

Unions and disability – doing MORE

*How can organized labour support workers with disabilities?
By doing what unions do best, and then a bit more.*

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“**M**ORE” is what the Canadian Labour Congress calls its current campaign for disability rights. It stands for **M**obilize, **O**rganize, **R**epresent, **E**ducate. That, of course, is a good summary of trade union action in general. So the CLC is making an important point. Fair treatment for workers with disabilities is not an isolated issue. It is part of the unions’ core campaign for social justice.

Nobody would pretend that disability tops the trade union agenda. Awareness has, however, grown since the 1990s, when the ILO called the unions’ achievements in this field “lacklustre”.

People with disabilities are in a minority, but it is a big one. About one-tenth of the world’s people have some form of disability. Most are either in work or are, with varying degrees of success, battling against prejudice in the search for a job. They represent a vast field for union organizing, and a potential source of union strength.

Dismantling the barriers

A trade union approach to the issue has to begin with a statement of what should be obvious: workers with a disability are not incapacitated. A blind man is not deaf. A dyslexic woman may be highly skilled. “Nobody is perfect,” the International Confederation of Free Trade Unions reminds us. “Everybody can identify some shortcoming which makes particular tasks

more difficult, or limits his or her achievements.” For the ICFTU, the upshot is clear: “In recent years, the trade union movement has sought to dismantle the barriers that have been erected in the past between people with disabilities – whether visible or invisible – and other workers.”¹

So at its most recent World Congress (Miyazaki, Japan, 5-10 December 2004), the ICFTU committed itself to “achieve the full integration of people with disabilities into society and the workplace including through education, vocational training and rehabilitation, fighting all types of discrimination, adaptation of the workplace and of the living environment, and cooperation with governmental agencies and employers.”²

Consultation is vital, emphasizes the European Agency for Safety and Health at Work. “If employers, or worker safety representatives, take steps without consulting disabled workers themselves, they may miss important information and disabled workers may have different, but relevant experiences to take into account.” Similarly, “disabled people and worker representatives should be involved in the process of ensuring ‘reasonable accommodation’ for disabled workers such as planning work, work environments, emergency procedures, etc. and the purchase and use of any special equipment”.³ Good advice – although, as we shall see, the word “reasonable” can be a stumbling block in workplace negotiations on this issue.

How to do MORE

The Disability Rights Working Group of the Canadian Labour Congress launched its MORE campaign (Mobilize, Organize, Represent, Educate) in December 2001. Two years later, it made an interim assessment of Canadian unions' action. This gives some useful pointers for unions everywhere. Here, slightly adapted for an international readership, is the working group's checklist:

Mobilize

- Hosting National Access Conferences for members with disabilities to provide a forum for disability rights activists to strategize and mobilize around workplace and community issues.
- Mounting a public policy and legislative agenda call for a universal disability programme, the restructuring of tax credits for the disabled, access to publicly backed support services and independent living resource centres.
- Developing a series of education modules on disability rights and a "Train the Trainer" guide for the modules.
- Producing and distributing an information flyer about workers with disabilities to all union locals.
- Establishing and supporting working groups and committees for members with disabilities.
- Ensuring that members with disabilities are involved in the identification and prioritization of issues for collective bargaining through their assured representation on bargaining conferences/committees/teams.

Organize

- Appointing active members to the CLC's Disability Rights Working Group.
- As part of organizing drives, stressing to potential members the role of unions in promoting equality, human rights and social change.
- Covering costs to ensure that union-mandated activities like strike votes, ratification votes, membership referenda, conventions, etc. are accessible, including sign language interpretation and the promotion of disabled workers in union education programmes – local union branches are encouraged to do the same.
- Ensuring that members with disabilities are involved, by implementing innovative strategies including video conferencing, providing alternate formats as requested and accessible meeting spaces.
- Networking with organizations representing people with disabilities and injured workers.

Part of a wider fight

Certainly, adjusting the workplace is an important task, and it fits well with the general trade union and ergonomic principle that jobs should be adapted to people, rather than people to jobs. But the union role in tackling disability discrimination goes beyond that. It is, or should be, part of the fight for a better society – even when other forms of discrimination seem to be of more pressing concern.

