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Choice agendas in disability policy and practice: An analysis through the lenses of professional actors

The cases of England and Lombardy in comparison

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Publication date

2021

[Link to publication](#)

Citation for published version (APA):

Pozzoli, F. (2021). *Choice agendas in disability policy and practice: An analysis through the lenses of professional actors: The cases of England and Lombardy in comparison*.

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Chapter 2: Choice agendas, a brief history

As mentioned in the introduction, ‘choice agendas’ is the formula I use to describe the importance that ‘choice’ has gained as both a concept and a tool in the last twenty years or so, in the specific context of public policy and services. The idea of choice garnered this popularity elsewhere, however: public policy and services are only the space in which some of the most recent (and quite radical) developments regarding choice have taken place.

Until roughly the end of the last century, political conceptualisations of choice were mainly associated with emancipatory and identity politics. For instance, choice was one of the cornerstones of the language of citizenship and rights as employed in social movements, from pro-choice movements to movements pursuing politics of identity more generally (Lister, 2010). More recently, however, choice has also entered the arena of welfare states and welfare services, gaining increasing popularity – even when it is not necessarily in line with the values and missions originally asserted by social movements. For this reason, I will now provide two brief overviews of choice agendas, one from the perspective of social movements and the other from the perspective of policy-makers. The two perspectives are not completely separate, or at least not always. Nevertheless, I believe it is important to present them separately, as their theoretical underpinnings may vary widely and their union does not necessarily represent – as I suggested in the introduction - a ‘happy marriage’.

Choice agendas: a brief history from the Disabled People’s Movement perspective

As disability policy and services (or practice) is the specific context of this work, in providing the social movements’ perspective on choice I will focus on the specific case of disability rights movements and disability activism rather than social movements *tout court*.

The call for ‘choice and control’ as voiced by disabled activists around the 1970s and 1980s was a demand for “the same choices and control in every-day lives that our non-disabled brothers and sisters, neighbours and friends take for granted” (Ratzka, 2007, p.1), hence a call for equal rights, equal recognition and equal opportunities. The origin of choice agendas, in this perspective, can thus be linked to the fight against the discrimination and segregation of disabled people and disability activists’ campaigns for replacing the dominant medical model of disability with the ‘social model’ (Oliver, 2009; Oliver, 2013). According to this perspective, choice was (and still is) seen as a means for disabled people to express their voice by making decisions about their lives and reclaiming their place as citizens in a society that has ‘disabled’ and excluded them throughout history. Independent living and community support – hence the opportunity to choose where to live,

who to live with and how to receive any support that might be required – were the first ground-breaking demands of disability activism.

In the context of disabled people's movements, therefore, the concept of choice is closely related to that of 'social justice' and to debates around 'positive *versus* negative freedom' and 'capacitation'. Let us see how.

Choice as a demand for social justice

Following Frazer (2013), the demand for 'greater choice and control' as expressed by disability activism could be defined as a demand for social justice. As a theoretical concept, social justice is open to many different interpretations and has fuelled long-lasting debates and accounts in multiple fields, from sociology to philosophy and political science. I will not provide a detailed reconstruction of social justice theories here, as such a discussion would be beyond the scope of this research. However, a brief presentation of the possible links between social justice and other concepts such as liberty, freedom and equality is useful for better understanding the theoretical drivers of disability movements' claims-making around choice. For instance, if we take the definition of justice as fairness – in which, drawing on Sen (A. K. Sen, 2009), fairness means bias avoidance and impartiality, hence the notion that "*people should be treated fairly and like cases should be treated alike*" (Lister, 2010, p. 242) – then the demand for choice and control advanced by disabled people could be seen as a demand for equality, in the sense of demanding that they are given the same treatment as non-disabled people and, like them, enabled to make decisions which are authentically their own. This notion is closely linked to those of self-determination, independence and autonomy, in the sense of freedom to control one's own life. However, equal treatment does not automatically translate into equal opportunities for self-determination, independence and autonomy, at least not for all. Indeed, disability activist Tom Shakespeare warns about the danger, while campaigning for choice and control in the disability field, of overlooking the fact that not all people with disabilities will actually benefit from "*freedom to choose*" (Shakespeare, 2005) and that, "*unlike other oppressions, the challenge of disability is not just to treat people equally and fairly: we are obliged to take additional steps to ensure that needs are met and participation is assured*" (Ibid, p. 162). Other authors have similarly challenged the use of simplistic notions of autonomy and independence, drawing attention to the way some people might come to depend on others either because of long-term conditions or because of the kind of temporary need that all humans potentially have at certain points in their lives (Slorach, 2016). In the framework of this perspective, then, the demand for 'choice and control' becomes a demand for recognition – in the face of discrimination and disrespect – but also a demand for redistribution: "[W]ithout transformative public services which enable disabled people more choice and control,

