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## Equality according to whom? Debating an age-related restriction in the upcoming disability legislation reform in Finland

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### ABSTRACT

Within many countries, the policies of disability and old age have been developing on distinct paths. Even though the prevalence of disability is higher in older populations, older persons tend to be excluded from disability discourses. Taking Finland's disability service legislation reform as an example, this article elaborates on the justifications for excluding or including older persons from disability policies. The paper analyses the public statements given in 2017 to a proposal that introduced an age-related restriction to disability services in order to understand how the restriction is argued for and against, and what kind of conceptualisations of old age and disability the statements portray. This study found that although equality is the most important principle underlying the reform, the conceptualisation of equality varies. Depending on who is included in the disability discourse, the idea of what is fair differs. Hence, it is necessary to recognise the differing understandings of equality in the debate regarding the age-related restriction. In addition, I argue that equality research can be helpful in assessing the fairness of public policies at the intersection of ageing and disability.

### Introduction

Achieving disability equality is one of the main goals of disability policies. However, older persons with disabilities tend to be excluded from disability policies, which can create unequal situations (see, e.g. Hoppania, Mäki-Petäjä-Leinonen, & Nikumaa, 2017; Jönson & Taghizadeh Larsson, 2009). In recent years, the bridging of the relatively separate fields of disability and ageing has been called for in both research (e.g. Freedman, 2014; Jönson & Taghizadeh Larsson, 2009; Kröger, 2009; Leahy, 2018; Priestley & Rabiee, 2001; Yoshizaki-Gibbons, 2018) and policy (e.g. (Putnam and Bigby, 2021) Bickenbach et al., 2012; Bigby, 2002).

The prevalence of disability in older populations is higher than it is with younger populations (Jönson & Taghizadeh Larsson, 2009). In the EU countries on average, 17.9% of the population aged 16 to 64 reported having activity limitations, whereas the percentage of activity limitations in the 65+ age group was 48.5% in 2018 (Grammenos, 2020: Table 1). In Finland, 3.4% of the population used disability services in 2018 (National Institute of Health and Welfare, 2018). In a report from six large Finnish municipalities, 60.7% of all disability services users were aged 65+ in 2018 (Ahtiainen, 2019). Despite this, many national policies generally view age-related disabilities as distinct from other

disabilities, and have excluded older persons with disabilities from disability policies and discourse (see, e.g. Jönson & Taghizadeh Larsson, 2009; Lavikainen, 2016; Leahy, 2018).

In research, the concepts of *ageing with disability* and *disability with ageing* have been used as a way of dividing two populations: the former concerns persons who have been born with disabilities or acquired disabilities earlier in their life whereas the latter refers to disabilities that begin in old age (Verbrugge & Yang, 2002). In her research situated in Ireland, Leahy (2018) argues that the separation of disability services and older persons' services can stem from conceptual issues: the lack of a clear concept of disability with ageing in the services tends to lead to equating old age with impairment and general decline.

According to Molton and Ordway (2019), ageing with disability and disability with ageing have been researched in separate siloes where people with long-term disabilities are invisible in ageing studies as well as older adults in research on disabilities. Hence, they argue, there is a need for greater collaboration between disability and ageing scholars in order to contribute positively to the lives of persons ageing with and into disabilities. In their analysis, they found that there is more cross-citation of disability studies in ageing research than the other way around; this implies that ageing research might be more interested in applying disability frameworks and especially disability studies might benefit

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**Table 1**  
Background information on the comments given to the draft proposal in 2017.

Commenter	Submissions retrieved from the website	Written comments included in the analysis
Municipality	18	16
Joint municipal authority for a special care district	8	7
Other joint municipal authority	9	6
A ministry	6	3
Governmental or other public authority	16	7
NGO DPO	64 35	40 22
Other types of NGO	29	18
Disability service user	6	0
Other private person	7	5
Other commenter	25	13
Total	159	97

from strengthening knowledge transmission with ageing research (Molton & Ordway, 2019).

The intersection of disability and old age has been studied from the viewpoints of older persons, persons with disabilities and experts. Naue and Kroll (2010) suggest that older persons do not want additional stigma on top of that already associated with old age, which can be a barrier to creating the aforementioned conceptualisation. Priestley and Rabiee (2002) found similar results in their comprehensive research regarding older persons' views about disability in the United Kingdom, where they studied the issue by interviewing and surveying people involved in organisations working for and with older persons. They found that even though there is much common ground between the disabled persons' movement and older persons' organisations, older persons tend to seek social inclusion precisely by distancing themselves from disability. In addition to older persons resisting a disability identity, there can be opposition from disability groups as well. Priestley and Rabiee (2001) found that disability groups had two differing views: some considered older persons with disabilities 'disabled', irrespective of the time of the disabilities' onset, while others regarded the impairments of older persons as just something that happens naturally with age. Leahy (2018) interviewed people working in policymaking, service provision, and non-governmental organisations (NGOs) that focus on ageing or disability. The results suggest that there is a tendency to view older persons with disabilities as 'elderly' than 'disabled' (see also Jönson & Taghizadeh Larsson, 2009), which is in concert with the previously mentioned studies as well. Kelley-Moore (2010) conceptualises the idea of normal ageing through Bury's (1982) perception of biographical disruption: disabilities in older age are not seen as biographically disruptive but are rather seen as normal and hence not needing disability services.

