



International
Labour
Organization

Equality and non-discrimination at work in China: Training manual

Module 5

Discrimination, health and disability



ILO Country Office for China and Mongolia, Beijing
ILO DWT for East and South-East Asia and the Pacific, Bangkok



**Equality and non-discrimination at work in China:
Training manual**

Module 5

Discrimination, health and disability

ILO Country Office for China and Mongolia, Beijing
ILO DWT for East and South-East Asia and the Pacific, Bangkok

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

Thomas, Constance; Haspels, Nelien; Meyer, Tim de; Paavilainen, Marja; Zhang, Hongman

Equality and non-discrimination at work in China : training manual / Constance Thomas, Nelien Haspels, Tim de Meyer, Marja Paavilainen, Hongman Zhang ; ILO Country Office for China and Mongolia ; ILO DWT for East and South-East Asia and the Pacific. - Beijing: ILO, 2010
114 p. + 5 booklets

ISBN: 9789221243861 – English; 9789221243878 – English (web pdf); 9789225243867 – Chinese; 9789225243874 – Chinese (web pdf)

ILO Country Office for China and Mongolia ; ILO DWT for East and South-East Asia and the Pacific

equal rights / equal employment opportunity / discrimination / role of ILO / ILO Convention / China

04.02.2

ILO Cataloguing in Publication Data

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland, or ILO Regional Office for Asia and the Pacific, 11th Floor, United Nations Building, Rajdamnern Nok Avenue, Bangkok 10200, Thailand, or by email: BANGKOK@ilo.org. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our website: www.ilo.org/publns

Contents

Introduction	1
Note for trainers on inclusive language on disability	2
Section A. Learning content	3
Unit 5.1 Discrimination, health and disability: International concepts and approaches	5
1. Principle of equality for persons facing health and disability discrimination	5
2. Disability: Approaches and definitions	5
3. HIV and AIDS, HBV and Hepatitis B	8
4. International standards on equality for persons facing health and disability discrimination	10
5. Direct and indirect discrimination based on health and disability status	13
6. Inherent requirements of a job	15
7. Discrimination by association with persons with disabilities or health conditions	16
8. Multiple forms of discrimination: Disability, poverty, sex and age	17
9. Measures of protection and assistance	19
10. Strategies and good practices	21
Unit 5.2 Promoting equality at work for people with disabilities and health conditions in China	28
Part 1. Disability and equality in employment	28
1. Definitions of disability in Chinese law	28
2. Chinese laws and regulations on equality in employment for disabled people	29
3. Employment discrimination against people with disabilities in China	33
4. Promoting equality in employment for people with disabilities	38
Part 2. Health and equality in employment	44
1. HIV and AIDS, HBV and Hepatitis B	44
2. China's legal framework for eliminating employment discrimination against persons with HIV and HBV	46
3. Employment discrimination against persons with health conditions in China	50
4. Promoting equality in employment for people with health conditions	52
Section B. Session guide	55
Training map for Module 5	57
Session plan for Unit 5.1 Discrimination, health and disability: International concepts and approaches	58
Session plan for Unit 5.2 Promoting equality at work for people with disabilities and health conditions in China	61
Section C. Exercises	63
Unit 5.1 Discrimination, health and disability: International concepts and approaches	65
Exercise 1. Appearance and ability: Can you judge at first sight?	65
Exercise 2. Quiz and discussion on "Hometown Fellows" movie	67

Exercise 3. Health status and inherent requirements of the job: Case studies	70
Exercise 4. Reasonable accommodation: Case studies	76
Unit 5.2 Promoting equality at work for people with disabilities and health conditions in China	80
Exercise 5. Blind walk	80
Exercise 6. The story of teacher Qiu Zi: Case study	82
Exercise 7. Developing and implementing an inclusive workplace strategy	85
Section D. Practical tools	89
Tool 1. Guide for developing an inclusive workplace disability strategy	91
Tool 2. Inclusive workplace strategies for workers with specific impairments	94
Bibliography	101
Annex	107
Chinese laws and regulations on disability and infectious diseases	107
List of boxes	
Box 5.1 The 2008 Employment Promotion Law and HBV discrimination – China	9
Box 5.2 Breach of confidentiality – Asia	14
Box 5.3 Right to protection of personal information – Belgium	15
Box 5.4 Discrimination by association – UK	16
Box 5.5 Reasonable accommodation for people with disabilities	20
Box 5.6 Good practice – Standard precautions	22
Box 5.7 DuPont study on performance and productivity of disabled workers	23
Box 5.8 ILO guidance on practical adjustments to accommodate workers with disabilities	25
Box 5.9 Constitution of the People's Republic China – 2004 revision	29
Box 5.10 Labour Law of the People's Republic China – 1994	31
Box 5.11 Regulations on the Employment of Disabled Persons	33
Box 5.12 Supporting legislation on the protection of disabled persons in provinces and municipalities	33
Box 5.13 The employment situation of people with disabilities in China	34
Box 5.14 The longest distance for Fan Siping: 0.005 meter	35
Box 5.15 Educational level of disabled persons in China	35
Box 5.16 Discrimination against people with disabilities in recruitment	36
Box 5.17 The unstable employment of disabled people	37
Box 5.18 No certification for a teacher with one arm	39
Box 5.19 Good practice – Guangdong promulgated policies prohibiting discrimination against people with disabilities in the recruitment of civil servants	39
Box 5.20 Good practice – Local governments in Beijing, Shanghai and other localities adopt policies to promote the employment of disabled persons	39
Box 5.21 Inaccessible workplace for outstanding artist	40
Box 5.22 Equal rule does not always add up to equal opportunities: Disability discrimination – Hong Kong, China	41

Box 5.23 Good practice – Jing Cheng Co. creates an inclusive environment for disabled employees	42
Box 5.24 Legal progress in eliminating employment discrimination against persons with HIV or HBV in China	47
Box 5.25 Opinions on maintaining the employment rights of HBV carriers – Ministry of Human Resources and Social Security, China, 2007	49
Box 5.26 Municipal and provincial regulations to protect persons with HIV and HBV	50
Box 5.27 HBV carrier rejected in recruitment	51
Box 5.28 Good practice – HBV testing prohibited in health examinations for school entry and job recruitment	52
Box 5.29 Good practices – New initiatives against HBV discrimination in employment	52
Box 5.30 Beijing Yirenping Centre committed to eliminating health-related discrimination in employment	53
Box 5.31 Employer ordered to pay 24,000 Yuan in compensation for HBV discrimination	54

Electronic training tools on CD-ROM for Module 5

Slide presentations for Section A. Learning content

- Unit 5.1 Discrimination, health and disability: International concepts and approaches
- Unit 5.2 Promoting equality at work of people with disabilities and health conditions in China
- Unit 5.1 Exercise 2. Quiz: Can you get HIV or HBV through these types of contacts?

Section C. Exercises

- Exercise 1. Appearance and ability: Can you judge a person at first sight?
- Exercise 2. Quiz and discussion on “Hometown fellows” movie
- Exercise 3. Health status and inherent requirements of the job: Case studies
- Exercise 4. Reasonable accommodation: Case studies
- Exercise 5. Blind walk
- Exercise 6. The story of teacher Qiu Zi: Case Study
- Exercise 7. Developing and implementing an Inclusive Workplace Strategy

Videos:

- Hometown Fellows*, ILO, Beijing
 - AbilityAsia*, ILO, Bangkok
 - Count Us In*, ILO, Geneva
 - From rights to reality: Trade unions promoting decent work for persons with disabilities*, ILO, Geneva
-

Introduction

Equal rights of women and men with disabilities and health conditions have recently emerged as an important workplace issue within China and the international community. The shift from a social welfare and medical approach to a human rights approach towards disability began in the 1970's and has since been expanded to all persons facing discrimination on the grounds of their health status.

Recent international legal instruments and Chinese laws affirm the rights of persons with disabilities and health conditions to equal opportunities and treatment at work, and prohibit employment discrimination against them, unless a job has occupational requirements that the person does not have the ability to perform. China has ratified the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) as well as the UN Convention on the Rights of Persons with Disabilities.

This module introduces the concepts and approaches related to disability and health status, and explains discrimination against persons living with disabilities and health conditions especially those living with HIV and Hepatitis B. The module summarizes international and legal instruments promoting equal employment opportunity and treatment and looks into discrimination on the basis of disability or health status in China. It shares international and national experiences, strategies and good practices for creating inclusive workplaces to promote the well-being and productivity of all workers. It applies participatory training methods and encourages participants to take practical action to promote equality.

The module includes two units:

Unit 5.1 Discrimination, health and disability: International concepts and approaches

Unit 5.2 Promoting equality at work for people with disabilities and health conditions in China

Objectives

The overall objectives of this module are to increase participants' understanding on what constitutes health and disability discrimination in employment and occupation, and to familiarize them with the principles, strategies and practical measures for taking action at government, company and workplace levels to eliminate discrimination and promote equality at work for all persons irrespective of their disability or health status.

Note for trainers on inclusive language on disability

The language used to discuss disability is very important. While it varies from country to country, there are some ways of speaking about disability that are more inclusive and welcoming than others. In order to understand the language in this training manual, a few examples of inclusive terminology are provided here. While some of the terms in Chinese and in English will be different, the principles behind the use of the language are the same.