we will never fully overcome our social inequality. We will continue to be viewed as vulnerable people in need of care, instead of active valued citizens in charge of our own lives” (Campbell, 2008, p. 8-9).

Choice and the positive *versus* negative freedom debate

The demand for choice as a means for achieving recognition but also redistribution has also brought disabled people’s movements to engage with concepts such as ‘positive’ and ‘negative’ freedom or liberty. We have seen that negative liberty is “freedom from”, in the sense of the absence of obstacles to, coercion around or constraints on the exercise of liberty, while positive liberty is “freedom to”, that is, the ability to act as one would wish and choose (Berlin, 1959). It was also noted above that, while negative liberty (freedom from) is essential to positive liberty (freedom to), increasing opportunities for choice does not necessarily help to remove constraints or obstacles from people’s lives.

The negative *versus* positive debate is relevant to the topic of choice and disability because it portrays two different ways of approaching society’s response to disability and helps to question the taken-for-granted assumption that choice constitutes the “great equalizer” (Iyengar, 2010). For instance, it is highly debatable that promoting free choice through the use of personal budgets – where equal amounts correspond to equal needs – benefits all disabled people in the same way. As Slorach (2016) puts it, “[i]n a society dominated by huge inequalities, everyone cannot have the same degree of autonomy and choice” (Ibid, p. 222). Moreover, the same questions Sandel (2009) poses in his discussion of American health care markets could be posed in the context of my research as well: “*How free are the choices we make in the free market?*” and “*How much equality is needed to ensure that market choices are free rather than coerced?*” (Ibid, p. 102, 84). Positive *versus* negative freedom approaches help us to answer these kinds of questions by reminding us that, to exercise freedom as individuals, it is not sufficient for us to all have ‘the same choice’. On the contrary, what counts are the actual abilities and possibilities people have to act as they would wish. And this point brings us to the core of the capability approach. I thus conclude this section on choice and disability activism by referencing the work of Amartya Sen.

Choice and the capability approach

Sen’s capability approach represents another way of addressing the debate on positive *versus* negative freedom outlined above. The idea underpinning Sen’s approach is that people’s wellbeing is not simply a function of the means and resources available to them; on the contrary, it depends on individuals’ actual ability to transform these means and resources into outcomes which are meaningful for them or, in Sen’s words, on “*a person’s capability to do things he or she has reason*

to value” (Sen, 2009, p. 231). For disabled people, this means that policies and services designed to offset their initial disadvantage through redistribution must be aimed at increasing their capability set or, in other words, their ability to choose to do or be what they value doing and being (A. K. Sen, 1994). This approach shifts the focus from a concept of wellbeing based on the availability of certain resources to a concept of wellbeing based on freedom of choice. It shifts from valuing resources as resources to valuing resources for what they allow beneficiaries to do or be. People’s opportunities for choice, hence their freedom, become the benchmark for measuring both wellbeing and the impact of given policies on such wellbeing. The application of Sen’s capability approach to the field of disability has contributed to fostering approaches which focus on widening disabled people’s opportunities for exercising meaningful choice rather than equipping them with resources aimed at offsetting their disadvantage. In the various ways they have been interpreted, such as Nussbaum’s conceptualisation (Nussbaum, 2009), such approaches have proved particularly relevant in relation to concepts such as autonomy and self-determination as well as the type of intervention aimed at achieving these objectives. Vehmas (2015), for instance, has argued that Sen’s capability approach offers the best theoretical model for planning interventions designed to ensure disabled people’s full participation in society. Such interventions act at individual and societal levels alike, acknowledging both the profound diversity of different individuals’ needs and the way these needs are shaped by social context. Indeed, capabilities are both personal and social, as is the process through which individuals make choices.