South Africa is a good case in point. Both before and after the end of apartheid, the labour confederation COSATU cited disabled people as one of the groups subject

to discrimination. Subsequently, in the country's post-apartheid constitution and its laws against employment discrimination, people of disability were specifically mentioned as one of the groups at risk. And from 1998 onwards, when South African workers chipped in to set up the Labour Job Creation Trust, assistance for people with disabilities became one of its project criteria.

When it comes to disability rights, developing economies face a double challenge. For a number of reasons ranging from poor workplace safety to underfunded prenatal and postnatal medical care, they have a particularly high proportion of people with disabilities. At the

Represent

- Increasing access to events and activities by developing and implementing an equality screen and an accessibility checklist, and providing members with sign language interpretation, alternate media including large font print material and Braille on request.
- Hosting conferences on collective agreement language including return to work clauses (i.e. the right to return to work after a disabling accident or illness) and the duty to accommodate (the employer's legal duty to make provision for the needs of workers with disabilities).
- Surveying all participants prior to any event, so as to identify accommodation and support needs.
- Supporting member unions in obtaining legal rulings and other decisions that set precedents for disability rights.
- Developing policies that advance the participation of members with disabilities, including an alternate media policy, disability rights as a union issue and accessibility to activities and facilities.

Educate

- Developing a "duty to accommodate kit" that addresses various aspects of the duty to accommodate.
- Increasing awareness within the trade union movement by developing an educational module on "The Role of Unions in Promoting a Disability Rights Agenda" and focusing on specific disability rights issues at an equality leadership school.
- Publishing and providing wide distribution of a booklet entitled "Disability Rights in the Workplace: Understanding Duty to Accommodate" as a resource for union members.
- Working to integrate a disability rights perspective throughout all workshops and reviewing all education programmes with an equity lens.
- Developing educational materials on the duty to accommodate, tailored to meet the information needs of the general membership and all levels and bodies of the union.

same time, the resources that they can devote to helping them are very limited. The restrictive budgetary approaches imposed on many developing countries in recent years have further worsened this situation. In consequence, most disabled workers in these countries are in the informal economy. They have no legally recognized employer and no social security rights. Thus, the growing emphasis placed by unions in these countries on organizing the informal economy is very much in the interests of people with disabilities. Either through general aid for informal economy organizing and job creation, or through targeted help for schemes involving dis-

abled workers, international trade union assistance can contribute to securing decent work for people with disabilities in developing countries.

Laws: Getting them passed and getting them enforced

Legislation is often a focal point for union action on disability rights. In the United States, trade unions played a major part in the lobbying for the Americans with Disabilities Act (ADA), passed in 1990. This landmark law prohibits discrimination against people with disabilities in

employment and public services, public and private transportation, public accommodation and telecoms services. It covers private employers with 15 or more employees, employment agencies and all levels of government. Employers are required to make reasonable accommodations to enable an otherwise qualified person with a disability to do his or her job. According to the ICFTU, the ADA “is still a benchmark for anyone campaigning for the rights of disabled people. Ensuring that similarly progressive legislation is enacted in other countries should be a priority for trade unions worldwide”.⁴

Of course, this may entail a critical approach to legislative proposals. In 2003, while welcoming Spain’s new Law on Equal Opportunities and Non-Discrimination against Persons with Disabilities, the UGT labour federation criticized the draft legislation as being less than concrete on a number of points, such as the lack of specific financing, the long lead times for some provisions (up to 17 years for the adaptation of some buildings) and the lack of sanctions for offences against the law. It also called for monitoring and follow-up to be reinforced. French trade unions have taken a similarly welcoming but critical line on the disability rights legislation adopted in February 2005. In particular, they have raised questions about the financial resources available for the measures (see also article by Philippe Réau, page 29).⁵