- **Persons with disabilities** is the term preferred at the international level and in many countries rather than terms like **‘the invalids’** or **‘the handicapped.’** The reason for preferring **‘persons with disabilities’** is that the term focuses on the person first before the disability in a manner which is more humanizing and respectful than other alternatives. The ILO uses both ‘people with disabilities’ and ‘disabled people.’
- People without disabilities should not be referred to as **normal, healthy** or **able-bodied**, as persons with disabilities are not – as such expressions may suggest – abnormal, sick or unable. Instead, the expression **‘persons without disabilities’** is preferred.¹
- **Impairment** is used to describe the condition, which causes the disability. It is different to the term **disability**, which refers to the actual disadvantage or discrimination, which stems from the impairment.
- **Intellectual disability** is used in preference to mental retardation or other terminology considered offensive such as ‘idiot, imbecile, mentally abnormal or deficient’. This describes a person with difficulties in cognitive functioning of the brain and limitations in conceptual, social and practical adaptive skills.²
- **Mental or psychosocial disability** is used in preference to psychiatric disability. Psychosocial impairments relate to psychiatric and mental conditions that are influenced by both psychological and social factors, e.g. mood, personality, eating, substance-related or psychotic disorders, depression or schizophrenia.
- **Physical disability or mobility impairment** is used to describe people who have difficulty with physical moving. This is not limited to people who use wheelchairs, but may also include people who experience pain upon movement or who have difficulty in moving about. It relates to disorders of the musculoskeletal, circulatory, respiratory and nervous systems.
- When describing a person, focus on her/his abilities and actions rather than limitations, avoiding words that imply passivity: Expressions like **uses a wheelchair, uses a hearing aid, person with Down syndrome** are preferred to, for example, **be confined to a wheelchair, partially deaf, mongoloid**.
- Avoid sensationalizing a disability by using expressions such as **afflicted with, victim of, suffering from**, and so on. Instead, use neutral and descriptive formulas such as **a person who has**, for example, **multiple sclerosis**.
- Emphasize the individual, rather than the impairment, by saying, for example, **person with paraplegia**, instead of **paraplegic** or **paraplegic person**. For the same reason, avoid grouping individuals into generic categories through expressions like **the deaf, the blind** etc; instead, say **people who are deaf/blind**, etc.
- When talking about places with accommodation for persons with disabilities, use the term **accessible** rather than **disabled** or **handicapped**: for example, an **accessible parking space**.

¹ ILO: *Disability issues: An open distance learning scheme* (Turin, International Training Centre, 2009).

² R. L. Schalock et al.: *Intellectual disability, Definition, classification and systems of support*, (Washington, DC, American Association of Intellectual and Developmental Disabilities, 2010).

Section A. Learning content



Section A. Learning content

Unit 5.1 Discrimination, health and disability: International concepts and approaches

1. Principle of equality for persons facing health and disability discrimination

Non-discrimination and equality refers to the enjoyment of equal rights, opportunities and treatment within all spheres of life and work for all people regardless of their disability or health status. Equality for people with disabilities and health conditions implies that all people are free to develop their personal abilities and make choices without the limitations set by stereotypes, assumptions and prejudices about disability or health status. It does not mean that all people have the same abilities or have to be treated in the same way. It means that the different behaviour, aspirations and needs of people are equally considered, valued and favoured, regardless of their health or disability status.

2. Disability: Approaches and definitions

2.1 Contemporary approaches to disability

Over the past 40 years, the approaches towards disability have significantly shifted from the charity and medical approaches towards a rights-based approach which prioritizes the abilities, diversity and rights of persons with disabilities.



From charity to inclusive workplaces

The “charity” approach to disability

The charity model is associated with the moral view in which disability is considered as the result of some wrong doing or bad “Kharma”. The person with a disability (and sometimes also their family) are looked down upon and pitied. This perception offers limited opportunities for recognizing the contributions of disabled persons to their families, communities, workplaces and economies.

Within this model, the employment of persons with disabilities is considered as a tokenistic, benevolent and charitable act, rather than as a valuable component of workplace productivity and efficiency. Many persons with disability and their organizations have criticized this model as it promotes a negative, disempowered image of persons with disabilities rather than portraying the abilities of these persons and their right to decent employment.

The “medical” approach to disability

The medical model of disability views disability as the result of an impairment that is intrinsic to the individual. The medical model defines the problems associated with disability as inherent to the person who has the impairment. It specifies lists of conditions and a classification of disability based on medical understandings of the body and mind and prioritizes curing or controlling these conditions within the individual. In the medical model, services are provided to enable people with disabilities to live a life as normal as possible. The focus is on changing the person through medical and vocational rehabilitation and sheltered workshops or special programmes are provided as options to earn a livelihood.

Even though the medical model does not entirely reject that there may be social consequences from having a disability, issues such as social exclusion and inequality are not addressed, as they are viewed merely as outcomes of disability itself. The focus of this approach is on ‘fixing’ the impairment, rather than optimizing the individual’s capacity to manage her/his own life, given her/his impairment or medical condition.

The “social and human rights-based” approach to disability

The social model of disability views disability as the result of the dynamics between individuals with an impairment and a non-inclusive society. The main premise is that disability results from the social, cultural, economic and physical environment in interaction with the person’s actual impairment.

The social model of disability asserts that what constitutes a disadvantage for women and men with disabilities – in other words, what makes them disabled – is not their impairments in and of itself, but rather the limitations that are imposed on them by social, cultural, economic and environmental barriers. Such barriers include **lack of access** to the built environment, public transportation, communication and information. They can be **institutional** - discrimination in legal, educational or political institutions and **attitudinal** - stereotypes and negative attitudes by non-disabled people.

Examples of how disability results from the interaction between a society and the impairments of individuals are:

- A person with extreme near-sightedness who does not have access to corrective lenses may not be able to perform daily tasks. This same person with prescription eyeglasses is able to perform these tasks without problems.
- A person using a wheelchair might have difficulties gaining employment not because of the wheelchair, but because there are environmental barriers such as inaccessible buses or staircases which impede access.

The social model of disability acknowledges that a disability may be the result of stigma, prejudices or assumptions about the person with a certain impairment or health condition which is not related to the person’s actual ability. The social model locates the “problem” of disability within society and in the way in which it organizes itself excluding persons with disabilities from mainstream social and economic activities. It acknowledges the normality of impairment, while still recognizing the relevance and importance of medical interventions and services.

From the social model perspective, the emphasis should no longer be on the individual with disabilities and her/his special needs, but rather on the individual citizen with a whole range of needs – some of which may be determined by an impairment – and on the removal of disabling barriers. The aim is to enable persons with disabilities to take part in mainstream society, access regular education and training programmes, find decent work and make a valuable contribution to workplace productivity and efficiency.

2.2 The International Classification of Functioning, Disability and Health³

In 2001 the World Health Organization launched the International Classification of Functioning, Disability and Health (ICF) as the international standard to describe and

³ World Health Organization, <http://www.who.int/classifications/icf/en/> (accessed July 2010).

measure health and disability at both individual and population levels. The ICF introduces the concept of functioning as a universal ruler for health measurements. **Functioning** is defined as the outcome of interactions between disabilities and health conditions (diseases, disorders and injuries) and contextual factors. The latter is further divided into:

- external environmental factors, for example, social attitudes, architectural characteristics, legal and social structures, and the natural environment
- internal personal factors, for example, sex, age, coping styles, social background, education, profession, past and current experience, overall behaviour pattern and characteristics.

The ICF takes into account the social aspects of disability and does not define disability and health conditions only as a “medical” or “biological” dysfunction. By including the contextual factors, the ICF records the impact of the environment and society on individual functioning. The ICF recognizes that most people will experience a disability or a health condition at some stage in their life. The ICF can serve as a useful tool in situations where disability classification is required in the employment and labour fields.

2.3 Types of disability

The most common categorization of disability includes:

- **Physical** impairments generally relate to disorders of the musculoskeletal, circulatory, respiratory and nervous systems
- **Sensory** impairments refer to different degrees of restriction in hearing and vision
- **Intellectual** impairments relate to restrictions in cognitive functions and adaptive skills (for example learning difficulties)
- **Psychosocial** (in some instances referred to as mental health/behavioural) impairments relating to psychiatric and mental conditions that are influenced by both psychological and social factors, such as mood, personality, eating, substance-related or psychotic disorders.⁴

The latter category is often subject to considerable discrimination, even if one in five people will experience some form of mental illness in his or her lifetime and four of the ten leading causes of disability for persons aged five years and older are mental disorders.⁵ Men and women with mental health difficulties face prejudice, stigma and discrimination based on inaccurate assumptions and stereotypes. Some common assumptions within the workplace include that a person with a mental health condition will act inappropriately or will be unreliable when performing job functions.

In reality, many workers with mental health conditions are able to work with minimal additional support. A small number of workers with mental health difficulties may require occasional and sometimes substantial support; however this varies significantly according to the individual and may change over time.

Health conditions, such as chronic or intermittent fatigue, pain, sleeplessness, seizures or incontinence can often have a considerable impact on a person's everyday life. While these health conditions are usually not defined as a disability, the impairment caused by such health

⁴ ILO: *Disability issues: An open distance learning scheme* (Turin, International Training Centre, 2009).

⁵ See Virginia Commonwealth University Rehabilitation Research and Training Centre on Workplace Supports and Job Retention, United States, <http://www.worksupport.com> in D. Perry (ed.): *EmployAbility: A resource guide on disability for employers in Asia and the Pacific* (Bangkok, ILO, 2007).

conditions or the medication used to treat them can be disabling.⁶

Some health conditions and disabilities are not immediately recognizable within a person upon first sight and these are often referred to as **non-visible** or hidden disabilities. Forms of non-visible disabilities include a range of health conditions and impairments, such as arthritis, cancer, epilepsy, mental health difficulties, Chronic Fatigue Syndrome and dyslexia. As a non-visible disability, these forms of disability or health condition sometimes are not given the same amount of attention as more visible forms of disability or health condition. This can be problematic for the person with the non-visible disability as it can be more difficult to request and receive the appropriate modifications within the workplace to enable them to function at their optimal level.⁷

3. HIV and AIDS, HBV and Hepatitis B

Persons living with diseases, such as HIV and AIDS, the Hepatitis B virus (HBV) and Hepatitis B, tuberculosis or malaria also need protection against discrimination. Often these diseases are infectious only under limited circumstances and it is not necessary or useful for public health reasons to prevent persons with these diseases from working. Stigma and discrimination contribute to the spread of these viruses. This stigma and discrimination is often based on misinformation and inappropriate fears about how these infections are spread as well as prejudices about the morality of people who are infected.

HIV is a virus which attacks the human immune system. AIDS refers to the acquired immunodeficiency syndrome which occurs during the advanced stages of HIV infection and is often characterized by opportunistic infections and HIV-related cancers or both.

HIV is not transmitted through casual contact, including sharing food, a bathroom or bedroom, shaking hands and hugging. The virus can be transmitted through unprotected vaginal or anal sexual intercourse with an HIV-infected partner, transfusions of infected blood or other exchange of blood using infected needles or other piercing equipment and from mother to child during pregnancy, at birth or during breast feeding. Women are more susceptible to HIV infection because of biological and social reasons. They often lack power to negotiate safe sex and are more likely to be subject to physical sexual violence.