The need to focus on issues regarding the rights of older persons with disabilities has been brought up by the UN Special Rapporteur recently since "[their] human rights ... are not being respected" (United Nations, 2019, para. 2). Human rights and equality are essential principles in disability policies, and *equality* is a frequently referred concept in disability studies. However, it seems that only a few studies on the intersection of disability and old age focus on human rights or employ theories of equality in analysing the situation of older persons with disabilities.

In this article, I will concentrate on equality-based justifications for including and excluding older persons with disabilities from disability policy. I will analyse the public comments on a draft proposal for the new disability legislation, in which an age-related restriction was suggested. I am interested in what kind of tensions lie beneath the publicly expressed views on eligibility for disability services in the discussion of the Finnish disability services legislation reform. Therefore, I ask: How is the principle of equality perceived in justifying arguments for and against the proposed age-related restriction, and what kind of

conceptualisations of old age and disability do the arguments embody?

In the following, I will first provide a brief overview of the concepts of equality and equity that I will use in my analysis. After that, I will clarify the policy context of Finland. Then, I will introduce the methodology with which I arrived at my findings, after which I will present the categories that I found in the comments related to equality. Finally, I will conclude with a discussion of the different conceptualisations of disability and old age that result in different ideas of equality.

### Equality and equity in disability and ageing policies

In order to understand the unequal situations and discrimination (e.g. Jönson & Taghizadeh Larsson, 2009; Raymond, 2019) caused by the aforementioned divide of disability services and older persons' services, one needs to understand what is meant by equality and equity. Often researchers, policy analysts, and others do not differentiate between equality and equity (Espinoza, 2007). Very little research on the intersection of disability and ageing that I know of has discussed the issue from an equity point of view – or elucidated what they mean by the often-used word *equality*. In relation to the Finnish disability policy reform, this is undoubtedly difficult as there are no separate meanings and words to *equality* and *equity* in the Finnish language.

*Equity* means fairness (Blanchard, 1986). However, it does not mean equal shares for everyone, but rather unequal shares according to one's needs (ibid.). In other words, someone may need more resources or support than others, and it is equitable to provide that support even though it means some get more than others. *Equality* has a long line of theorising, and therefore has a variety of conceptualisations. For the purposes of my article, I juxtapose it with *equity* and consider it along the lines of *basic equality* defined by Baker, Lynch, Cantillon and Walsh (2016: 23): "[basic equality is] the idea that at some very basic level all human beings have equal worth and importance, and are therefore equally worthy of concern and respect". In the domain of disability policy, *equity* is of utmost importance: persons with disabilities need individual-specific support in order to participate in society. Hence, with this support, persons with disabilities can achieve *equality* in society. Therefore, I see equity as a means to equality; that is, there is no road to true equality without equity.

Historically, ageing research and policies have reflected a medical standpoint concentrated on understanding and preventing disease and loss of function, whereas disability studies have in recent decades relied on the social model, emphasising independence and questioning the medical framework (Monahan & Wolf, 2014). Even though in the disability field, the social model of disability has been dominant, critique has been presented; for example, criticism for ignoring impairments and the need for impairment-specific medical attention (see, e.g. Shakespeare, 2006). To further the common language of disability and ageing, and ease the divide between policies, a biopsychosocial model (Leahy, 2018) and social model of ageing (Naue & Kroll, 2010) have been suggested. Naue and Kroll (2010) propose a social model of ageing that would include the aforementioned criticism of the social model but also utilise its benefits for ageing policies, more resembling a biopsychosocial model. Similarly, Leahy (2018) suggests that universal, biopsychosocial understandings of disability could provide necessary linkages between disability and ageing.

In addition to the aforementioned proposed models of disability and ageing, equality-based solutions leading to less-excluding disability policies have been proposed as well. Jönson and Taghizadeh Larsson (2009) suggest using an interest group approach in order to tackle the negative effects of age norms and age-graded reference groups. They note that age-graded references have been used by younger persons with disabilities in the struggle for equal rights in order for them to be able to live as others of a similar age do. Furthermore, Jönson and Harnett (2016) continue this thought by applying an equal rights framework in care home settings and argue that external reference groups could help older persons to claim rights. If older persons with disabilities are

perceived to be ‘just old’ and disabilities in old age are considered ‘natural’ (Priestley, 2003), policies based on age-graded reference groups can be regarded as ageist. In their participatory action research, Raymond and Grenier (2015) conclude that ageing frameworks should accommodate more diversity and varying life courses.

The aforementioned tensions in the intersection of disability and ageing have been studied less in Finland, with the exception of research done by Hoppania et al. (2017). In their article, they discuss the situation of older persons with dementia within the service system, suggesting that such persons should be viewed through the framework of disability legislation instead of the legislation directing older persons’ services. They argue that the service provision for older persons with dementia can be considered discriminatory and create unequal situations since the older persons have not been regarded as eligible for the disability services, unlike younger persons with dementia. The same complexity and potentiality of unequal treatment can be seen with other age-correlated disabilities in Finland.

