

Decent Work and Disabled Persons: Changing Concepts, Policies and Laws, Fostering Inclusion



Overview

- International Standards
- National frameworks: policies and laws
- Fostering inclusion



Changing Concept of Disability

Moral definition:
focus on sin, wrong-doing



Medical definition:
focus on individual impairment



Social definition:
focus on social context

Problems Disabled Persons face

Moral definition:



- Shame, Guilt

Medical definition:



- Impairment, being seen as 'abnormal'

Social definition:



- Societal Barriers

Solutions - Family and Society

Moral definition:



- Pray, Good deeds

Medical definition:



- Individual rehabilitation

Social definition:



- Remove barriers

Shifts in Policy

**Care by Family:
keep at home, hide away**

**Care in Institutions:
custodial approach, 'protect' society**



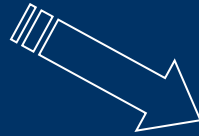
**Community Care:
integration, inclusion**

Trends in Legislation

**Charity Law, No
Law**



Welfare Law



**Rights-based
Law**

Livelihood Options

Moral definition:



- Beg, rely alms, or family support

Medical definition:



- Work in sheltered workshops, special programmes

Social definition:



- Seek employment with supports if required; set up enterprise

Shift in Focus

Rehabilitate Disabled Persons

Charity

Adjustment to the norm

Exclusion



Rehabilitate Society

Rights

Acceptance of differences

Inclusion, participation and
citizenship

Social model is about...

- Ensuring access
- Removing barriers
- Protecting rights
- Including disabled persons



International Standards

- ILO Recommendation 99 – Recommendation concerning Vocational Rehabilitation of the Disabled
- ILO Convention 159 - Vocational Rehabilitation and Employment (Disabled Persons), 1983
- ILO Recommendation 168 - Vocational Rehabilitation and Employment (Disabled Persons), 1983
- ILO Code of Practice – Managing Disability in the Workplace, 2001
- United Nations Convention on the Rights of Persons with Disabilities, 2006.

ILO Convention No. 159 (1983)

POLICY

- ↓ National vocational rehabilitation policy based on equal treatment and equal opportunity
- ↓ Input from employers, labor unions, and people with disabilities
- ↓ Equity issues
- ↓ Fosters open employment

ACTION

- ↓ Delivery and evaluation of vocational rehabilitation services
 - ↓ Competent personnel and staff training
-

Services in urban
and rural areas

Serve all types of
disabled persons

Special positive
measures okay

Among disabled
and other workers

Between disabled
women and men



ILO Code of Practice Management of Disability at the Workplace

- Finalized and adopted by Tripartite Meeting of Experts, Geneva, October 2001
- Unanimously adopted by ILO Governing Body November 2001
- Provides guidance to employers in recruitment, promotion, job retention and return to work

Summary of ILO principles

- Decent work for all - non-discrimination
- Government policy
- Equal treatment and equal opportunity in training and employment and delivery of services
- Addresses all disability groups, women and men, rural and urban
- Based on tripartite consultations, plus disabled persons
- Mainstreaming in training and employment, whenever possible
- Occupational choice
- Special measures allowed
- Trained personnel
- Review and evaluation

United Nations Conventions on the Right of Persons with Disabilities (UNCRPD)

- Adopted by the General Assembly in December 2006
- Purpose: *promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity.*
- Record number of signatures on opening day: 81
- Came into force in May 2007

Principles

- Respect for inherent dignity, individual autonomy
- Non-discrimination
- Full and effective participation and inclusion in society
- Respect for difference; disability as part of human diversity
- Equality of opportunity
- Accessibility
- Equality between men and women
- Respect for evolving capacity of children

Article 5: Equality and non-discrimination

In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

(4)

Calls for reasonable accommodation

- *...means any necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms (Article 2 --- Definitions)*

Article 24: Education

States Parties shall:

- *Ensure an **inclusive education system** at all levels and lifelong learning*
- *Ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others... ensure that **reasonable accommodation** is provided*



Article 27: Work and Employment



- *Right to work...on an equal basis with others...(in)...work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities*
- *States parties shall safeguard the ...right to work...by taking appropriate steps including legislation to...*

Art. 27 Steps and legislation to...

- Prohibit discrimination
- Protect rights...including labour and trade union rights
- Ensure access to vocational and guidance services
- Promote work opportunities including self employment
- Ensure reasonable accommodation in the workplace
- Promote professional rehabilitation and job retention and return to work programmes

ILO Non-disability-specific standards

- All standards cover disabled persons
- Convention 111 - Discrimination in Employment and Occupation, 1958
- Convention 142 - Human Resources Development, 1975
- Recommendation 195 - Human Resources Development, 2004



Rating your country or region...

- How would your country or region with regard to human rights for people with disabilities?
- The perception of the social model?



National Legal Frameworks

National laws to promote employment

1. Quota obligations
2. Employment equity/Non-discrimination
3. Positive measures
4. Job retention and return to work

1. Quota Schemes

- Obligation to employ
- Payment of levy for unfilled positions
- Special fund to promote employment
- Recent reforms:
 - Other options for employers



2. Equity/Non-Discrimination Laws

- Unlawful to discriminate against persons with disabilities in training or employment
- Reasonable accommodation



➤ Reasonable Accommodation

- Adaptation of the job, including adjustment and modification of machinery and equipment and/or modification of the job content, work organization and the adaptation of the work environment to provide access to the place of work and working time to facilitate the employment of individuals with disabilities (*Managing disability in the workplace. Code of Practice [ILO, 2002]*).



Reasonable accommodation

- Necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to people with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.
- Countries usually decide what is reasonable
- Accommodations are tools for people to do their jobs



What is the accommodation?