There is no cure for HIV, but the onset of AIDS can be blocked with the appropriate use of medicines. In the past, persons who took the first generations of drugs against HIV experienced illnesses and physical impairments as side effects of treatment. However, this is far less common now with improved drugs.⁸ With the increasing availability of antiretroviral therapy HIV-positive persons are living longer and often have minimal or no loss of functional capacity. They may not experience any symptoms and those with access to the right medicines and treatment are able to live healthy and productive lives for an extended period of time. However, only about one-third of the 33 million infected people in the world have access to treatment.⁹

⁶ See <http://www.open.ac.uk/inclusiveteaching/pages/understanding-and-awareness/what-are-hidden-disabilities.php>.

⁷ Ibid.

⁸ M. Rush et al.: "Impairments, activity limitations and participation restrictions: Prevalence and associations among persons living with HIV/AIDS in British Columbia" in *Health Qual Life Outcomes* (2004), Vol. 2, No. 46; M. O'Dell (1993); "Rehabilitation medicine consultation in persons hospitalized with AIDS, An analysis of thirty cases," in *American Journal of Physical Medical Rehabilitation* (1993) 72(2):90-6. in UNHRC, WHO and UNAIDS: *Disability and HIV Policy Brief* (April 2009).

⁹ International Herald Tribune on the 18th International AIDS Conference in Vienna (23-24 July 2010).

The Hepatitis B virus (HBV) is transmitted in the same way as HIV. It can be passed on by the exchange of blood, sperm or other body fluids through infected needles or blood products (blood transfusion or drug use), unprotected sexual intercourse, and from mother to child. Infection can not take place through casual contact, and the virus does not spread through contaminated food or water. Hepatitis B can be effectively prevented through vaccination.

Hepatitis B is a liver disease that may result from infection with HBV and ranges in severity from a mild illness lasting a few weeks to a serious, lifelong illness. Symptoms include tiredness, yellow eyes, pain around the liver area, dark urine and fever. Hepatitis B can be either acute or chronic. Acute Hepatitis B virus infection is a short-term illness that occurs within the first 6 months after someone has been exposed to the Hepatitis B virus. Acute infection can – but does not always – lead to chronic infection. Chronic Hepatitis B virus infection occurs when the Hepatitis B virus remains in a person's body throughout his or her life.

The likelihood of acute or chronic infection depends upon the age at which someone becomes infected. The younger a person is when infected with Hepatitis B virus, the greater his or her chance of developing chronic Hepatitis B. Approximately 90 per cent of infected infants will develop chronic infection. The risk goes down as a child gets older. Approximately 25 to 50 per cent of children infected between the ages of 1 and 5 years will develop chronic hepatitis. The risk drops to 6-10 per cent when a person is infected over 5 years of age. Worldwide, most people with chronic Hepatitis B were infected at birth or during early childhood.¹⁰

HBV carriers with a normal liver function do not experience any impairments in their daily functioning and they do not need any special treatment. The few who have severe chronic symptoms may experience some impairment in stamina and endurance which could require some accommodation within the workplace.

Box 5.1 The 2008 Employment Promotion Law and HBV discrimination – China

On 23 May 2008, a Beijing district court awarded Gao Yiming nearly 20,000 Yuan in compensation after he was refused employment at a Beijing technology company on the grounds that he was carrying the Hepatitis B virus (HBV). The case indicates that enforcement and recognition of the 2008 Employment Promotion Law, which specifically prohibits discrimination against people with an infectious disease (Article 30) is becoming more potent.

Gao Yiming had received a formal letter of employment from Beijing Bi De Development Telecommunications Technology company, an original design manufacturing arm of Chinese automotive manufacturer BYD, in April 2007. However the job offer was rescinded after Gao's obligatory health check on 28 May 2007 showed that he was HBV positive.

In his lawsuit, brought about after his application for arbitration was rejected by the Chaoyang District Labour Dispute Arbitration Committee, Gao sought a formal apology, 29,250 Yuan in economic losses, and 50,000 Yuan for the mental anguish caused by the company's withdrawal of his job offer.

In the Beijing case, the court sought to mediate an agreement between Gao and the defendant, Beijing Bi De Development Telecommunications Technology during the initial hearing on 23 April. However, the two parties failed to agree on a settlement.

The Chaoyang District Court then made a judgment on 23 May, awarding the plaintiff economic compensation of 17,572.75 Yuan and a further 2,000 Yuan in compensation for the mental anguish

¹⁰ Centers for disease control and prevention: *Hepatitis B and HBV information*, <http://www.cdc.gov/hepatitis/HBV/> (accessed 31 Aug. 2010).

caused by the company's withdrawal of the job offer. The company was also ordered to apologize in writing to the plaintiff for its actions.

Source: J. Li: "Labourer won Beijing's first case on HBV discrimination", in *Xinhua*, (Beijing), 24 May 2008.

4. International standards on equality for persons facing health and disability discrimination

4.1 UN Convention on the Rights of Persons with Disabilities¹¹

The UN **Convention on the Rights of Persons with Disabilities** (CRPD) and its Optional Protocol were adopted in New York on 13 December 2006 and entered into force on 3 May 2008. China ratified the Convention on 1 August 2008.

The CRPD marks a major shift in attitudes and approaches to persons with disabilities. It emphasizes the importance of removing attitudinal and environmental barriers. It states:

"... disability is an evolving concept, and ... disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder full and effective participation in society on an equal basis with others." (Preamble) and

"Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others" (Article 1).

The Convention contains a broad, open-ended categorization of persons with disabilities and reaffirms that all persons with disabilities should enjoy human rights and fundamental freedoms. Discrimination on the grounds of disability is defined in the Convention as follows:

"Discrimination on the basis of disability means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" (Article 2).

4.2 Convention No. 111 on prohibition of discrimination in employment

The **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** encourages countries to declare and pursue a policy to promote equality of opportunity and treatment in order to eliminate discrimination in the world of work. It was the first comprehensive international instrument on discrimination and its principles and orientation are being applied in all international standards which deal with discrimination on the basis of disability or health status, such as the 2006 UN CRPD¹² and the ILO **Recommendation Concerning HIV and AIDS and the World of Work, 2010 (No. 200)**.

¹¹ United Nations (UN): *Convention on the Rights of Persons with Disabilities*, <http://www.un.org/disabilities/> (accessed Jan. 2010).

¹² A. Bronstein: *International and comparative labour law: Current challenges* (Geneva, ILO, 2009).

The definition of discrimination in the CRPD and in Convention No. 111,¹³ are very similar. However, the CRPD uses the terminology “any restriction” rather than “any preference,” mentioned in ILO Convention No. 111 as it is more appropriate in a disability context.

ILO Convention No. 111 also specifies what is not discrimination. Sometimes, a job has inherent requirements which allow for making distinctions and excluding or preferring someone above another. In addition, measures of protection or assistance may be needed to remedy the effects of discrimination. At the time of the adoption of Convention No. 111, disability and health status were not specifically included among the prohibited grounds of discrimination. However, the Convention makes provision for “special measures” in the case of disabled people, where considered appropriate at national level (Article 5).

As it was understood that other grounds would emerge, the Convention states that other grounds of discrimination acknowledged in the law of ratifying countries are considered to be grounds under the Convention. As China’s laws contain a broad prohibition of employment discrimination on the basis of disability and infectious diseases, such as HIV and AIDS, and HBV and Hepatitis B, Convention No. 111 does not permit it to roll back the protection which the law currently affords, and encourages the expansion of the present levels of protection.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has on various occasions discussed discrimination in employment due to health status. For example, the Committee found that the health status of an individual may be taken into consideration when assessing if the individual is fit for a specific job. However he or she should not be required to prove that a past or present health condition does not affect his or her fitness for the job.¹⁴ Only if a person’s current state of health relates to the normal occupational requirements for a specific job should it be considered in a job recruitment or promotion decision.¹⁵

In such cases where the health status has been disclosed to the employer, the employer is obliged to maintain confidentiality of the employee’s health condition. Likewise, there are restrictions on when and how the employer may enquire into the health status of the employee.¹⁶ The UN CRPD also urges countries to: “... comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities” (Article 31).



For more information, see Section 5.3 below and the ILO Code of practice on the protection of workers’ personal data.

4.3 ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)

The emphasis on the right to employment is also reflected in ILO Convention No. 159 and accompanying Recommendation No. 168 on vocational rehabilitation and employment for disabled persons. Convention No. 159 requires ratifying states to introduce a national policy

¹³ Convention No. 111 reads: “ any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity and treatment in employment or occupation”

¹⁴ ILO: “Equality in employment and occupation, General survey” in *Report of Committee of Experts on the Application of Conventions and Recommendations*, Report III, International Labour Conference, 75th Session, Geneva, 1988.

¹⁵ ILO: “Equality in employment and occupation, General survey” in *Report of Committee of Experts on the Application of Conventions and Recommendations*, Report III, International Labour Conference, 84th Session, Geneva, 1996.

¹⁶ ILO: *Protection of workers’ personal data, an ILO code of practice* (Geneva, 1997).

promoting equal opportunities and treatment for all men and women with disabilities and implement vocational rehabilitation measures for them. The Convention also requires that member States should consult organizations of disabled persons, in addition to employers' and workers' organizations when formulating and implementing relevant employment and training policies.

4.4 Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200)

Stigma and discrimination form one of the greatest barriers to dealing effectively with the HIV epidemic, causing a range of human rights violations and hindering access to prevention, care treatment and support. While some protection against HIV-based discrimination exists in international law, the first international legal instrument to address such discrimination in the workplace was adopted by ILO member States in the form of Recommendation No. 200 in 2010.

