states evaluate disability by taking a 'snapshot' of a person's work capacity at a specified point, for example after the designated sickness benefit period ends. In the UK, the Netherlands and Ireland, assessment tools (e.g., the UK 'Personal Capability Assessment' (PCA) and the Irish Medical Review and Assessment) are used to determine "the threshold for work incapacity". In the Netherlands, physicians use a standardized approach for measuring a claimant's functional ability to perform work. The approach defines 28 different types of action required in different occupations, including the basic activities in the PCA but also more specialized work-related activities such as tolerance of environmental conditions (reactions to heat, dryness etc), tolerance of vibration, ability to use special tools on the body (e.g. masks), etc.

Impairment-based approaches for disability assessment are impairment tables or baremas. They include ratings for the damage from disease and internal injuries that sometimes measure using innovative medical technologies. The tables are divided into chapters based on physical or mental components of the body or body systems and contain guides to medical benchmarks of normal condition.

**Employment Provisions**

The EU report also describes how definitions are used in employment provisions. While rehabilitation may be naturally linked to disability, many provisions for training are of potential value to a wider range of people who face obstacles entering employment which may or may not be related to a health limitation. For example, the Employment Service (ES) may provide living allowances for people undertaking training, and these may be paid for a longer duration for those designated as 'disabled' than for others. Subsidies may be paid to employers who take on different categories of workers who face obstacles entering employment; these may be paid at different rates or durations for different categories (e.g. one rate for the long-term unemployed and another for the disabled).

The definition of disability under employment provisions is often qualified by non-disability-related terms such as people who are "hard-to-place." The *Labour Market Service Act* in Austria and the *Law on Employment Services* in Finland provide services targeting this category of individuals with disabilities.
In the Belgian CAO 26 scheme (a collective wage agreement scheme), a labor inspector reviews the person's performance on the job and may conclude that the person's productivity is insufficiently impaired to qualify for a subsidy even if there has been a general assessment of disability.

In many European states, a system of quota is established as an employment strategy for persons with disabilities. Employers are obliged by law to hire and retain a given proportion of employees with disabilities or pay a fine. In Germany, Austria and Spain, the definition of disability for the purposes of the quota is based on impairment. The German and Austrian impairment rubrics are based on ‘direct measurement’, whereas the Spanish VM contains analysis of ‘disabling effects’.

Several states have reformed their quota systems. For example, France and Germany have introduced policies encouraging a more pro-active approach to the placement of workers with disabilities. In Italy, more effort is now invested in developing a detailed profile of the applicant and improving the match between potential employees with disabilities and the jobs that become available.

**Human Rights Legislation**

In November 2000 the European Union (EU) issued a Directive (Council Directive 2000/78/EC) which established a general framework for equal treatment in employment and occupation and outlawed discrimination based on religion, belief, disability, age and sexual orientation (the ‘framework equal treatment directive', FETD). The FETD does not contain a definition of disability. There are examples in the member states of general prohibitions on discrimination (in national constitutions, for example) where disability is mentioned but not defined. Other states use broad definitions covering minor disabilities (e.g., Northern Ireland), yet others, such as UK use detailed definitions that limit coverage to people with substantial disabilities.

**Independent Living**

There are many definitions of independent living which is an increasingly important aspect of disability treatment and programs. In Sweden "Independent Living means that we demand the same choices and control of our everyday lives that our non-disabled brothers and sisters, neighbors and friends take for granted. We want to grow up in our families, go to the neighborhood school, use the same bus as our neighbors, work in jobs that are in line with our education and abilities, start families of our own. Just as everybody else, we need to be in charge of our lives, think and speak for ourselves."

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