I have provided this excursus about choice theories because disabled people movements’ claims in relation to choice have implied deep engagement with the concepts of social justice, freedom and capacitation presented above. Even when not explicitly referenced or named as such, indeed, such concepts lie at the heart of disability activists’ historical demands for greater choice and control as well as the solutions they have suggested - including, for instance, independent living by means of direct payments. It is particularly important to keep this point in mind because – as I will now show – choice agendas have also made their way into government policy more recently and, in many cases, these agendas are based on quite different rationales.

Choice agendas: a brief history from a social policy perspective

A different story about choice agendas can be told from the perspective of social policy, a field in which rational-choice theories applied in the context of public services inform the history of choice agendas.

Politicians, economists and policy-makers began to view choice as an important tool in the context of the mixed economies of welfare (Alcock, 2012) that took hold following the introduction of New

Public Management (NPM) reforms in the 1980s as a response to the supposed failures of traditional welfare states. Under NPM principles, in fact, welfare states have been reformed, retrenched and reshaped (Clarke, 2012), and choice came to occupy a pivotal position role in the context of these reforms, retrenchment and reshaping. Indeed, confidence in individuals' abilities to make choices in a market-like environment and faith in the capacity of competition to guarantee and respond to individuals' choices (Le Grand, 1991, 2003, 2009) became the essential element of a new model of public service delivery. Let us look at all these developments in more depth.

Choice and policy-making: from New Public Management (NPM) to quasi-markets

New Public Management (NPM) reforms were introduced in the United Kingdom during the 1980s and soon spread to numerous other welfare countries, including Italy. The NPM reform years were a period in which welfare states began encountering new, emerging needs and, with these, new challenges: from socio-demographic shifts – such as increased life expectancy and the transformation of the structure of families – to changes in the conditions of the economy and labour market (Bifulco, 2015). Such changes brought welfare states to reconsider their public spending and, in most cases, resulted in public spending rationing. Meanwhile, citizens also began to question whether welfare states were capable of addressing the new challenges they were facing and, in particular, accused them of being inefficient, unresponsive and excessively bureaucratic (*Ibidem*). Soon, however, similar charges were also directed at welfare service recipients, increasingly framed as passive subjects of paternalistic welfare support rather than active citizens with rights. The convergence of all these factors led to consensus around welfare retrenchment narratives (Granaglia, 2011) and support for new welfare solutions based on markets playing a greater role in the delivery of public services. The belief – in line with the rise of neoliberalism occurring in the same period – was that the arrangements provided by free markets offered a preferable alternative to those provided by the public sector, including in terms of public service delivery, because markets are believed to be both less limiting of individuals' freedom and more efficient in enabling individuals' agency (Crouch, 2013). Indeed, NPM policies were aimed at reducing the state's role in welfare provision and introducing new accountability and market-like mechanisms in public services: competition among providers, the so-called 'split between purchaser and provider' (that is, separating the financing of public services from their delivery) and, finally, free choice for consumers (Bifulco, 2017).

It was in this mixed economy of welfare services that choice increasingly came to be seen as an important tool by politicians, economists and policy-makers eager to identify different and allegedly more sustainable welfare solutions. Their argument can be condensed as follows: individuals can indicate their approval of goods and services through their choices, and providers can use individuals' choices as an incentive to develop efficient and responsive service offerings (Smith et

al., 2008). In the 80s, and even more so during the 90s, welfare states increasingly took on the role of service ‘enablers’ rather than providers and users started to be seen, and behave, as ‘consumers’. Choice had become a means of justifying welfare retrenchment narratives while at the same time reviving both the concept of welfare services and that of welfare service users.