Augmenting the 2001 Code of practice on HIV/AIDS and the world of work, the Recommendation provides guidance for the development of national and workplace policies to improve access to prevention, treatment, care and support to persons affected by HIV and AIDS. It calls for eliminating discrimination against or stigmatization of workers, in particular jobseekers and job applicants, on the grounds of real or perceived HIV status or the fact that they belong to regions of the world or segments of the population perceived to be at greater risk of or more vulnerable to HIV infection.¹⁷



Recommendation No. 200 calls on member States to take workplace action to prevent HIV infection and alleviate its impact by:

- Ensuring respect for human rights and fundamental freedoms
- Ensuring gender equality and the empowerment of women
- Ensuring actions to prevent and prohibit violence and harassment in the workplace
- Promoting the active participation of both women and men in the response to HIV and AIDS
- Promoting the involvement and empowerment of all workers regardless of their sexual orientation and whether or not they belong to a vulnerable group
- Promoting the protection of sexual and reproductive health and sexual and reproductive rights of women and men
- Ensuring the effective confidentiality of personal data, including medical data.

4.5 Future trends

International level. As the UN Convention on the Rights of Persons with Disabilities entered into force in 2008 and ratifying States are required to amend national laws and practices in line with the Convention, a debate has started among HIV and disability rights advocates and research communities on the scope it may provide to advance the human rights of persons living with HIV and protect them against discrimination. The CRPD addresses many issues faced by

¹⁷ ILO: *Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200)*, Article 14 (Geneva, 2010).

people with infectious diseases like HIV and AIDS, HBV and Hepatitis B but does not explicitly refer to these infections. However, its definition of disability is open-ended.¹⁸

National level. HIV and AIDS are considered as a disability in some national jurisdictions while others include it under specific legislation on communicable diseases. However, given the severity of discrimination against people with HIV and AIDS, increasingly these health conditions are also covered in generic laws protecting human rights or outlawing discrimination and generic and specific labour laws.¹⁹

As countries move towards using the new rights-based approach towards persons facing discrimination based on their disability or health status in accordance with international standards, there remains to be a need to reflect the new understanding in national legislation. From the perspective of promoting non-discrimination in employment, the new human rights approach and corresponding attitudes offer greater scope and opportunity for creating inclusive workplaces than the more limited medical approach.

5. Direct and indirect discrimination based on health and disability status

Principles of non-discrimination and equality are important for ensuring fair conditions of work and job security for persons with disabilities and health conditions. Specific assumptions, stereotypes and prejudices are associated with people with a disability or health condition based on social and cultural understandings of their impairment and capacity to participate in the workplace and society.

Discrimination can exist in laws – also known as “de jure” – and in reality and in practice – known as “de facto”. A labour code or regulations stipulating that HIV or HBV carriers can not work in hospital kitchens as cooks, for example, is “de jure” discrimination based on health status, while the actual practice of not hiring HIV or HBV carriers as cooks in hospital kitchens is “de facto” discrimination.

Cases of “de jure” discrimination have been declining steadily over time, although they have not yet completely disappeared. However, “de facto” discrimination of persons with disabilities and health conditions continues to exist and is very common.

5.1 Direct discrimination

To identify whether discrimination is occurring, it is important to further distinguish between direct and indirect discrimination. Direct discrimination against persons with disabilities and health conditions occurs when policies, rules or practices exclude or restrict people on the basis of health status or give preference to others who do not have a disability or health condition, such as HIV or HBV without reasonable justification.

For example, direct discrimination may occur through job advertisements that specify non-inherent job requirements and state that people with a disability or health condition will

¹⁸ R. Elliot L. Utyasheva and E. Zack: “HIV, disability and discrimination: Making the links in international and human rights law”, in *Journal of the International Aids Society* (Toronto, Canada, 2009), <http://www.jiasociety.org/content/12/1/29> (accessed Jan. 2010); and J. Hanass-Hancock and S.A. Nixon: “The fields of HIV and disability: Past, present and future”, in *Journal of the International Aids Society* (Toronto, Canada, 2009), <http://www.jiasociety.org/content/12/1/28> (accessed Jan. 2010).

¹⁹ For more information, see M. Chartier: *Legal initiatives to address HIV/AIDS in the world of work by the ILO Programme on HIV/AIDS and the World of Work* (Geneva, ILO, 2005).

not be considered for a job. Direct discrimination may also occur through human resource practices that cease employment contracts for workers with disabilities or health conditions by specifying certain working areas or conditions as objective occupational requirements based on inaccurate assumptions, stereotypes or stigma about a disability or a health condition.

5.2 Indirect discrimination

Indirect discrimination against persons with disabilities or infectious diseases occurs when apparently neutral norms and practices have a disproportionate effect on persons with disabilities or these diseases without reasonable justification. This may include workplaces where workers are expected to respond to an auditory cue like a bell within the workplace, but workers with hearing impairments are not provided with an alternative visual cue, like a light. Other examples of indirect discrimination are non-inherent requirements for long working hours which may also exclude workers with certain health conditions or disabilities that result in high levels of fatigue.

5.3 The right to protection of personal information

It is important that personal medical records are confidential and that workers with disabilities or health conditions do not receive punitive or restrictive treatment if their disability or health status is disclosed. Such treatment includes unnecessary reduction or demotion of work tasks, isolation from other workers, harassment, reduction of pay or work hours, cessation of employment contract or other punitive or restrictive treatment. Such discrimination is often experienced by workers with health conditions, such as HIV or HBV.

Box 5.2 Breach of confidentiality – Asia

Pramod, a police constable who worked in a jail, came to know about his HIV-positive status when he went to the government doctor with a complaint of Herpes Zoster. In good faith he told his senior officer. After some days he received a letter of transfer to another district jail. He was told that it was a routine transfer.

When Pramod reported for duty at this jail, he learnt that everyone there knew his status. He was then given a letter stating that since he is HIV-positive, he and his wife must look for other accommodation instead of the government premises allocated to other staff of the jail. He was also told that he would not be allowed to use the facilities available to other employees for washing clothes, bathing or shaving, due to his status.

Pramod was very disturbed but when he argued with his superior about this, he was badly beaten up by his supervisor and colleagues and they told him that he should leave the premises immediately. Pramod fell to the ground unconscious and was taken to the government hospital for treatment.

Source: Asia Pacific Network of People Living with HIV (APN+): *AIDS discrimination in Asia* (Bangkok, 2004), http://www.apnplus.org/main/Index.php?module=publications&page_id=1 (Accessed 15 July 2010).

Non-discrimination in recruitment for persons with disabilities or health conditions means that the person's disability or health status is not considered in recruitment unless that status prevents the person from safely performing the requirements of the job for which they are applying. This similarly applies to promotion for employees with disabilities or health conditions. Unless there is this connection, a person with a health condition or disability is not obliged to disclose their health or disability status. Moreover, when the disability or health status is disclosed, the

employer must keep this status confidential, unless this status comprises job performance and safety according to objective criteria.²⁰

Box 5.3 Right to protection of personal information – Belgium

Ms D was ergotherapist at a residence for elderly persons in Brussels, helping the residents to regain mobility back after an injury, illness or disease or simply to sustain their personal functional independence. Ms D was epileptic, and was not offered a vacant position after her temporary employment contract expired. The residence's management reached this decision despite the fact that she had been found fit for employment by the occupational physician with one reservation. The physician considered that she should not be allowed to drive a service van with passengers. It is a widely accepted practice to bar persons suffering from epilepsy to drive motor vehicles if they have not been completely free from seizures for a certain amount of time.

She was told by the Director of the home that the refusal to recruit her was attributable to her state of health. The administration denied that this was the reason for not recruiting her and considered that the refusal was not discriminatory. Ms D, supported by the Centre for Equal Opportunities and Fight Against Racism (a civil society organization advocating equal opportunities) fought the residence's decision before the Employment Tribunal (Tribunal du travail). She also requested that the subsequent court's finding that such discrimination took place should be publicly posted at the residence.

The Employment Tribunal relied on a provision in the Law of 25 February 2003 on combating discrimination and ordered the public body managing the residence to prove that its decision had been based on objective and reasonable grounds instead of Ms D's health status. The employer claimed that the refusal to recruit Ms D was not based on her health status but on the fact that Ms D had lacked 'frankness' by not openly discussing her epileptic condition with the director of the residence and the type of accommodation that was required, so that the relationship of confidence had been broken between the parties. Ms D considered that she was not under any obligation to divulge to the administration that she was epileptic as it was not relevant to the position she applied for. She considered this an element of her private life and invoked the Law of 8 December 1992 on the protection of private life vis-à-vis the processing of personal data.

The Employment Tribunal concluded that Ms D had the right to keep her state of health secret, and that she could not be disciplined for having refused to provide further information on her condition, which, moreover, was actually known to the management. The Tribunal considered that the refusal to recruit Ms D was based on her state of health, and was therefore discriminatory under the law. The Tribunal also ordered the employer not to repeat discriminatory behaviour of this kind. However, it refused to grant the claimant's request to post the judgment on the premises of the administration, as this was a disproportionate sanction.

Source: <http://www.non-discrimination.net/content/media/LR-5-BE-2.pdf>.



For more information on confidentiality and revealing health status to the employer, see the 1997 ILO Code of practice on the protection of workers' personal data.

6. Inherent requirements of a job

The inherent requirements of a job refer to the characteristics that are essential for the successful completion of tasks and responsibilities related to that job. Thus, it is permitted to reject a person with a disability or health condition if their disability or health status results in an inability

²⁰ ILO: *Code of practice on managing disability in the workplace* (Geneva, 2002); ILO: *Protection of workers' personal data, an ILO Code of Practice* (Geneva, 1997).

to perform the occupational requirements of a job. Convention No. 111 refers to inherent requirements when it states that:

“any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination” (Article 1).

However, the requirements which are deemed as inherent to a particular job must relate objectively and reasonably to a specific and essential job, function or task. They can not be preferable or convenient requirements, but must be essential occupational requirements of the job that cannot be modified. In other words: “This exception to discrimination within the workplace is interpreted restrictively.”²¹

For example, in a restaurant the main job requirement of a waiter involves walking around obstacles, carrying food to tables and taking dirty dishes back for cleaning. However, walking around is not an inherent job requirement for a cashier, as the main job of a cashier is to settle bills and manage finances. Thus, the job of a cashier can be done by a person with a mobility impairment by providing a chair at the cash register and adjusting the tasks in the restaurant so that bills are taken to the cashier.