### Policy context: Finland

In this article, I discuss the intersection of disability and old age in disability policies through a Finnish example. Hence, it is necessary to clarify the policy context of Finland.

Services for different user groups – for example, older persons’ services and disability services – are organised and funded separately. The specific piece of legislation directing the services for older persons is the [Act on Supporting the Functional Capacity of the Older Population and on Social and Health Care Services for Older Persons \(980/, 2012](#), henceforth, ‘the Older Persons’ Services Act’). This Act is secondary to other general legislation concerning older persons (e.g. the Social Welfare Act 1301/2014). Disability services, on the other hand, are legislated by the [Disability Services Act \(380/, 1987](#) and the [Act on Intellectual Disabilities \(519/, 1977](#) in addition to general legislation (e.g. the Social Welfare Act 1301/2014).

The disability service legislation in Finland is being revised. Its main objective is to merge the Disability Services Act 380/1987 and the Act on Intellectual Disabilities 519/1977. In addition to merging the two Acts, the contents and coverage of the new Act will be revised as well: an age-related restriction to disability services has been suggested on multiple occasions. In the current disability service legislation, persons whose service needs mainly stem from age-related disabilities are not specifically excluded from disability services except for personal assistance (Disability Services Act 380/1987). The definition of *age-related disabilities* in personal assistance has engendered many appeals to the Supreme Administrative Court, and the decisions have guided the application of the Act. For example, the Supreme Administrative Court ruled in one case that an 85-year-old person with mobility and cognitive impairments due to a stroke was not eligible for personal assistance since the risk of stroke increases with age; hence, these needs were interpreted to be related to ageing ([Supreme Administrative Court, 2012 10.12.2012/3389](#), published as KHO 2012:111). The problematic aspect of this is that a younger person in a similar kind of situation can be eligible unless the cause of the stroke is undeniably proved to be age-related. Hence, for an older person, an impairment may be interpreted age-related until proven otherwise, whereas for a younger person, it is quite the opposite. It was suggested that a similar age-related restriction be applied to all disability services in a draft proposal presented to the public in 2017 in order to provide an opportunity to comment on it.

According to the draft proposal, the act would not be applied to a person whose assistance and support needs mainly result from conditions that have originated, worsened, or increased because of old age, or from deterioration due to old age ([Ministry of Social Affairs and Health, 2017](#)). In the draft proposal, it is then further suggested that, in the future, these persons’ service needs would be covered by the Social Welfare Act and the Older Persons’ Services Act; the definition of *age-related disabilities* was in fact tied to the definition in the Older Persons’

Services Act. According to the Older Persons’ Services Act, “older person means a person whose physical, cognitive, mental or social functional capacity is impaired due to illnesses or injuries that have begun, increased or worsened with high age or due to degeneration related to high age” (Older Persons’ Services Act 980/2012, §3.2). In law, there is no distinct chronological age limit to be included in older persons’ services.

However, the Social Welfare Act and the Older Persons’ Services Act do not include as many services aimed at increasing participation, self-determination, and inclusion as the Disability Services Act does. In addition, these Acts do not include subjective rights to related services, and the services are not cost free to the service users, as many disability services are. A subjective right in Finland means an enforceable entitlement to certain services, irrespective of municipal resources. Hence, it can be argued that this kind of age restriction would weaken the services provided for older persons whose disabilities can be interpreted as age related.

Finland ratified the United Nations’ Convention on the Rights of Persons with Disabilities (UNCRPD) in 2016. The UNCRPD does not consider the time of the onset of the impairment (i.e. whether it is age related or not) in its definition of *disability* (United Nations, 2006, Article 2). The UNCRPD adopts a human rights–based approach. The human rights–based approach steers away from previously used models of disability, especially the medical model of disability (United Nations, 2014). The human rights–based approach leans on ideas from the social model of disability yet does not adopt it fully. This constitutes a paradigm shift in understanding disability, in which a disability is no longer seen either as a medical problem or as an issue created by the environment or society. As the UNCRPD is ratified, this has to be taken into account in preparing legislation.

The government proposal (159/2018) was given to parliament in September 2018. In it, the coverage of the proposed Act is stated as follows: this Act is to be applied if the person does not get sufficient and suitable services according to the Social Welfare Act 1301/2014, the Older Persons’ Services Act 980/2012, or any other Act. The government proposal (159/2018) lapsed before the general election of 2019. The reform work continued under the subsequent government along the same tracks, however no new draft Act has been proposed at the time of writing (March 2021).

### Data and methods

My data consists of the public comments on the draft proposal for the new disability legislation (2017). The draft proposal of 2017 included both a rationale and a detailed rationale as attachments, and all the documents were introduced to the public when gathering comments. In the analysis, I will focus on the comments since the aim of the study is to investigate the argumentation and justifications for and against the age-related restriction.