The real impact of any legislation needs to be assessed from time to time – and nowhere more so than in the field of discrimination. Rooted as they are in the workplace, unions are well placed to help with this monitoring and to argue the case for reform. The United Kingdom’s Disability Discrimination Act of 1995 is an interesting example. At the first disability conference held by the British Trades Union Congress (TUC) in 2001, delegates cited many examples of continued discrimination against workers with disabilities, despite the law. So the TUC asked its affiliates to provide detailed information supporting these claims. On this basis, it issued a report⁶ at a time when a public

commission was looking into the case for further legislation. The union report noted that “where employers operate appraisal systems with a connection to pay levels, performance-related pay, and bonus schemes, there is considerable potential for discrimination if the systems used by the employer fail to take account of the need for the system to compensate for an individual’s particular impairment”. Unions’ practical experience in the workplace also highlighted the vagueness of the British law’s requirement that employers undertake “reasonable adjustments” to make it possible for a disabled worker to do the job. “Not surprisingly, for unions, this area of the law has provided many of the cases that representatives and officers have had to take up ...” All in all, the TUC found that flaws in the legislation “stand in the way of using the law to combat discrimination in the workplace” and that “even where the law clearly applies to the situation, it has not necessarily prevented discrimination by employers”. Even more worryingly, as the TUC was quick to point out, its examples were all drawn from unionized workplaces. “Where workers do not have representation, it is all too likely that their situation will be even worse ...”

Informing the public

Sometimes, the publication of a few hard facts can help to boost disabled workers’ case. In 2003, the CLC⁷ marked the International Day for Persons with Disabilities with some telling figures from Statistics Canada:

- Only 41.5 per cent of working-age adult Canadians with disabilities had jobs.
- The average household income of working-age disabled Canadians was 28 per cent lower than that of the non-disabled population.
- More than 55 per cent of adults with disabilities in Canada were living below the officially defined “low income cut-off” line, as compared with 19 per cent of adults without disabilities.

MORE in the workplace

Workplace-level union reps have a vital role to play in promoting disability rights. In 2003, France's CFDT labour confederation commissioned sociologist Jean-Luc Blaise to evaluate its work for people with disabilities. His detailed report¹ includes four pointers for workplace-level action. Here, we have adapted them slightly for an international readership:

- Awareness-building among the workers is needed before launching any initiative in this field. Works council members or shop stewards will find it worthwhile to produce a leaflet or to distribute documents that inform the workforce about the employability of people with disabilities. First of all, the barriers of indifference or of fear towards disabled workers have to be broken down. Many people within the workforce know nothing about disabled people and have strong prejudices.
- Elected reps should use the social audit provided [in some countries] by the employer to the works council. This will enable a "snapshot" to be taken of the firm's hiring record.
- When looking at any plan for new recruitment by the firm, union leaders should ensure that people with handicaps are not forgotten. For example, in an agreement providing for shorter hours and increased hiring, why not include a quota for disabled workers?
- The workplace health and safety committee has an important role to play in ensuring appropriate adjustments to work stations and job design, as well as the full accessibility of all workplace facilities. If a disabled worker suffers a workplace accident, the aim should be to maintain the worker's employment within the enterprise. Naturally, people with handicaps are fully entitled to play an active part in the union and should be invited to present themselves for election to the works council, the safety and health committee and other specialized committees (on training, leisure activities, etc.)

¹ *Personnes handicapées – où en est la CFDT dans la prise en charge du dossier?*, Jean-Luc Blaise, Bierville, March 2003. www.cfdt.fr/actualite/emploi/handicapes/dossier_personnes_handicapees_04_02.htm

And that was in a country with one of the world's most progressive attitudes to disability in the workplace – thanks, amongst other things, to union campaigning.

The Spanish media, meanwhile, recently got another helping of figures from the UGT's Madrid regional office: only 0.14 per cent of the 1,263,847 employment contracts signed in Greater Madrid during the first seven months of 2004 were with workers who had any degree of disability. Yet there are some 350,000 people with disabilities living in the region, and their unemployment rate is around 30 per cent.⁸