7. Discrimination by association with persons with disabilities or health conditions

Discrimination can also occur through association with persons with disabilities or a health condition. This is when a person who does not have an impairment is discriminated against due to their association with another person, such as a child, spouse, or other family member or friend with a disability or health condition.

The discrimination may be linked to an assumed impairment or diagnosis of the associated person, such as in the case of children of parents with HIV, or it may be linked to the caring responsibilities of the person with a disability, such as the need for flexible working hours for the primary carer of a family member with a chronic illness.

Box 5.4 Discrimination by association – UK

In a decision that will have far reaching implications, the European Court of Justice (ECJ) has ruled in *Coleman v Attridge Law* that a woman with a disabled child is entitled to protection from discrimination at work on the grounds of her child’s disability. The case concerned the interpretation of the EC Equal Treatment Framework Directive (the Directive) and its impact on disability discrimination legislation in the United Kingdom (UK).

Sharon Coleman’s son was born with serious respiratory problems. She brought a claim of disability discrimination and constructive dismissal against her ex-employer on the grounds that she had been discriminated against because of her son’s disability. Her claims of unfair treatment were that she was not permitted to work from home, even though other employees were allowed to do so to care for non-disabled children, and that she was placed in a pool of staff selected for redundancy after she said that she intended to make a formal request for flexible working in order to care for her son. Ms Coleman claimed that her employer’s actions had created a hostile environment which forced her to resign.

The wording of the Directive is such that it protects disabled employees but does not afford protection to

²¹ A. Bronstein: *International and comparative labour law: Current challenges* (Geneva, ILO, 2009).

an employee who is discriminated against because he or she cares for a disabled person. Ms Coleman argued that the Directive does give protection from unfair treatment which arises out of association with a disabled person. The Employment Tribunal (ET) referred the question to the ECJ in order to establish whether the UK law properly implements the Directive.

The ECJ ruled that the purpose of the Directive, as regards employment, is to combat all forms of discrimination on grounds of disability. Limiting its application only to people who are themselves disabled would render the Directive less effective and reduce the protection which it is intended to guarantee. Where an employer treats a non-disabled employee less favourably because of the disability of his or her child, whose care is provided primarily by that employee, such treatment is contrary to the prohibition of direct discrimination laid down in the Directive. Likewise, the Directive also protects an employee from unwanted conduct amounting to harassment that is related to the disability of the employee's child.

Following this decision, the London South ET has ruled that it does have jurisdiction to hear Ms Coleman's claims of discrimination and harassment on the grounds of her son's disability. In the ET's view, while the wording of the Disability Discrimination Act 1995 does not make this clear, it should be read as providing protection to a person who is 'associated with' a disabled person, not just one who is disabled.

Source: http://www.raworths.co.uk/site/library/employmentlib/associative_discrimination_ecj_rules.html

8. Multiple forms of discrimination: Disability, poverty, sex and age

In much of the literature on health and disability as well as in people's general perception, persons with disabilities are often represented as a homogeneous group, mainly characterized in terms of their impairment. As a result, inherent differences such as their sex, age, ethnicity or cultural and social background are mistakenly overlooked and assumed to be irrelevant both in their everyday lives and in their individual experience of disability. However, people's income levels, their sex and associated gender roles, as well as their age or ethnicity are crucial factors in defining and shaping their individual identities and experiences. When persons experience discrimination on multiple grounds, they often find themselves in a vicious spiral of cumulative disadvantage.

The effects of the combination of disability and poverty, sex and age are discussed here, but other intersections, such as disability and race, religion or sexual orientation, can also exist. Acknowledging the existence of multiple forms of discrimination is important in the promotion of non-discrimination, because all grounds of discrimination have to be addressed simultaneously.

8.1 Poverty

An important dimension of disability is poverty, which can both be a cause and an outcome of disability. On the one hand, factors generally related to poverty – such as malnutrition, poor health and living conditions – increase the likelihood that individuals will acquire different disabilities, whereas on the other hand people who already have a disability are more likely to be driven into poverty due to social inequalities and discrimination in areas such as education, employment and health care. It may also be less viable to accommodate the needs of persons with disabilities within low socio-economic areas, thus creating further barriers for equality.

Poverty and disability create a dangerous and vicious circle. Women and men with disabilities are over-represented among the poorest income groups in society. The World Bank estimated in 1999 that 20 per cent of the world's poorest people are disabled, and according to UN statistics,

82 per cent of disabled people in developing countries live below the poverty line.²²

8.2 Sex and gender²³

For a better understanding of the relation between sex, gender and disability, a few gender concepts are briefly summarized here. As mentioned in Module 2, people in every society have ideas, expectations and norms about the roles, characteristics, abilities and behaviour of men and women in their society. Main root causes of sex discrimination are found in these perceptions on the biological and social – or gender – roles of women and men in society. For example, when looking at the division of labour, in many societies, women are considered primarily as home managers and caregivers in the private domain, and men are viewed as the main income earners for the family and decision makers in the public domain. Women are often seen as emotional and in need of protection, and the fulfilment of their “femininity” is judged by their success as good mothers and wives, while masculine qualities include physical and emotional strength and independence.

Such perceptions may be restrictive for both sexes, especially women. Often they are not in line with reality and undervalue the contributions women make. Gender norms and values and the gender division of labour usually have an impact on persons with disabilities or health conditions as follows:

- Gender stereotypes affect the way society perceives persons with disabilities. For women with a disability, for example, the image may be of intensified helplessness and greater need of protection and support, whereas for men with a disability the perception may be of a corrupted masculinity, due to enforced dependence and vulnerability. Such images have real, often negative consequences, as disabled women and men internalize such images and perceptions, a process known as the “feedback effects of discrimination”²⁴.
- Existing gender inequalities often compound discrimination on the basis of disability. Women with disabilities are usually at a greater disadvantage in virtually all public spheres – from education, to employment and health care provision – and in the private sphere. The patterns are very similar across different regions and development levels. Women with disabilities attain lower educational levels compared to men. They are less likely to participate in paid employment and when they do, they generally earn less.
- Worldwide, women with disabilities are less likely to have access to health and rehabilitation services and other resources. In the private sphere, women with disabilities are less likely to marry and parent a child, and more likely to face medical interventions to control their fertility and to experience violence and sexual abuse both in the family and in institutions.²⁵
- Disability generally has a disproportionate differential impact on male and female members of society at large, as women are the primary care providers within families across both developed and developing countries. Evidence shows that within a family, whenever a member is in need of assistance and care, whether it is a child, a spouse, a sibling or a parent, such responsibility usually falls on women, especially in the

²² R. Metts: *Disability issues, trends and recommendations for the World Bank* (Washington, World Bank, 2000); and UN statistic cited in A. O'Reilly: *The right to decent work of persons with disabilities* (Geneva, ILO, 2007), p.vii.

²³ See Module 2. Promoting gender equality at work; and ILO: *Disability issues: An open distance learning scheme* (Turin, International Training Centre, 2009).

²⁴ See: N. Haspels and E. Majurin: *Work, income and gender equality in East Asia* (Bangkok, ILO, 2008).

²⁵ For more statistics and details on an engendered perspective of disability discrimination, see G. L. ALBRECHT et al. (ed.): “Gender and Disability” in *SAGE encyclopedia of disability* (2005), <http://www.leeds.ac.uk/disability-studies/archiveuk/meekosha/meekosha.pdf> (accessed Jan. 2010).

developing world, where health care and services are often not available to all citizens. This greatly impacts on women's ability to participate in education and paid employment, thus deepening existing patterns of gender inequality.²⁶

Finally, the above vulnerabilities faced by women with disabilities or women who care for disabled persons are also valid in the case of infectious diseases. However, an added disadvantage relates to widespread perceptions on women's sexual subordinate role to men in many societies.

8.3 Age, ageing and disability²⁷

Age is also an important dimension of disability. Disabled persons of different ages will encounter different kinds of barriers due to their disability. Age in itself often constitutes a ground for discrimination, especially in the labour market, and may therefore compound negative attitudes towards disability.

Older people are also more likely to acquire disabilities as part of the ageing process. This does not imply that becoming old necessarily means becoming disabled, but rather that disabilities are generally more prevalent in older age groups, especially in the age-group over 65. For example, the United States Population Census of 1997 estimated that 44.9 percent of the population aged between 65 and 69 had a disability (broken down into 30.7 percent of the overall population with a severe disability and 8.1 percent needing assistance), and the rates dramatically escalated in older age-groups.²⁸

9. Measures of protection and assistance

As mentioned above, Convention No. 111 states that "special measures" may be needed to achieve equality at work for persons who are generally recognized to require special protection or assistance (Article 5). ILO Convention No. 159 on vocational rehabilitation and employment for persons with disabilities and the Code of practice on managing disability in the workplace also call for adaptations and adjustments to be made to accommodate persons with disabilities. The UN CRPD and ILO Recommendation No. 200 on HIV and AIDS in the world of work confirm this and require countries to take appropriate steps to ensure that reasonable accommodation is provided.

9.1 Reasonable accommodation

"Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure that persons with disabilities have the same human rights and fundamental freedoms as other persons. The CRPD mentions explicitly that denial of reasonable accommodation is considered as a prohibited form of discrimination against persons with disabilities (Article 2).

Examples of reasonable accommodation include making facilities accessible to persons with disabilities, providing equipment or devices, and adapting work content, schedule or other arrangements.

²⁶ See, for example, P. N. Cohen and M. Petrescu-Prahova: *Care work, gender inequality and the state: Women's employment and children with disabilities* (USA), http://depts.washington.edu/crfam/seminarseries03-04/Cohenpercent20&percent20Petrescu_2003.pdf (accessed Jan. 2010)

²⁷ ILO: *Disability issues: An open distance learning scheme* (Turin, International Training Centre, 2009).

²⁸ See *Population profile of the United States: 2000*, chapter 19, <http://www.census.gov/population/www/pop-profile/files/2000/chap19.pdf> (accessed Jan. 2010).

Box 5.5 Reasonable accommodation for people with disabilities

The Americans with Disabilities Act (ADA) requires an employer with 15 or more employees to provide reasonable accommodation for individuals with disabilities, unless it would cause undue hardship. A reasonable accommodation is any change in the work environment or in the way a job is performed that enables a person with a disability to enjoy equal employment opportunities.