3. Positive measures

- Wage subsidies and financial incentives
- Employer financial supports or tax incentives
- Human resource and technical supports
- Awards and recognition



4. Job-Retention Laws

- Employers obliged
 - To retain the worker
 - To be involved in rehabilitation
 - To adapt the job or find new job
- Workers encouraged
 - To go back to work
 - To retrain if necessary



Decent work for all...

*Everyone has the
right to decent
work---*



Mainstreaming and inclusion



- Mainstreaming or inclusion means that people with disabilities have access to existing programmes and services along with nondisabled people and that, if necessary, reasonable accommodation is made to ensure that they can participate.

Types of Barriers

- Physical --- architectural, transport, etc.
- Informational and Communication
- Legal and policy
- Institutional and capacity
- Negative attitudes and assumptions ---
 - myths and pre-conceived ideas

Types of barriers in your region or country

Everyone has the right to decent work---

How would you categorize the barriers faced by disabled people in your region or country?



Fostering inclusion...removing barriers

1. Awareness and education
2. Committment
3. Accessibility
4. Universal design
5. Reasonable accommodation
6. Skilled personnel
7. Planning and assessment

Awareness campaigns and training

- Raising awareness through public or targeted campaigns about rights and abilities
- Providing disability equality training to become more aware of rights
- Providing disability awareness training to become more disability confident and to take action

In your region or country...



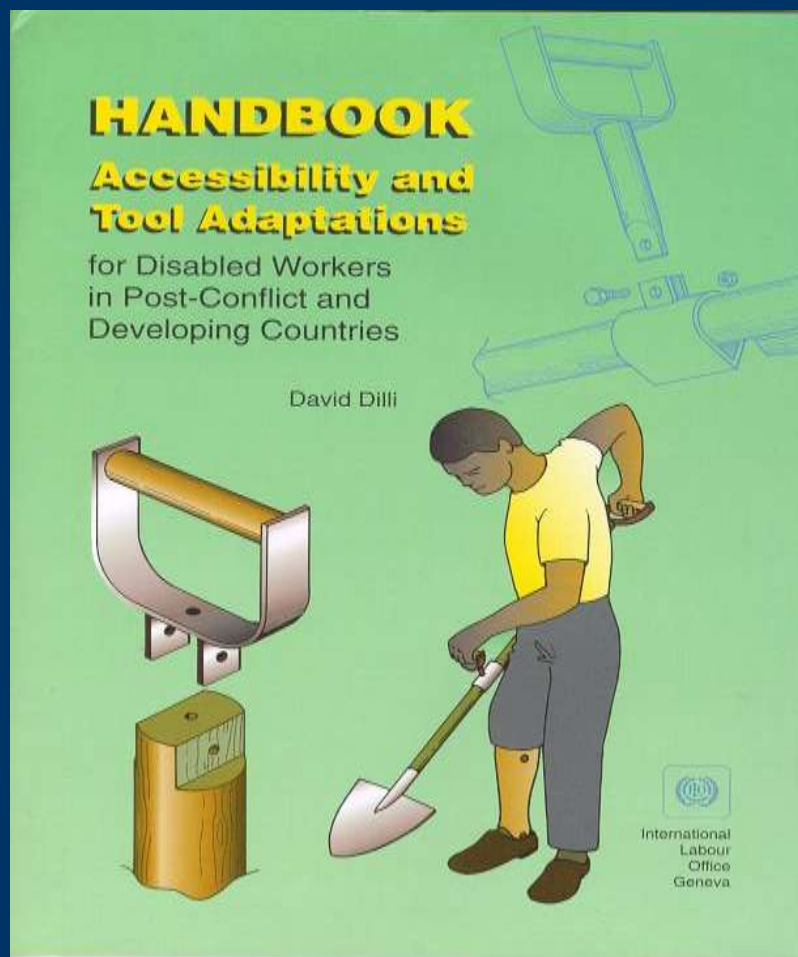
- How would you rate the level of awareness about disability issues?
- How would you rate the political will to change things?

Universal Design

- ...the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design...UN Convention
- Helps everyone...e.g. a ramp is used by those with luggage, baby strollers, wheelchairs



Reasonable Accommodation



- Necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to people with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.
- From UNCRPD

Reasonable Accommodation

- Determined with the individual with a disability so he or she can access training, the union meeting or the workplace
- More examples
 - Providing information in large print, Braille or on disc
 - Saying things in simple language, or repeating as needed
 - Providing a sign language instructor or writing

More examples of accommodations



- Classroom moved to the first floor
- Longer practice periods
- Adapted tools or equipment such as a screen reader/talking software
- Specialized equipment such as hand instead of foot pedal
- Volume control on a telephone
- Special keyboard
- Longer learning period or job coach

Business case example



Skilled personnel

- Capacity building for:
 - ILO personnel
 - Government personnel
 - Trainers, ES staff
 - Employers and trade unions
 - DPOs and disabled persons
 - BDS, credit providers and others

In your region or country...

- How would you rate the capacity of personnel to address disability issues?
- Among the government and social partners?
- Who needs training most?



Inclusion Implications

- For workers?
- For employers?
- For skills training?
- For child labour, HIV and other projects?
- For employment, poverty alleviation or other programmes?
- For crisis interventions?
- Other



Overcoming barriers related to inclusion...

Do you have any more ideas about the barriers to decent work for disabled people in the countries where you work?



Do you see any additional barriers to inclusion that you see in your work or at the ILO?



Overcoming barriers

- What can be done?
- What support do you need?
- Who can help?





- What are some simple and immediate things you can do?