Comments to the draft proposal were gathered from May 17th to July 17th in 2017. Some actors ( $N = 123$ ) – including appropriate ministries, governmental authorities, municipalities, joint municipal authorities, political parties, NGOs, and other authorities – were requested to comment on the draft proposal, and a public call for comments was posted as well. According to the summary of statements, altogether 162 comments were given, with the largest proportion of them (41%) being from NGOs (Huhta, Pohja, & Tulkki, 2017). However, only 159 comments were available online (Ministry of Social Affairs and Health, n.d.). Some actors submitted comments as an appendix as well, and therefore the number of actors (150) was actually smaller than the number of comments. I focus on the comments rather than the commenters.

I analysed the written comments on the age-related restriction in question, which was mentioned in 97 of the 159 comments. I mostly categorised the commenters according to their own identification in the questionnaire; the answer options are presented in Table 1. In order to better recognise the differences between actors, I analysed disabled

persons' organisations (DPOs) separately from other NGOs. The 97 comments contained 161 argument units, as one comment could consist of multiple arguments. Altogether, the statement forms amounted to 2321 pages, but after extracting the written comments regarding the age-related restriction, 29 pages with font size 8 text and 1.0 spacing were left.

The comments were submitted in Finnish or Swedish. In this paper, I have translated all the quotations from Finnish or Swedish into English. The original comments are found on the website of the reform (Ministry of Social Affairs and Health, n.d.). When using citations, I provide the name of the commenter with which the comments can be found on the website mentioned above.

In the draft Act included in the draft proposal, the age-related restriction is provided in § 2.3. It states that, according to the Older Persons' Services Act (980/2012) § 3.2, the Act will not be applied to an older person whose physical, cognitive, mental, or social functional capacity is impaired due to illnesses or injuries that have begun, increased, or worsened with old age or due to degeneration related to high age. The other two sub-sections of § 2 deal with the more general definition of *disability* and organising responsibility according to other legislation.

Comments were collected with a questionnaire containing both multiple choice and open questions. The questionnaire contained 41 questions, with four of them focusing on the coverage of the proposed Act. The questions regarding the coverage and their answer options are presented in Table 2. The last question of the questionnaire is included as well since some had elaborated more on the age-related restriction there. In addition to a few answers to Question 41, I analysed the comments given to Question 8, which is an open question regarding the scope of application of the Act, including the age-related restriction.

In the analysis, I utilise the theory of justification developed by Boltanski and Thévenot (1999) as a coding instrument to understand how the arguments for and against the age-related restriction are justified, and I utilise problem-driven content analysis as the method of analysis (Krippendorff, 2004) with a focus on equality. I chose to concentrate on equality issues since I consider it an important principle to discuss as it most likely guides our approach to disability, both in reference to this particular proposed Act and also more broadly in society. It is essential to bring the questions around equality into wider and more public consideration.

Boltanski and Thévenot (1999) argue that, in moral and political disputes between different actors, argumentation is justified through different 'worlds' or 'economies of worth' that they name *inspired, domestic, fame, civic, market, and industrial worlds*. These worlds include the idea of a 'good life', based on classical Western philosophical root texts (Boltanski & Thévenot, 1999). In the following, I present the six worlds in question with examples of what they would mean if they were used to oppose the age-related restriction in the dispute at hand.

*The inspired world:* In this world, things like creativity, emotions, and

artistic sensibility have worth. In this world, it could be argued that older persons with age-related disabilities need the services to engage in cultural activities and, without them, they are left without key features in life.

*The domestic world:* Here traditions, family life, and a strict sense of authority and hierarchy are of most importance. An argument could thus be that we need to respect our elders, and therefore we should not exclude them from any services they need, including services for persons with disabilities.

*The world of fame:* A persons' worth depends on their fame and being recognised by others. A valid justification for opposing the age-related restriction in this world could be that a famous and well-respected disability activist supports the inclusion of older persons with age-related disabilities in disability services.

*The civic world:* In the civic world, what matters is equality and common good. It could thus be stated that it is unjust and unequal to exclude older persons with age-related disabilities from disability services since they need them too.

*The market world:* The market world revolves around wealth, buyers, and sellers. If older persons with age-related disabilities were included in disability services, it could be argued that money would be saved elsewhere, for example, in home care and other care services.

*The industrial world:* In the industrial world, expertise and efficiency are the sources of worth. An argument could state that many experts and legislations regard the age-related restriction as unequal and we should trust these experts.

Justification theory (Boltanski & Thévenot, 1999) is useful in understanding the rationales different actors present in political and societal disputes, and it has been widely used for that purpose (see, e.g. Perälä, Hellman, & Leppo, 2013 [on opioid maintenance treatment]; Salminen, 2016 [on private transport use]; Hast, 2013 [on an ecological dispute]). I will employ justification theory as a coding instrument through which I can recognise important arguments and counter arguments within the dispute over the age-related restriction.

During the analysis, I read the equality-related arguments multiple times to recognise patterns and categories. After recognising specific categories, I found resemblance to equity theories, specifically the work done by Blanchard (1986).