There are three categories of reasonable accommodations:

- Changes to a job application process
- Changes to the work environment, or to the way a job is usually done
- Changes that enable an employee with a disability to enjoy equal benefits and privileges of employment (such as access to training).

Examples of accommodations for a person with a hearing impairment: a sign language interpreter; a text telephone; a telephone headset; appropriate emergency notification systems; written memos and notes; work area adjustments; assistive computer software, such as voice recognition software; assistive listening devices (ALDs); augmentative communication devices that allow users to communicate orally by typing words that are then translated to sign language or a simulated voice; communication access real-time translation (CART), which translates voice into text at real-time speeds; time-off in the form of accrued paid leave or unpaid leave if paid leave has been exhausted or is unavailable; altering an employee's marginal, that is, non-essential job functions; and reassignment to a vacant position.

Source: United States, Equal Employment Opportunity Commission: *Small Employers and Reasonable Accommodation*, <http://www.eeoc.gov/facts/accommodation.html>; *Questions and Answers about Deafness and Hearing Impairments in the Workplace and the Americans with Disabilities Act*, <http://www.eeoc.gov/facts/deafness.html> (both accessed 28 September 2010)

The concept of implementing reasonable accommodation may be a cause of concern among employers since many assume this will be costly. However, reasonable accommodation measures are, by definition, reasonable changes within the workplace and do not have to be expensive or difficult to implement. Even small changes may have dramatic effects on increasing access, productivity and worker safety, health and wellbeing. For example, all workers benefit from good housekeeping and a clean and tidy workplace. Easy-to-read signs may also be an inexpensive way to accommodate workers with partial vision and improve safety and comfort for all.

When the accommodation causes undue hardship for the employer's business operations, the employer is not required to make the accommodation. Undue hardship, or a "disproportionate or undue burden" is defined in the CRPD as: "an action requiring significant difficulty or expense." This concept of significant difficulty or expense is considered in the context of a range of factors, including the nature and cost of the accommodation in relation to the size, resources, nature and structure of the employer's operations. Hence, what is reasonable and what is undue hardship should be determined on a case-by-case basis as guidelines do not necessarily translate across different employers due to their differing circumstances and there will also be variation between countries.



See Section 10 below and Tools 1 and 2 in Section D for guidelines on making adjustments in workplaces to accommodate the employment of persons with disabilities, including inclusive workplace strategies to accommodate specific impairments.

9.2 Affirmative action and quota systems

Affirmative action – also known as positive measures – are special measures designed to redress the effects of past or continuing discrimination. The adoption of affirmative action stems from evidence that the legal banning of discrimination is not enough to eliminate it in practice. The most common example of affirmative action measures consists of setting specific goals, targets or quotas for the participation of the disadvantaged, under-represented group.

Several countries have legislation, regulations and systems in place that require employers to reserve a certain proportion of jobs for people with disabilities. If employers do not fulfill this obligation, many countries require them to pay a compensatory levy or fine to the government, often into a central fund which is sometimes earmarked for promoting the accessibility of workplaces to disabled persons or for vocational rehabilitation purposes. Countries with this type of legislation include many European countries, such as France, Germany and Italy, and several Asian countries, such as China, Japan, and Thailand. Most quota laws make no provision for training of people with disabilities, with the exception of the quota law in France.

In Europe, quota systems were originally introduced to promote employment for disabled war veterans after the first and second world wars and for people disabled due to industrial accidents. At the time the quotas were provided as a form of compensation to individuals, based on the assumption that they were lower prospect workers with lower productivity than other workers. The quota mechanisms put in place have been criticized for giving the impression that people with disabilities could not be employed on merit.

In more recent times, common difficulties in applying quota systems to stimulate the employment of persons with disabilities concern the levy and enforcement. The levies in place are often regarded as not high enough, since employers in many countries opt to pay the levy rather than employing a disabled person. In many countries enforcement of the quota system is also rather lax. Taking into account the need to improve the effectiveness of quotas in promoting employment for disabled persons, some countries have introduced reforms that focus on the removal of barriers in the workplace, and offer a wider range of options for employers, including the option of providing for on-the-job training like apprenticeships.²⁹

10. Strategies and good practices

10.1 Inclusive workplaces

One of the primary means to promote non-discrimination in employment on the grounds of disability and health conditions is to create inclusive workplaces. These are working environments, including places of training and education in which the physical, social and cultural barriers to the inclusion and participation of persons with disabilities and health conditions have been removed. This is done through designing these workplace environments or measures and procedures with the needs of all workers and/or customers in mind. For example, if a company provides a canteen service it should be laid out so that people with visual impairments or physical limitations can move around easily without encountering any potential hazards that may cause harm.

²⁹ ILO: *Achieving equal employment opportunities for people with disabilities through legislation. Guidelines* (Geneva, 2007); ILO: *From disability benefits to gainful employment: Central and Eastern Europe sub-regional conference report* (Budapest, 2005).

The creation of an inclusive working environment is essential at all stages of the employment cycle, from education and training to recruitment and promotion and to ensure fair conditions of work and job security. Inclusive workplaces minimize the chance of both direct and indirect discrimination from occurring. While it is very difficult to create a truly inclusive workplace in every regard, striving towards creating as inclusive a workplace as possible makes good business sense and promotes harmony and occupational safety and health within the workplace. Two important means of realizing inclusive workplaces are universal design and standard precautions:

- The UN CRPD defines **universal design** as 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. It excludes assistive devices for particular groups of persons of disabilities where this is needed (Article 2). Universal design is about creating a social, cultural and physical environment which is accessible to all people regardless of their health or disability status. It is essential for non-discrimination and equality across all stages of the employment cycle, in education and training, recruitment, promotion and to ensure job security and meaningful, productive work.
- **Universal or standard precautions** are about preventing occupational risks such as the potential spread of infections by adopting safe procedures in workplaces. Such precautions are based on the principle that blood and other body fluids should be considered as potentially infectious. They include measures to prevent these fluids from entering the body whether through occupational exposure or a workplace accident.³⁰

Box 5.6 Good practice – Standard precautions

Universal blood and body-fluid precautions or standard precautions were originally devised in the United States Center for Disease Control and Prevention in 1985, largely due to the HIV/AIDS epidemic and an urgent need for new strategies to protect hospital personnel from blood-borne infections. The new approach placed emphasis for the first time on applying blood and body-fluid precautions universally to all persons regardless of their presumed infectious status. Universal precautions are a simple standard of infection control practice to be used in the care of all patients at all times to minimize the risk of blood-borne pathogens. Universal precautions consist of:

- careful handling and disposal of sharps (needles or other sharp objects)
- hand-washing before and after a procedure
- use of protective barriers – such as gloves, gowns, masks – for direct contact with blood and other body fluids
- safe disposal of waste contaminated with body fluids and blood
- proper disinfection of instruments and other contaminated equipment
- proper handling of soiled linen.

Source: ILO Code of practice on HIV/AIDS and the world of work (2001).



Economic and organisational benefits of inclusive workplaces for businesses

Inclusive workplaces practices are good for business. Not only do they tap into a pool of diversely skilled workers, but they also create positive workplace cultures and good human resources practices. Some of the reasons why inclusive workplaces make good economic and business sense include:

³⁰ ILO: *HIV/AIDS and the World Of Work*, Report IV(1), International Labour Conference, 98th Session, Geneva, 2009, p. 26.

- People with disabilities make good, dependable employees. Employers of workers with disabilities consistently report that, as a group, people with disabilities perform on par or better than their non-disabled peers on measures such as productivity, safety and attendance.
- People with disabilities are more likely to stay on the job. The costs of job turnover, such as lost productivity and expenses related to recruitment and training, are well known to most employers.
- Hiring people with disabilities increases workforce morale. Many employers report that teamwork and morale improves when disabled workers become part of the staff.
- People with disabilities are an untapped resource of skills and talents. In many countries, people with disabilities have skills that businesses need, both technical job skills and transferable problem-solving skills developed in daily life.
- People with disabilities represent an overlooked and multi-billion dollar market segment. The annual disposable income of disabled persons is estimated to be US\$200 billion in the United States, US\$50 billion in the United Kingdom and US\$25 billion in Canada. Ignoring this market may mean losing not only the disabled consumer but also his or her family and friends. As the population ages, so does the incidence of disability. It makes sense to have employees who know first-hand about the product and service needs of this consumer segment.³¹
- In sum, the overall impact can include increased overall productivity, quality and workplace cooperation and reduced worker turnover.

Source: ILO: *Disability in the workplace: Trainers' guide* (Bangkok and Geneva, Factory Improvement Programme, 2006).

Box 5.7 DuPont study on performance and productivity of disabled workers

A study published by Du Pont Company in 1990 which was conducted over 20 years concluded that hiring and retaining workers with disabilities was cost-efficient and productive. The study found that:

- Employees with disabilities are equal or surpass other workers in performance, attendance and safety.
- Supervisors rate their employees with disabilities just as productive as their co-workers without disabilities.
- Hiring people with disabilities did not contribute to an increase in compensation cost of lost-time due to employee injuries.

Source: ILO: *Disability in the workplace: Trainers' guide* (Bangkok and Geneva, Factory Improvement Programme, 2006).

Inclusive workplaces are also beneficial to workplace culture. Through demonstrating acceptance and respect for all employees, including those with disabilities and health conditions, the company will establish a culture of inclusion amongst the employees in the workplace. Statements from management about the ability, value and productivity of these workers go a long way in de-stigmatising and empowering them within the workplace. By setting the example of including and respecting persons with disabilities and health conditions, companies can influence the dynamics of the workplace culture and reduce potential opportunities for

³¹ D. Perry, (ed.): *EmployAbility: A resource guide on disability for employers in Asia and the Pacific*. (Bangkok, ILO Regional Office for Asia and the Pacific, 2007).

discrimination and harassment to occur. Through including and demonstrating respect for these workers and through actively recruiting them, other employees within the organisation are also likely to feel positive about being part of the workplace.³²

10.2 ILO strategies for developing inclusive workplaces

A **Code of practice for managing disability in the workplace** was adopted by the ILO in 2001. The Code discusses the equal rights of persons with disabilities in employment and provides guidance to employers - in large, medium-size or small enterprises, in the private or public sector, and in developing or industrialized countries – on how to adopt a positive strategy in managing disability-related issues in the workplace. It sets out the responsibilities of governments in creating a supportive legislative and social policy framework and providing incentives to promote employment opportunities for people with disabilities. The Code also emphasizes that disability management practices are most effective when based on cooperation among governments, employers' and workers' organizations as well as people with disabilities and their organizations.