By the early 2000, however, NPM had been targeted by waves of criticism, with some critics arguing that its prescriptions actually turned into a proliferation of rules and recipes rendering the public sector more bureaucratic than ever and others pointing at its undesirable consequences in terms of fairness, equality and consistency of public services (Bifulco, 2017). And yet identifying the limits of NPM did not contribute to curbing politicians, economists and policy-makers’ interest in choice. On the contrary, this interest was adapted to the new circumstances to give rise to quasi-markets and nudges, the two new frontiers of choice in the aftermath of ‘failing’ NPM reforms. In the first case, the scepticism around NPM led to the introduction of a condition for the choice and competition model to function, that of quasi-markets: that is, a public sector market structure in which user-consumers are financed by state resources and providers can operate in a competitive but publicly regulated market (Le Grand, 2003, 2009). In the second case, the challenges mounted to the extreme version of rational choice theory embedded in NPM (A. Oliver, 2013) – with their assumption that almost all people make choices that are in their best interests – paved the way for nudge-type interventions in public policy. Through incentives and strategies aimed at influencing people’s choices and behaviours, nudges have been used since 2000 to improve the outcomes of public polices and services (Thaler & Sunstein, 2012) in England and beyond. It is on the first of these two new choice frontiers that I will now dedicate the rest of this section. Indeed, choice in the context of quasi-markets is the core model on which contemporary choice agendas are based.

“The invisible hand of choice and competition”

Julian Le Grand, author of several books and articles on choice and public policy, professor of social policy and senior policy advisor to Tony Blair during the UK’s New Labour government, has theorised and defended choice agendas in his work. His argument is that, in a context in which politicians and policy-makers must allocate scarce resources optimally, trade-offs between efficiency, responsiveness, quality and equity are necessary and the aim of policy is to deliver the best possible trade-off. The best trade-off can be identified, he suggests, by weighting the pros and cons of four different public service delivery models: those based on trust; those characterised by targets and performance management; those built around voice and, finally, those informed by ‘the invisible hand of choice and competition’ (Le Grand, 2009). As Le Grand puts it, trust models rely on the expertise of public service workers and managers to deliver and organise high-quality services; command and control models assume targets and performance indicators as benchmarks for quality; voice models rely on public service users and their capacity to influence service delivery

through feedback and participation; and, finally, choice and competition models are based on trust that quasi-markets – that is, state-regulated markets – will offset the typical externalities of free markets, ensuring perfect competition among providers and real opportunities for individual choice. In Le Grand’s words: “models that rely significantly upon user choice coupled with provider competition generally offer a better structure of incentives to providers than others we have discussed, and, as a result, are more likely to deliver high quality services efficiently, equitably and in a responsive fashion” (Le Grand, 2009, p. 38). All the other models – according to Le Grand – entail problems and difficulties in terms of service delivery which are far more serious than those stemming from the mechanisms of choice and competition. This is why the invisible hand of choice and competition offers the best trade-off, in his view.

The application of choice agendas as per Le Grand’s theorisation has influenced policy making and delivery in multiple countries and fields. As mentioned in the introduction, however, choice agendas have not entered public policy on their own; rather, specific tools have been associated with their implementation in public services: demand-side financing tools. Whatever form they take – cash-for-care schemes, vouchers or other money-transfer mechanisms – these are all tools allegedly aimed at facilitating choice among patients, pupils, disabled people, the elderly, parents, carers and public service users in general. In the Anglo-Saxon context, for instance, choice agendas have been introduced in education through open enrolment for pupils, school performance tables and demand-side financing, that is, mechanisms through which schools are funded based on the number of pupils they register (Adnett & Davies, 2003; Ball, 2007). In the health and social-care sector, choice agendas have been adopted through tools including Direct Payments, Personal Budgets and new commissioning mechanisms (Glasby & Littlechild, 2016). Since the 1990s, similar systems have also spread into northern European countries, furthering the expansion of private health-care and education providers and boosting the ‘right to choose’ of patients, parents and care users even in Sweden, the country often considered the cradle of the public model of welfare service delivery (Blomqvist, 2004). More recently, conservative and corporate welfare states (Esping-Andersen, 1990) such as France, Germany, the Netherlands and Italy have also begun adopting choice models and agendas in services for the elderly, disabled people, children and families and they have done so through ‘voucher-style’ reforms (Graziano, 2009; Morel, 2007).