Some clarifications need to be made in relation to the Finnish language that I have translated into English in the quotes. Two words were commonly used when describing normal ageing or normal life: *normaali* and *tavanomainen*. The first is quite unambiguously 'normal' whereas the second is more difficult to interpret in English. It translates as 'usual' or 'ordinary' which are words that are not very often used in international research related to normal ageing. However, the meaning of *tavanomainen* is quite similar to 'normal' but it does not have as negative an undertone as 'normal' has. In order to not falsely put negatively loaded words into the commenters' statements, I wanted to clarify this. Nonetheless, in relation to my analysis, the factual meaning is the same: something that is not unusual or unexpected.

## Findings

It is not surprising that cost, legality, and equality are mentioned when discussing a disability policy reform (see Table 3). For the purposes of this article, I have only analysed the justifications that base their arguments in the civic world, more specifically in the ideals of equality for it is perhaps the most essential principle in disability policies. Regarding this reform, the differences between understandings of legality and cost are undoubtedly to be resolved among legal experts. However, it is essential to discuss the issues around equality widely and publicly. Table 3 shows the numbers of arguments, justifications, and the equity norms I found in my analysis, categorised by the direction of the arguments.

As Table 3 shows, most of the arguments were critical of the presented age-related restriction. However, many were not against the idea

**Table 2**  
Questions in the questionnaire regarding the coverage and the answer options (translated from Finnish by the author).

Question	Answer options
5. On the basis of § 2, is it clear in which situations the special Act is applied?	Yes No No opinion
6. In the 3rd sub-section of § 2, a restriction to the coverage is provided. Is the restriction clear?	Yes No No opinion
7. Is the restriction necessary?	Yes No No opinion
8. Other notions about the contents of § 2.	[Open space]
41. What else would you like to bring up concerning the draft proposal?	[Open space]

**Table 3**

The categorisation of the comments into arguments, justifications and equity norms.

	Arguments		Justifications				Equity norm			
			Civic	Market	Industrial	None	Total	'Normalities'	Needs	Disadvantages
For	35	6	12	11	9	38	2	1	3	0
Against	110	50	1	44	21	116	27	10	6	7
Neutral	13	3	0	6	4	13	0	2	0	1
Total	161	59	13	1	34	167 <sup>a</sup>	29	13	9	8

<sup>a</sup> The arguments were in some cases justified with a collaboration of two worlds, which is why the number of arguments can differ from the number of justifications.

of an age-related restriction itself. Justifications for being against the restriction were mostly made through the equality-focused civic world and the efficiency-focused industrial world, whereas the cost-based market world was mostly involved in arguing for the restriction.

The commenters used equality as a principle in justifications in both supporting and opposing the proposed age-related restriction or the idea of an age-related restriction. It was usually not explicitly voiced but, based on justification theory (Boltanski & Thévenot, 1999), I interpreted it as the underlying principle guiding the argument.

As the commenters argued for equality, they suggested different means of achieving it (i.e. there were different ideas of equity and fairness). I categorised them into three domains of equity: (1) the equity of equal 'normality', (2) the equity of equal needs, and (3) the equity of equal disadvantages. The first of the three, the equity of equal 'normality' was the most prominent one as many commenters pointed out what is and should be considered 'normal'. This is not surprising, since notions related to normality and normal life could also be found in the detailed rationale of the proposed Act itself. The second, the equity of equal needs, was a little less pertinent, but clearly visible. Many commenters focused on needs, regardless of whether their comment was supporting or opposing the restriction. The third, the equity of equal disadvantages, was the least common of the three, but recognizable. This category regards both the principle of restricting the services to the most disadvantaged groups and who can be considered disadvantaged.

#### *The equity of equal 'normality'*

The equity of equal normality category reflects disability through the idea of normality. In Blanchard's (1986) equity norms, this relates to the ascription norm. According to that norm, resources should be distributed according to some specific characteristic, such as age, nationality, gender, or (in my application) the idea of normality determined by the commenters. The commenters viewed certain disabilities as normal in relation to ageing, and therefore they did not support them to be included in disability services. Both supporting and opposing arguments were found in this category, some claiming certain disabilities as belonging to normal ageing and others to not belong.

Some commenters, like the following care workers' union, highlighted that not all disabilities in older age are caused by ageing:

There is a risk that, based on the restriction, persons who have acquired disabilities after turning 65 years old will not get special [disability] services according to this [draft proposal] Act, but the Social Services Act will be applied to them. However, not all disabilities acquired by older persons are disabilities linked to normal age-related illnesses. The reason for a disability's emergence cannot be age ... (Super [a care workers' union]).

The commenter notes that not all disabilities acquired in older age are linked to normal age-related illnesses. On the other hand, they also maintain that the reason for a disability's emergence cannot be age. That is, some disabilities are linked to ageing, but not caused by it. As many other statements, this comment seems to include the view that disabilities that are in fact linked to normal age-related illnesses could be excluded from disability services. The question lies in what can be considered as normal age-related illnesses.