Strategy on disability management in the workplace

The Code provides practical guidance on the management of disabilities in the workplace with a view to:

- Ensuring that people with disabilities have equal opportunities at work
- Improving employment prospects for persons with disabilities by facilitating recruitment, return to work, job retention and opportunities for advancement
- Promoting a safe, accessible and healthy workplace
- Assuring that employer costs associated with disability are minimized
- Maximizing the contribution that workers with disabilities can make to the enterprise.

Pointers for developing the strategy are:

- “Employers should consider the management of disability issues in the workplace a priority task which contributes to business success, and regard it as an integral part of the workplace human resources development strategy.
- The disability management strategy should be formulated in accordance with national legislation, policy and practice, taking account of national institutions and organizations in the field.
- In formulating a strategy for managing disability issues in the workplace, employers should collaborate with workers’ representatives and consult with disabled workers or their representatives.
- The disability management strategy should complement the human resources development strategy in its aim to maximize the contributions and abilities of all staff, including those with disabilities and support adherence to occupational safety and health standards and related early intervention and referral procedures.
- The disability management strategy could consider provision for workers who hold family responsibility for a disabled person or persons.

³² ILO: *The price of exclusion: The economic consequences of excluding people with disabilities from the world of work*, Employment working paper no. 43 (Geneva, 2009).

- The disability management strategy in the workplace should include provision for consultation with the employment service or other specialist agencies, where necessary, to ensure that the individual with a disability is well matched to the job in terms of ability, work capacity and interest, as is usual in recruitment procedures.
- With the consent of the person concerned, any relevant information relating to a disabled worker's reduced function or impaired health status should be gathered and kept by the employer, in a manner that maintains confidentiality.

Source: ILO: *Managing disability in the workplace, ILO Code of practice* (Geneva, 2002), Articles 1.1, 2.1, 3.1 and 8.1.

The Code also gives guidance on the types of practical adjustments that are needed to accommodate workers with disabilities: "In recruiting or retaining workers with disabilities, employers may need to make an adjustment or adjustments in some cases to enable the individual to perform the job effectively..."

Box 5.8 ILO guidance on practical adjustments to accommodate workers with disabilities

Section 7.1 Accessibility

To facilitate the recruitment of persons with disabilities and job retention by workers who acquire a disability, employers should take steps to improve the accessibility of the work premises to people with different types of disability. This should include consideration of entrance to and movement around the premises and of toilet and washroom facilities.

- Accessibility should also be understood to include signage in use, manuals, workplace instructions and electronic information. These should be reviewed, where necessary, for accessibility to people with visual impairment and for people with intellectual disability in particular.
- Accessibility for people with hearing impairment includes access to information frequently conveyed by sound – such as the ringing of a bell, a fire alarm, whistle or siren. Such facilities should be reviewed and complemented, where necessary, with alternative devices such as flashing lights.
- In planning to improve accessibility, employers should consult with the disabled worker and with specialist technical advisory services, which might include organizations of persons with disabilities, and refer to any criteria established by the competent authorities.
- Emergency planning should ensure that persons with disabilities are able to safely and effectively evacuate the workplace to an area of safety.

Section 7.2 Adaptations

- Adaptations may be required to the workstation to enable the worker with a disability to perform the job effectively. In planning adaptations, employers should consult with the disabled worker involved and with worker representatives.
- Similarly, adaptations may be required to tools and equipment to facilitate optimal job performance. These, too, should be planned in consultation with the disabled worker, and worker representatives.
- For some workers with disabilities, it may be necessary to review the job description and make changes – for example by deleting a part of the job which the person is unable to perform and replacing this with another task or tasks.
- Flexibility of work schedules can be a significant factor in enabling some individuals with disabilities to perform a job satisfactorily. This too should be considered, in consultation with the workers concerned and their representatives.

- Performance requirements may need to be reviewed, in consultation with the disabled workers and their representatives, particularly at an early stage after recruitment, or after an existing employee has acquired disability.”

Source: ILO: *Managing disability in the workplace, ILO Code of practice* (Geneva, 2002), Chapter 7. Adjustments.



Summary guide for developing an inclusive workplace strategy

An inclusive workplace strategy is a tool to help understanding what barriers may exist within the physical, social and cultural working environment for persons with a disability or health condition and how to best remove these obstacles to create an inclusive workplace.

The major steps to developing an inclusive workplace strategy include:

- Assess the current situation
- Determine the need for an inclusive workplace strategy
- Consult workers, supervisors, managers and people with disabilities or health conditions and draft the strategy
- Provide information and training for supervisors and workers
- Adapt the workplace: Reasonable accommodation, universal design and standard precautions
- Promote the strategy within and outside the company or employing unit
- Evaluate and update the strategy.

The inclusive workplace strategy should include provisions for:

- Equal opportunity and non-discrimination for employees with disabilities or health conditions, such as HIV or HBV
- Job retention by employees who acquire a disability or health condition
- Recruitment of employees with disabilities or health conditions.



See the complete guide for developing an inclusive workplace disability strategy in Section D: Practical tool 1 further on in this Module.

Adapted from: ILO: *Disability in the workplace: Trainers' guide* (Bangkok and Geneva, Factory Improvement Programme, 2006).

10.3 ILO Code of practice on HIV/AIDS and the world of work

The Code, adopted in 2001, provides a set of guidelines to address the HIV and AIDS epidemic in the work of work. The guidelines cover the following key areas of action:

- Prevention of HIV and AIDS
- Management and mitigation of the impact of HIV and AIDS on the world of work
- Care and support of workers infected and affected by HIV and AIDS
- Elimination of stigma and discrimination on the basis of real or perceived HIV status.



Ten principles of the ILO Code of practice on HIV/AIDS and the world of work

1. A workplace issue

HIV/AIDS is a workplace issue because it affects the workforce, and because the workplace can play a vital role in limiting the spread and effects of the epidemic.

2. Non-discrimination

There should be no discrimination or stigma against workers on the basis of real or perceived HIV status.

3. Gender equality

More equal gender relations and the empowerment of women are vital to preventing the spread of HIV infection and helping people manage its impact.

4. Healthy work environment

The workplace should minimize occupational risk, and be adapted to the health and capabilities of workers.

5. Social dialogue

A successful HIV/AIDS policy and programme needs cooperation and trust between employers, workers and governments.

6. No screening for purposes of employment

Testing for HIV at the workplace should be carried out as specified in the Code, should be voluntary and confidential, and never used to screen job applicants or employees.

7. Confidentiality

Access to personal data, including a worker's HIV status, should be bound by the rules of confidentiality set out in existing ILO instruments. Job applicants and workers should not be asked to disclose HIV-related personal information.

8. Continuing the employment relationship

Workers with HIV-related illnesses should be able to work for as long as medically fit in appropriate conditions.

9. Prevention

The social partners are in a unique position to promote prevention efforts through information, education and support for behaviour change.

10. Care and support

Workers are entitled to affordable health services and to benefits from statutory and occupational schemes.

Source: ILO: *An ILO code of practice on HIV/AIDS and the world of work* (Geneva, 2001).

Unit 5.2 Promoting equality at work for people with disabilities and health conditions in China

Part 1. Disability and equality in employment

1. Definitions of disability in Chinese law

The Chinese definition of disability in the **Law on the Protection of Disabled Persons** states:

“[A] disabled person refers to a person who suffers from a psychological, physiological or anatomical abnormality or loss of organ or function and has lost completely or partly the ability to perform an activity in the way which is considered normal. The term disabled persons refers to those with visual, hearing, speech or physical disabilities, intellectual disabilities, psychiatric disabilities, multiple disabilities and/or other disabilities” (Article 2).

The current definition in Chinese law describes impairments in line with the medical model. While the definition is quite broad in its application, it does not necessarily encompass the effects of the social, cultural and economic environment on persons with disabilities as established within the current international approaches towards health and disability. The definition of disability in China is currently under review.

The definition does not specify clearly which health conditions may be covered under this law and there is an ongoing debate on its coverage in China. Specific Chinese laws and regulations are in place for people with HIV and HBV infections. According to some experts, this implies that these health conditions are not covered under the disability law. However, as the definition in this law is open-ended, it does not explicitly exclude any specific health conditions. Thus, other experts consider that all health conditions which create attitudinal and environmental barriers and hinder full and effective participation of people in society could be covered by the definition in the Chinese disability law.

Another subject of current debate is the relationship between mental illness and job performance. Persons who have (or previously had) a mental illness face discrimination in job recruitment and retention. However, mental illnesses can be mild or severe. People with mild mental illnesses may show slight disorders in emotions or thinking, such as anxiety, phobia, depression or obsession. Yet, their cognitive, logic abilities and self-knowledge may be unaffected.

As mentioned in Section 4.2 of Unit 5.1, international guidance provides that the health status of an individual may be taken into consideration when assessing if the individual is fit for a specific job. However, he or she should not be required to prove that a past or present health condition does not affect his or her fitness for the job. Only if a person's current state of health relates to the normal occupational requirements for a specific job should it be considered in a job recruitment or promotion decision.

In China, it is becoming increasingly recognized that most persons with mental illness which is mild in severity are perfectly competent for their jobs. In line with psychiatric principles, if the job is not a 'sensitive position', people having recovered from mental illnesses should be allowed, encouraged and supported in employment. Except for some special occupations, which require a high level of stress or psychological health, people who have recovered from a mental illness

should not be restricted in employment.³³ A Mental Health Law is under development and this could have a major impact on the elimination of discrimination against persons with a mental illness.

2. Chinese laws and regulations on equality in employment for disabled people

China's current legal framework on equality of opportunity and treatment in employment for people with disabilities consists of international conventions, the Constitution, laws, State Council regulations, ministerial rules and local laws.