Choice agendas: critical voices

There is a rich body of research assessing the outcomes and impact of the introduction of choice models in the various countries and fields where they have been applied. The picture provided by

this literature is complex, and evidence of the success of choice models is sketchy, mixed and often ideological¹.

Critics of choice, scholars who oppose the above views and theories, can be divided into three main groups: those pointing out factors that could hinder rather than enhance individuals' actual agency and choice in the context of quasi-markets, now commonplace in the majority of European welfare states; those advocating for a different choice logic, alternative to that of 'users-consumers' in a public services market; and, finally, those critiquing the very application of the concept of choice in the sphere of public services on the grounds that it does not belong there.

The first group includes scholars who highlight the so-called externalities of markets and quasi-markets, such as behavioural failures, information failures and segregation effects (Glennerster, 2009, 2014). For instance, if quasi-markets create a system of contract compliance and regulation imperatives rather than ensuring perfect competition (Billis, 2010; Kendall & Knapp, 1996), it can be argued that incentives to innovate and diversify provisions are threatened and individuals actually have less possibility to exercise genuine agency. Asymmetrical levels of information among individuals is another decisive test by which opportunities for real agency can be determined: do users know what constitutes 'good services'? Are some individuals more 'skilled choosers' than others? These questions point at behavioural and information failures, but they also open the door to a debate about people's potentially unequal ability to exercise choice in a quasi-marketplace. Might rich people's resources make it easier for them to maintain their privileged position? And is choice a 'middle class anxiety' reflecting social hierarchy rather than diverse plurality? (Ball, 2003). Research on choice in the specific areas of health, family life and employment (Burchardt et al., 2015) has shown, for instance, that inequalities in choice do exist and are linked to socio-economic factors.

The second group of critics – building on positive freedom, capabilities and social justice theories, and in opposition to governments' choice agendas – supports the idea that choice has value as a synonym for autonomous participation and freedom from discrimination. According to this view, however, free choice cannot be reduced to the freedom to choose and buy in a market-like environment. Free choice should instead be about participation, recognition and autonomy (Beresford, 2014; Ferguson, 2012b; Slasberg & Beresford, 2015). In this respect, these authors' emphasis on choice could be read as an outcome of activism by disabled people, carers, and patients

¹ The current state of research on choice agendas will be presented and discussed later in this work and in relation to the specific policies analysed in this project. Please refer to Chapter 5 – *Background of choice agendas in the two contexts of my study* - for more information.

who have long demanded choice in the name of empowerment and having their voices heard (Oliver, 2009; Oliver & Barnes, 2006; Slorach, 2016).

Finally, a last group of critics questions the use of the choice concept in public services more generally. One argument, for instance, is that people do not want choice but good quality services and that too much choice actually risks undermining and curbing people's prospects rather than enhancing them (Schwartz, 2009). Another argument contends that the western ideal of individual choice has little to do with the ethos of public services, especially care services, and so investing in choice does little to meet the complex needs and requirements of public service users (Mol, 2008). As Fitzgerald Murphy and Kelly (2019) have argued, choice often appears in the literature about care as a normative concept with presumed benefits even though there is no evidence that increased choice improves the experiences and outcomes of care users. It follows, they suggest, that critical and political ethics of care would constitute a better framework for understanding care practices and relations than choice.

In this work, I position myself between the second and third group of scholars. Indeed, my aim is to offer a critical analysis of the ways choice agendas translate into practice and, as we will see, this analysis shows both that it is desirable to develop an alternative vision of choice which diverges from that of user-consumers in a market of public services, and that the concept of choice, if applied normatively, risks giving rise to only detrimental effects in the context of public services.