Many commenters were concerned about the fate of certain impairments. Most DPOs that represent certain disability or impairment groups wanted to stress that the impairment in question cannot be considered normal ageing. Issues regarding persons with, for example, memory disorders, hearing loss, and visual impairments were especially mentioned as being at risk of wrongful exclusion, as can be seen in the argument below about visual impairments:

The Finnish Federation of the Visually Impaired highlights that acquiring visual impairments is not normal ageing. There's always a disease behind the visual impairment that has caused it. It is not normal, ordinary frailty of old age or the usual deteriorating health in old age. (Näkövammaisten liitto [The Finnish Federation of the Visually Impaired]).

The argumentation around normal ageing was focused on distancing certain impairments and situations from it. Most commenters in this category wanted to make sure that certain impairments or situations would not be interpreted as normal ageing, since in this case, normal ageing was a negative situation as it would deprive them of the eligibility to receive support and services. This begs the question: What then are the effects of so-called normal ageing that should be excluded?

The findings from other studies show that age-related disabilities are not considered to disrupt the process of ageing since they are regarded normal. In other words, normative ageing inevitably includes disability (Kelley-Moore, 2010). However, disabilities in childhood, adolescence, or adulthood can be considered disruptive since a person should be active during those stages of life and attention should be focused on supporting their participation (see, e.g. Priestley & Rabiee, 2002; Leahy, 2018).

Some were concerned with how the restriction would recognise that some disabilities worsen with age. Even though the decreases in health would be related to ageing, the origin of the health deterioration would be in the previous impairment:

Oftentimes, ageing can exacerbate a disability that has started due to illness or injury. It can then be difficult to distinguish between an injury or illness and the symptoms of ageing, which is likely to lead to unequal treatment of clients: with one [client] the need for help or support is primarily seen as related to old age and with another [client], the same need is seen to be caused by illness or injury. (FYSI ry, Suomen Fysioterapia- ja Kuntoutusyritykset Oy [an organisation of private rehabilitation businesses]).

Many commenters noted that the age-related restriction in this form would not bring equality, but still supported the idea of an age-related restriction. For example, one municipality maintained that the restriction and its proposed definitions were needed but were still not clear enough, and the interpretation difficulties would remain:

The definitions in the coverage of the proposed Act are necessary and the relations between different Acts should be clearly defined. Both the article in the proposed Act and the proposal for its rationale leave the application of different Acts unclear. It is still open for interpretations about what old age is and how the illnesses and impairments caused by the ageing of a person with disabilities are interpreted. (Tampereen kaupunki [the City of Tampere]).

As the structured question was 'Is the restriction necessary?', these kinds of comments enforce the idea that many would wish to see a clearer distinction between disability services and older persons' services. The number of persons aged 65+ in disability services has been increasing (Sotkanet.fi), which may engender concerns about disability services costing more or having to divide the costs between more service users. This can raise concerns of equality among persons with disabilities of different ages. Many commenters wanted to stress that whatever happened, "[n]o one should be left behind, and the services of persons with disabilities must not be weakened as they age" Espoon vammaisiamies [the disability ombudsman of Espoo].

### *The equity of equal needs*

Some commenters supported or opposed the age-related restriction by claiming that it should be restricted according to needs, which is straightforwardly the same as Blanchard's (1986) equity norm of needs. According to this norm, resources should be distributed according to needs: persons who have the same kind of needs should have the equal support or resources. Supporters of the age-related restriction seem to make a distinction between the needs of older persons and (younger) persons with disabilities, whereas opponents maintain that age-related restriction is unnecessary since services should be determined according to one's needs regardless of the origin of the needs.

In addition to the distinction of needs, some stressed that because persons with disabilities need the services long term or even for their whole life, the services should be aimed at them specifically, as the following argument from a DPO shows:

We think that this age restriction is essential. Even though the elderly have to be able to get their necessary services, their services should be organised by applying the Older Persons' Services Act and the Social Welfare Act. Persons with disabilities will use the services for years, decades, or even their whole life. Hence, it is essential to secure services according to their individual needs with special legislation. The limited application of the [Disability Services] Act towards the older population was the aim [of this legal change] to begin with ... (Kehitysvammaisten tukiliitto, KVTL [Inclusion Finland KVTL, an organisation of persons with intellectual disabilities and their families]).

This evokes the question of individual needs and who has them. In previous research, it has been concluded that people in fact get more heterogeneous as they age (Dannefer, 1987). However, in my data, the individual needs of persons with disabilities were highlighted as opposed to the needs of older persons. Again, we come back to the idea of normal ageing and a normal life course that were referred to in the detailed rationale of the proposed Act that can be found problematic: as some needs are 'normal' at a certain age, they might not be considered 'individual'.

In comparison, some opponents of the restriction note that disability legislation should concern everyone who has the need for support because of an impairment, and restricting it is discriminatory. They make no note about the reality of the needs or their age relatedness. In their opinion, all disabilities are worthy of special services according to individual needs and the emphasis should be on the recognised service need and not the origin of the need:

We think it is discrimination that age affects whether or not one gets disability services; so, the age restriction should not be implemented. We think that the Act should apply to every person who needs necessary and frequent help or support in their daily life due to a functional limitation caused by a long-lasting impairment or disease. (Tapaturma- ja sairausinvalidien liitto [an association of persons with physical disabilities caused by illnesses or accidents]).

