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Employment of People with Disabilities: The Impact of Legislation (East Africa)

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Skills, Knowledge and Employability
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1. Introduction

Many countries throughout the world have, in recent years, adopted policies aiming to promote the rights of people with disabilities to full and equal participation in society. This has often been in response to the ILO Convention No. 159 concerning Vocational Rehabilitation and Employment of Disabled Persons (1983). Policy on employment opportunities for people with disabilities is frequently supported by legislation and implementation strategies as essential tools to promote integration and social inclusion.

Some countries in Africa have made progress in introducing disability-related legislation, but many of these laws have not yet been implemented. In other African countries, existing national laws need to be reviewed in order to achieve equalization of opportunities for persons with disabilities. Improving legislation and implementation strategies has been identified as one of the main issues to be tackled in the African Decade of Disabled Persons 1999-2009.

The effectiveness of laws in improving employment opportunities for disabled persons – whether they are vocational rehabilitation laws, quota legislation or anti-discrimination legislation – is central, not only in terms of the economic rights of disabled people, but also their broader social and political rights, which are closely linked to economic empowerment.

The country study for Seychelles is part of the ILO project '*Employment of People with Disabilities – the Impact of Legislation*', funded by the Government of Ireland, which aims to enhance the capacity of national governments in selected countries of East Africa and Asia to implement effective legislation concerning the employment of people with disabilities. Starting with a systematic examination of laws in place to promote employment and training opportunities for people with disabilities in the selected countries of each region,¹ the project sets out to examine the operation of such legislation, identify the implementation mechanisms in place and suggest improvements. Technical assistance is provided to selected national governments in implementing necessary improvements.

This country study outlines the main provisions of the laws in place in Seychelles concerning the employment of people with disabilities. An initial review of the implementation of the legislation is also provided, based on a survey of documentary sources and feedback from delegates from the Seychelles to a Technical Consultation held in Addis Ababa, 20-22 May 2002. It may be read in conjunction with the regional overview for this Consultation *Employment of People with Disabilities - The Impact of Legislation (East Africa), Technical Consultation Report, Addis Ababa, 20-22 May 2002, ILO 2002.*

¹ East Africa: Ethiopia, Kenya, Mauritius, Seychelles, Sudan, Uganda and United Republic of Tanzania; and Asia and the Pacific: Australia, Cambodia, China, Fiji, Japan, India, Mongolia, Sri Lanka and Thailand.

2. Context

An archipelago in the Indian Ocean consisting of 115 islands, the Seychelles gained independence in 1976, following 73 years as a British colony, and became the Republic of Seychelles. The presidential government and one-party rule put in place in 1977, was replaced by a multiparty democracy with a new constitution and free elections in 1993.

Since independence, annual per capita income in the Seychelles has increased by a factor of seven, from about \$1,000 in 1976 to \$7,600 today. Growth has been led by the tourism sector and by tuna fishing. In recent years the government has moved to reduce the dependence on tourism by promoting the development of farming, fishing, and small-scale manufacturing.

With an estimated population of 80,469 in 2002, the Republic of Seychelles is ranked 47 out of 173 on the 2002 UNDP Human Development Index (HDI). The four key indicators used to calculate the HDI, longevity, educational attainment, standard of living and adult literacy rate show the following:

- Longevity, measured as life expectancy at birth, was 72.7 years;
- The standard of living, measured as per capita GDP, was US\$12,508;
- The adult literacy rate was 88 per cent;² and
- Educational attainment was not available for Seychelles in the 2002 UNDP Report because of lack of data.³

In 2000, the service sector accounted for almost three quarters (72.4 per cent) of GDP, while industry accounted for nearly a quarter (23.6 per cent) and the agricultural sector 4.1 per cent.⁴

2.1 People with disabilities

In the preparation of this report, data on the population of people with disabilities in Seychelles were not found. Applying the World Health Organization estimate that 7-10 per cent of the world population has a disability to the population figure for Seychelles (80,469 persons), the number of disabled persons in this country is estimated to lie between 5,632 and 8,046.

² No breakdown by gender was available for the Seychelles in the 2002 UNDP Report.

³ UNDP Report 2002

⁴ African Development Report 2001, Africa Development Bank

3. Legislative framework

The Constitution 1993 of the Republic of Seychelles, the Employment Act 1995 and the Social Security legislation 1987 include provisions concerning persons with disabilities. In 1994, a law was enacted to create the National Council for Disabled Persons.

3.1 The Constitution of the Republic of Seychelles of 1993

The 1993 Constitution of the Republic of Seychelles makes provision for the rights of every citizen, including people with disabilities, to work and to just and favourable conditions of work. With a view to ensuring the effective exercise of these rights, the State, through the Constitution, has undertaken to:

‘(i) protect effectively the right of people with disabilities to earn a dignified living in a freely chosen occupation, profession or trade; (ii) make statutory provisions for safe, healthy and fair conditions of work, including reasonable rest, leisure, paid holidays, remuneration which guarantees, as a minimum, dignified and decent living conditions for all workers, including workers with disabilities and their families, fair and equal wages for work or equal value without distinction and stability of employment’.

Article 36 refers to the rights of disabled persons and guarantees the means to promote these:

‘The State recognises the Right of the aged and the Right of the disabled to special protection and with a view to ensuring the effective exercise of this right undertakes - (i) to make reasonable provision for improving the quality of life of and for the welfare and maintenance of the aged and disabled; (ii) to promote programmes specifically aimed at achieving the greatest possible development of the disabled’.