Informing disabled workers

If public information on this issue is vital, keeping workers with disabilities up to date on their rights is no less so. In Germany, the ver.di and IG Metall unions teamed up with national labour federation the DGB to publish "15 tips" for disabled

workers.⁹ Tip No. 1 is: "It's worth knowing your rights in the workplace." The rest of the advice explains just what those rights are – mainly in the context of new German legislation on disability rights which came into force in 2001. The new law, for which the unions lobbied, obliges employers to take a range of specific measures to ensure that workers with disabilities can do their job. So the union booklet advises these workers "not to accept being put at a disadvantage", and it stresses an important aspect of the new law – workers with disabilities do not have to prove that they are being discriminated against. It is up to the employer to prove that they are not. Similarly, the German unions tell disabled workers that the current legislation gives them an individual entitlement, vis-à-vis the employer, to a job that corresponds to their abilities and skills. And they have a preferential entitlement to in-house training. But the unions are also quick to point out the limitations on disabled

workers' rights: "The assertion, made by some employers, that workers with serious disabilities cannot be dismissed, is a fairy tale. The fact of the matter is that people with serious disabilities have increased protection against dismissal. And quite right too!" But the protection is far from absolute. Hence the unions' hard-headed warning: "It's better to demand improvements than to wait for the employer to give you your notice."

Naturally, the union booklet also emphasizes that workers with disabilities should involve their representatives: disabled people's reps, works councillors and shop stewards. In this respect, disability law is like any other social legislation. Ursula Engelen-Kefer in her introduction to the 15 tips: "New law does not enforce itself. The new rights must be asserted by the people for whom they were created. The unions are putting forward proposals for this and they support each and every one of their members. They are ensuring that all of their reps ... work together with disabled people to turn the new rights into a new reality – the reality of true equality and true participation for people with disabilities."

Collective bargaining

Last but not least, collective bargaining is another important way in which unions can assist workers with disabilities. Clauses relating to their needs are to be found in collective agreements at various levels in Australia, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Norway, Sweden and the United Kingdom.¹⁰

The frequency and scope of these provisions vary from country to country, but their central aim is always to ensure that workers with disabilities can play their full part in the workplace, the union and society at large.

Notes

¹ *A lame excuse – a fight for the rights of workers with disabilities*, ICFTU, Brussels, 2000. www.icftu.org/www/english/Congress2000/disability.pdf

² *Final resolution – fighting discrimination and achieving equality*, 18th ICFTU World Congress, Miyazaki, 5-10 December 2004. <http://congress.icftu.org/displaydocument.asp?Index=991220323&Language=EN>

³ *Ensuring the health and safety of workers with disabilities*, European Agency for Safety and Health at Work, Fact Sheet 53, Bilbao, December 2004. ISSN 1681-2123. http://agency.osha.eu.int/publications/factsheets/53/en/FACTS_53_EN.PDF This leaflet also includes useful checklists.

⁴ Locmant, C. *Integrating people with disabilities*, ICFTU OnLine, Brussels, 1 December 2000.

⁵ See, for example, *Des avancées indéniables mais des financements discutables*, CFDT press release, 9 February 2005. www.cfdt.fr/actualite/emploi/handicapes/handicapes_0010.htm

⁶ *The experience of disabled trade unionists in the workplace*, TUC, London. www.tuc.org.uk/equality/tuc-6754-f0.cfm

⁷ CLC news conference, 3 December 2003. www.action.web.ca/home/clcdisab/en_readingroom.shtml?x=50512

⁸ *Madrid: Sólo uno de cada 1.000 contratos afecta a un trabajador discapacitado*, press release, UGT Madrid, 2 September 2004. www.ugt.es/actualidad/septiembre2004/madrid02092004.html

⁹ *15 Tipps für behinderte Arbeitnehmerinnen und Arbeitnehmer*, ver.di/IG Metall/DGB, Berlin, 2002. www.dgb.de/themen/themen_a_z/abisz_doks/t/tipps_behinderte.pdf Other German unions have also published this guide in their own formats.

¹⁰ For details of agreements in Europe, see *Workers with disabilities: Law, bargaining and the social partners*, a 2001 online report by the European Industrial Relations Observatory, which also gives an overview of European and national legislation. www.eiro.eu/found/2001/02/study/tn0102201s.html Detailed coverage of Canadian bargaining in this field, including contract language and bargaining checklists, can be found in *The MORE we get together – Disability rights and collective bargaining manual*, Canadian Labour Congress. www.clc-ctc.ca/web/rights/disabled/pdf/manual.pdf

¹¹ *Personnes handicapées – où en est la CFDT dans la prise en charge du dossier?*, Jean-Luc Blaise, Bierville, March 2003. www.cfdt.fr/actualite/emploi/handicapes/dossier_personnes_handicapees_04_02.htm