Not many commenters used the word 'discriminatory', but a few did.

Their opinion seemed to be quite clear and the closest to Blanchard's (1986) equity norm regarding needs, which clearly dictates the basis of equity: the same needs deserve the same resources.

### *The equity of equal disadvantages*

The last equity norm I recognised in my data was the equity of equal disadvantages. This did not relate straightforwardly to any of Blanchard's (1986) equity norms. However, Miller (2001: 131–132) refers to a principle he names 'desert' in his theory of social justice: resources should be distributed to those who deserve them. I see some resemblance to deservedness in my category of equal disadvantages.

Some argued that the specific disability services need to be targeted to the most underprivileged group in the society (i.e. persons with disabilities). One commenter noted that, in order to maintain subjective rights, it is essential to restrict disability services to the relatively small group with individual needs:

The precondition for subjective rights, both socio-economically and individually, is that it is not a universal service and that the services are intended to target a relatively small group of the socially most disadvantaged persons that are in need of special solutions. (Invalidiliitto [the Finnish Association of People with Physical Disabilities]).

Some argued for the inclusion of older persons on the grounds of other services being insufficient, which makes the older persons disadvantaged. For example, one commenter noted that "the Older Persons' services Act does not provide adequate services for older people with disabilities to enable them to live independent, content-rich lives" (Pohjois-Pohjanmaan Näkövammaiset ry [Association of Visually Impaired Persons in Northern Ostrobothnia]).

The insufficiencies of older persons' services have been recognised in Finland and extensively discussed in recent years. The dissertation research of Hoppania (2015) has shown that, in spite of the (then) new legislation, it has failed to bring any substantive improvements to older persons' services. This inability of older persons' services to provide sufficient support for older persons with disabilities arguably brings more applicants to disability services.

## **Discussion**

In recent years, there has been increasing demand to link ageing and disability research and policies since the separate silos have been argued to create unequal situations for older persons with disabilities (see, e.g. Jönson & Taghizadeh Larsson, 2009; Leahy, 2018). This article set out to scrutinise the equality-based justifications for and against the separation, and the conceptualisations of old age and disability that lie beneath it. I found that the understanding of disability varies, and the meaning of equity vacillates with it.

Applying Blanchard's (1986) equity norms, I found three types of measures of equity in my data: *the equity of equal 'normality'*, *the equity of equal needs*, and *the equity of equal disadvantages*. The first, *the equity of equal 'normality'*, was the most prominent since many commenters referred to what is normal ageing and what is not. This could stem from the fact that the detailed rationale of the Act referred to normal ageing as well, and suggested that needs should be compared to those of other people of the same age. This raised concerns related to many impairments that correlate with age, that the commenters wanted to detach from normal ageing. However, the idea of normal ageing itself was also considered problematic in some of the comments since it is nearly impossible to determine which impairments are caused by ageing and which are not. Some commenters rejected the idea altogether that the mechanism by which an impairment is caused could be age.

The second domain of *equity of equal needs* included both supporters and opponents of the age-related restriction as well. Some claimed that

anyone who needs disability services should get them, and to fail to do so is discriminatory. On the other hand, some supported the restriction by stating that persons with disabilities have individual needs and therefore disability services should be focused on them. This can be interpreted to imply that older persons do not have similar needs that would require disability services.

Finally, the *equity of equal disadvantages* refers to societal positions that older persons and persons with disabilities hold. Some commenters maintained that disability services should be restricted to the most disadvantaged group, that is, persons with disabilities. However, some commenters claimed that in fact, older persons with age-correlated disabilities are disadvantaged at present since older persons' services do not cover their needs.

All of these categories boil down to the fact that people understand disability differently. Even in the restriction-supporting group, many concluded that disability services should be available to all persons with disabilities, irrespective of their age, but oftentimes older persons with age-related disabilities, or persons ageing into disability, were not included in the 'persons with disabilities' category. This is consistent with previous studies focusing on the perceptions about older persons with disabilities as they are often seen as 'just old' rather than 'disabled' (see, e.g. Leahy, 2018; Priestley & Rabiee, 2002).

I see the 'just old' paradigm as a pertinent one, since it can be supported by older persons (both with and without disabilities) and younger persons with disabilities alike. Previous studies suggest that older persons may not want additional stigma on top of the stigma of old age, and persons with disabilities may consider age-related disabilities as just something that happens with age. Jönson and Taghizadeh Larsson (2009: 76) argue that, in Swedish disability policies, "an apparent ageism in disability activism and policy may be understood as an effect of a historical struggle against injustices and discrimination" – the same might be underlying in Finnish policies as well. It can be argued that persons who are 'just old' do not have the same kind of history of discrimination and struggle, and therefore, providing older persons with age-related disabilities with the same positive rights may appear unequal.