3.2 The Employment Act 1998

The Employment Act 1998 (Article 40 (1) (a)) empowers the Minister to make regulations prescribing the statutory wage and other benefits to be paid to workers by employers in accordance with subsection (2)’. These regulations may:

- *‘Prescribe a national minimum wage for workers, other than trainees, and mandatory wages in respect of such workers or category of such workers or in relation to any business’;*
- *‘Provide for increments and the conditions under which they may be awarded or withheld’;*
- *‘Prescribe allowances for trainees’;*
- *‘Authorise benefits or advantages provided by the employer which may be reckoned as payment of wages by the employer in lieu of payment in cash and define the maximum value to be attached to them’;*
- *‘Provide for any other matter in respect of wages’;*

Article 44 of the Act allows a competent officer to provide a disabled person seeking employment with a permit exempting his or her employer from providing the minimum wage and other increments and benefits described in Article 40:

‘Where the competent officer is satisfied that a worker or person seeking employment is suffering from some disability which makes it difficult for the worker or person seeking employment to compete on the labour market, the competent officer may issue to the

worker or person seeking employment a permit exempting the person who employs the worker or person seeking employment from any regulation made under section 40 (1)(a) subject to such conditions as the competent officer deems fit to include in the permit’.

Notwithstanding the foregoing, workers with disabilities enjoy the same rights under the Employment Act as other workers, including the right to lodge grievances before the Employment Tribunal against their employers, the right to leave, paid holidays, rest period and medical leave.

3.3 The Social Security Act 1987

The Social Security Act of 1987 ensures that people with disabilities, irrespective of whether they are in employment or not, are properly maintained and that they live a dignified life. To achieve this, all disabled people receive monthly benefits from the Social Security Fund and Means-Testing Board. Recognizing that disabled people may be discriminated against in terms of the wage they receive, the Social Security Fund pays benefits even to those in employment, but at a lesser rate than to those who are not in employment.

3.4 National Council for Disabled Persons Act 1994

The National Council for Disabled Persons Act 1994 establishes the National Council for Disabled Persons (NCDP). The functions of the National Council include:

- The promotion, development and organisation of services and programmes for the rehabilitation and employment of disabled persons;
- The provision and security of employment for disabled persons;
- To assist public and private organizations in promoting projects and income generating activities for persons with disabilities;
- To advise the Government on education, sports, training programmes, employment and vocational training courses for disabled persons.

The other functions of the NCDP are to provide for care and assistance to persons with disabilities and to assist in the provision of facilities considered by the Council to be necessary for the welfare of persons with disabilities.

The definition of disability in the National Council for Disabled Persons Act focuses on medical impairment

‘A disabled person means a person suffering from a physical or mental disability on account of injury, disease or congenital deformity’.

3.5 International commitment

The Seychelles has not yet ratified the ILO Convention No. 159 concerning Vocational Rehabilitation and Employment of Disabled Persons (1983).

4. Implementation

4.1 Institutional framework

4.1.1 *Ministry of Social Affairs and Employment*

The Ministry of Social Affairs and Employment has, as part of its mandate, responsibility for promoting the empowerment of vulnerable groups, as well as their full participation in and contribution to society. It provides vocational training for disabled persons with a view to rehabilitating and integrating them into the world of work. The Ministry assists disabled persons in finding suitable employment, mainly sheltered employment.

4.1.2 *National Council for Disabled Persons*

The National Council for Disabled Persons assists persons with disabilities in finding employment and is considering the construction of centres to re-train people who acquire a disability in the course of employment that prevents them from returning to the same type of job.

The Council is currently (2004) reviewing its training programmes to include computer training, basic office administration, electrical repairs and commercial sewing.

4.1.3 *Seychelles Industrial Development Corporation (SIDEK)*

The Seychelles Industrial Development Corporation is a parastatal agency operating under the Ministry of Industries and International Business.

The main aim of SIDEK is to make funds available to people who would like to start a small business and be self-employed, particularly in the area of crafts. Currently, quite a number of persons with disabilities have received funds under the scheme and have started their own businesses.

4.2 Policy

It was not possible in the preparation of this report to obtain information about disability policy in the Seychelles.

4.3 Education and vocational training

Apart from academic subjects, the School for Children with Disabilities also provides pre-vocational training in cooking, home economics, arts, sewing, carpentry, agriculture and animal keeping. On reaching the age of 15, children with disabilities transfer from this school to a Rehabilitation Centre where they attend further training.

According to the Committee on the Rights of Child 2002,⁵ children with disabilities still have limited access to public facilities and services in Seychelles, because of the lack of accommodation of the physical environment. In addition, education programmes in

⁵ Committee on the Rights of the Child, Seychelles Report, 2002

Seychelles need to further promote the integration of disabled children into the mainstream school system.

4.4 Organizations providing training and employment to persons with disabilities

The Parents of the Disabled Association of Seychelles aims at promoting public awareness about persons with disabilities and runs vocational training programmes in order to promote the integration of persons with disabilities in sheltered workshops, self-employment or open employment.

In the preparation of this report, no further information could be obtained on non-governmental organisations providing training and vocational rehabilitation for disabled persons in Seychelles.

4.5 Consultative mechanisms

In the sources consulted for this overview, there was no reference to consultation by the Government with social partners or organizations of persons with disabilities.

5. Concluding comment

The Seychelles has a specific law concerning disabled persons – the National Council for Disabled Persons Act 1994. Disability provisions are also included in the Constitution of the Republic of Seychelles of 1993, in the Employment Act 1998 and in the Social Security Act 1987. The Employment Act 1998 makes it lawful to pay persons with disabilities less than the minimum wage and exempt them from other employment benefits. This provision is striking, and in the absence of adequate productivity assessment, could lead to wage inequity and exploitation.

Seychelles' legislation refers more to the obligation of the State to support persons with disabilities, than to the promotion of employment opportunities for disabled persons. The social security legislation provides for benefits to people with disabilities, even those in employment. It is possible that this provision creates a disincentive to work, although no information was found on this question in preparing this report.