Walker and Walker (1998) see the position of the disability movement slightly differently. They suggest that the distinction between older and younger persons with disabilities "absolves policymakers from the responsibility of taking action to recognise the needs of older disabled people, but the theoretical or practical case for the disability movement doing so is not apparent" (126). In my study, I found that not only policymakers supported the clearer distinction, but many organisations of persons with disabilities did so as well. Thus, my findings that both persons with disabilities and policy-makers can support the exclusion of older persons from disability policies appear to comply with Jönson and Taghizadeh Larsson's (2009) observations about Swedish disability policies and activism as well as Leahy's (2018) examination of Irish policies, services and activism on disability and ageing.

As many commenters noted, the number of older persons is increasing, and older persons' services are insufficient. This shortcoming in services was pointed out in my data but with the notion that disability services cannot compensate for it. It has long been argued that older persons are provided with less services because poverty (Walker, 1980) and disability (Townsend, 1981), for example, are considered to be natural in old age. I wonder whether this ageist perception of old age still lies beneath the services in Finland: the services for older persons are fewer and less secured than disability services, many of which are protected by subjective rights. An older person with any kind of disability may not get sufficient and suitable services from older persons' services, as argued, for example, by Hoppania et al. (2017) regarding older persons with dementia. In addition, the government proposal (159/2018) that followed clarified the differences of disability services and older persons' services, the former emphasising participation and equity in accordance with each age group, the latter on good quality care and safety, and preventing future service needs. The proposal seems to lean

on the normalisation principle that brought about significant improvements in the Nordic disability policies in the 1970s (Nirje, 1969). The normalisation principle argued that persons with disabilities should have a 'normal life' compared to their peers, which was revolutionary at the time. However, it has been criticised for its stereotypical age-graded references (Jönson & Taghizadeh Larsson, 2009; Walker & Walker, 1998). Instead of the normalisation principle, Walker and Walker (1998) proposed applying the principle of social integration in social and health services. Leahy's (2018) suggestion of a biopsychosocial model twenty years later could also provide improvements, as might Naue and Kroll's (2010) formulation of the social model of ageing.

As the understanding of disability varies, the perception of what is fair and what increases equality fluctuates with it. Thus, equality in reforming disability policy seems to be connected with how we understand disability itself. In these comments, equality lies beneath both the supporting and opposing arguments, but the essential difference is the inclusion of older persons with disabilities in the disability discourse. Along the lines of the equal rights framework suggested by Jönson and Harnett (2016) for the residential care of older persons, I suggest that equality and equity theories could provide new insight into the intersection of disability and old age. Jönson and Harnett (2016) propose that, instead of age-graded references, we should find other references that could help cover the individual needs that older persons also have.

Blanchard (1986) proposes his equity norms to help with assessing the fairness of public policy. Regarding this reform in Finland, it seems that there is no consensus regarding the equity norms by which this policy should be assessed: by the 'normality' of the disability, by need, or by disadvantage, or perhaps by all of them in some order. I argue that more focus needs to be put on the differing meanings of equality and equity in order to create equal disability policies.

## Conclusion

In this article, I have shown that conceptualisations of equity and fairness vary, and I argue that they vary according to how disability itself is understood. The idea of equality-increasing legislation can be different, depending on whether 'disability' is considered to include age-related disability or not. The thought of normal ageing prevails as disabilities in older age are not seen as biographically disruptive (Kelley-Moore, 2010) but are rather seen as normal and hence not needing disability services. Older persons' services, on the other hand, are not sufficient for older persons with disabilities (see, e.g. Hoppania et al., 2017). For someone who includes age-related disabilities in the disability discourse, it seems unfair to exclude them from disability policies, but someone who sees age-related disabilities as just something that happens with age may regard otherwise. If older persons with age-related disabilities are considered as 'just normal old people', it would seem unfair to include them in disability policies. This study verified that we need to recognise the different conceptualisations – and the possibilities of conceptualisation – of equity when reforming policies that aim at increasing equality. Being fair to someone may apply unfairness to someone else. In this context, whose voice is prioritised is an important question to pose.

My study is not without its limitations. I analysed public comments, which provided insight into what the stakeholders want to express publicly. Therefore, the comments may have been more polished than what would be obtained in an interview, for example. In addition, the analysis rests on my interpretation of what can be seen as related to equality in their comments. There is the possibility that I have interpreted some comments differently from what the commenter had really meant. Further, the comments I analysed were given to an open question about the scope of the proposed Act with the notion that if the commenter wants to say something in addition to the structured questions, they could comment. Therefore, those who answered the question may have strong opinions about the scope of the Act. Since the restriction was included in the proposal, those who oppose the restriction need to



convince the legislators to change or remove it, and this is likely to have an effect on the overall argumentation in the comments. For instance, more analysable arguments were found in the opposing answers, whereas the supporting ones did not often elaborate on why they supported the restriction. In order to obtain more elaborate and balanced answers, an interview method would be useful in studying these issues. In addition, to continue this study in the nexus of the conceptualisations of disability and equality, the focus could be directed to analysing the concept of disability in old age more systematically in research and policies.

Despite these limitations, my study gives information about an issue that has not been studied in Finland before. This study also engages with broader discussion on the intersection of disability and old age, and provides an example of what an equality-based approach could bring to the table in the nexus of disability and ageing.

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