2.1 International conventions

The ILO Discrimination (Employment and Occupation) Convention, (No. 111) and the UN Convention on the Rights of Persons with Disabilities ratified by China in 2006 and 2008 respectively are the two key international conventions that the country applies to guarantee the equal employment of people with disabilities. China also ratified Convention No. 159 on Vocational Rehabilitation and Employment (Disabled Persons) in 1988.

As mentioned in Section 4.2 of Unit 5.1, disability and health status were not explicitly included among the seven prohibited grounds of discrimination in Convention No. 111. However, the Convention provides for inclusion of other grounds if these are covered in national laws. China's laws broadly prohibit employment discrimination on the basis of disability and specific infectious diseases such as HBV and HIV, so these grounds are automatically included among China's obligations in implementing Convention No. 111.

2.2 The Constitution

The Constitution, as the fundamental law of the country, clearly states that all citizens, including those with disabilities, are equal before the law. The Constitution identifies persons with disabilities and states that they have the right to support from the state and society. All citizens, including those with disabilities have the right and the duty to work. Both the State and society should help making arrangements to provide disabled persons with education, work and a livelihood. The Constitution has also informed other pieces of legislation against discrimination in employment.

Box 5.9 Constitution of the People's Republic of China - 2004 revision

- Article 33. All citizens of the People's Republic of China are equal before the law. The state respects and guarantees human rights.
- Article 42. Citizens of the People's Republic of China have the right as well as the duty to work. The state undertakes to create employment opportunities, strengthen workplace protection, improve working conditions, and raise remuneration and welfare on the basis of increased production. The state will also provide necessary training to citizens prior to their employment.
- Article 43. Working people in the People's Republic of China have the right to rest. The state develops infrastructure for people to rest, and issues regulations on working hours and holidays.
- Article 45. Citizens of the People's Republic of China have the right to material assistance from the state and society when they are old, ill or disabled. The state develops the social insurance, social

³³ D. Cai, (ed.): *Employment discrimination in China: Current conditions and anti-discrimination strategies* (Beijing, China Social Science Press, 2007), p. 114.

relief and medical and health services that are required to enable citizens to enjoy this right. The state and society help make arrangements for the work, livelihood and education of the blind, deaf-mute and other handicapped citizens.

2.3 Law on the Protection of Disabled Persons

The 1990 law to protect persons with disabilities was revised in 2008. This law is the leading Chinese law about the equal rights and non-discrimination of persons with disabilities in the community and at work. It provides for equality in employment and prohibits employment discrimination as follows:



Three main features of the Law on the Protection of Disabled Persons

1. Equal rights for persons with disabilities

- Article 3. Persons with disabilities shall enjoy equal rights with other citizens in political, economic, cultural and social respect and in family life as well. The rights and dignity of persons with disabilities as citizens shall be protected by law. Discrimination on the basis of disability shall be prohibited.
- Article 30. The State shall protect the right of persons with disabilities to work. People's governments at various levels shall formulate overall plans on employment for persons with disabilities and create conditions for their employment.
- Article 38. No discrimination shall be practised against persons with disabilities in recruitment, employment, obtainment of permanent status, promotion, determining technical or professional titles, payment, welfare, holidays and vacations, social insurance or in other aspects.
Enterprises and institutions where persons with disabilities work shall provide appropriate working conditions and labour protection based on the characteristics of disabled workers, and shall make renovations where necessary on workplaces, work equipments and life facilities in light of their actual needs.
- Article 39. Enterprises and institutions where persons with disabilities work shall provide in-service technical training for disabled employees with a view to upgrading their skills and expertise.

2. Employment promotion for persons with disabilities

The principle of combining collective and individual arrangements will be followed to create employment opportunities for this group. According to Article 31, preferential policies and measures of support and protection shall be adopted with a view to gradually popularize, stabilize and rationalize employment of persons with disabilities through multiple channels, at various levels and in a variety of forms. Persons with disabilities can be employed in many ways, such as employment under a quota system and self-employment.

3. Free employment services

Special efforts shall be made to enhance the employment of persons with disabilities through free employment services. Article 37 stipulates that public employment service institutions set up by relevant governmental departments shall provide free employment services to persons with disabilities. Employment service institutions set up by disabled persons' federations shall organize free vocational guidance, introduction and training, so as to provide help to persons with disabilities and potential employers.

2.4 The Labour Law

The 1994 Labour Law is the fundamental law on employment in China. Its contents include equal rights to employment (Article 3) and prohibition of discrimination at work (Article 12). The law itself does not extensively address the needs of persons with disabilities and health conditions, but it sets out the founding principles on people's rights to employment and non-discrimination and refers to the special provisions in laws, rules and regulations on the employment of persons with disabilities.

Box 5.10 Labour Law of the People's Republic of China – 1994

- Article 3. Labourers shall have the right to be employed on an equal basis, choose occupations...
- Article 12. Labourers shall not be discriminated against in employment, regardless of their ethnic community, race, sex, or religious belief.
- Article 14. Where there are special stipulations in laws, rules and regulations on the employment of the disabled, the personnel of national minorities, and demobilized army men, such special stipulations shall apply.

2.5 The Vocational Education Law

The government prioritizes vocational education as a key strategy for promoting employment. The 1996 Vocational Education Law clearly stipulates in Article 5 that all Chinese citizens are entitled to vocational education. The law also refers to the equal rights of persons with disabilities to vocational training. This includes not only access to vocational education at educational institutions solely for persons with disabilities, but also covers admission of persons with disabilities to vocational schools, vocational training institutions and other educational institutions.

2.6 The Employment Promotion Law

The 2007 Employment Promotion Law forms the key legislation against discrimination in employment. It supports and expands upon the labour law. It affirms the rights of persons with disabilities to employment and prohibits discrimination on the basis of disability. A special chapter on fair employment in this law highlights the importance of non-discrimination in employment. Special measures to ensure the employment of persons with disabilities include preferential tax treatment for enterprises that meet the prescribed quota for employing persons with disabilities or that hire persons with disabilities in a centralized manner.



The Employment Promotion Law on disability

- Article 17. The State encourages enterprises to create jobs and support unemployed and disabled persons to find a job. The State offers preferential tax treatment to the following enterprises and persons: ...
 3. Enterprises which meet the prescribed job placement rate of disabled persons, or which hire disabled persons in a centralized manner ...
 5. Disabled persons who are self-employed
 6. Other enterprises and persons entitled to enjoy preferential tax treatment under State Council provisions....

- Article 29. The State shall guarantee the labour rights of disabled persons. The people's governments at all levels shall make an overall plan on the employment of disabled persons so as to create employment conditions favourable to disabled persons. When an employing unit recruits labourers, it shall not discriminate against disabled persons. ...
- Article 55. The people's governments at all levels shall take special supportive measures to promote the employment of disabled persons. An employing unit shall arrange the employment of disabled persons according to the provisions of the State. The specific measures shall be formulated by the State Council.

2.7 The Labour Contract Law

The 2007 Labour Contract Law is important for regulating labour relations and guaranteeing equal opportunity in employment. This law does not specifically refer to persons with disabilities. However, it does apply to all citizens, including persons with disabilities, and its principles of fairness and equality apply directly to the employment of persons with disabilities.



The Labour Contract Law on health and disability

- Article 42. applies to workers with disabilities and health conditions: "the employing unit may not dissolve the labour contract ... where the labourer is sick or injured for reasons unrelated to work, and it is in the prescribed treatment period."
- Article 3. When entering into a labour contract, the principles of legitimacy, equity, equality and voluntarism, reaching consensus through consultation, honesty and good faith should be followed. A labour contract entered into according to law is legally binding, both employing units and workers must fulfill the responsibilities specified in the labour contract.

2.8 Law on the Protection of Rights and Interests of Women

While the Law on the Protection of Rights and Interests of Women does not specifically refer to the employment rights of persons with disabilities, it is important to remember that many persons with disabilities are women or rely on women as care providers. This law clearly states that women, including women with disabilities, and men have equal rights to employment. Discrimination by employers on the grounds of sex is prohibited in relation to recruitment, compensation, promotion and the assessment of technical expertise. Some special protective measures are included in the law specifically for women, for example, maternity leave, and breastfeeding. Since 2006, this law includes an explicit provision to prohibit sexual harassment in the workplace. All these provisions apply equally to women with disabilities and women caring for a person with a disability.

2.9 Regulations on the Employment of Disabled Persons

These Regulations, published by the State Council in 2007, detail measures for the promotion of employment of persons with disabilities on the basis of the Law on the Protection of Disabled Persons. The Regulations specify a quota indicating that 1.5 per cent of employed workers in enterprises should be persons with disabilities.

Box 5.11 Regulations on the Employment of Disabled Persons

- Article 8. Employing units shall employ a certain proportion of disabled persons in appropriate types of jobs and posts. The proportion of disabled employees shall not be lower than 1.5 per cent of the overall employees. Disabled employees recruited by employing units outside their respective regions, shall be counted into the target number of disabled employees.
- Article 9. Employing units which fail to meet the target proportion of disabled employees determined by local people's governments of provinces, autonomous regions or municipalities shall pay [the] employment security fund for disabled persons.
- Article 12. [The] employing unit shall sign a labour contract or service agreement with its disabled employees according to law.
- Article 13. Employing units shall provide disabled employees with working conditions and labour protection suitable for their physical conditions. No discrimination shall be practised against disabled persons in promotion, determining technical or professional titles, payment, labour insurance, welfare or in other aspects.
- Article 17. The state shall implement preferential taxation policy in relation to employing units with concentrated employment of disabled persons, and provide assistance in production, management, technology, capital, logistics, working sites and other fields.

2.10 Local Laws

Local laws are adopted to support the implementation of higher level laws and ensure that they address local priorities in line with local circumstances.

Box 5.12 Supporting legislation on the protection of disabled persons in provinces and municipalities

In Guangdong province the range of legislative tools to protect the employment rights of persons with disabilities includes: Methods of Guangdong Province on the Implementation of the Law on the Protection of Disabled Persons; Methods on Proportional Employment Arrangement for Disabled Persons in Guangdong Province; Methods on Supporting the Disabled in Guangdong Province; and Administrative Regulations on Non-obstacle Facilities in Guangdong Province.

Some cities have also drawn up local regulations for their own use. These include Methods on Supporting Disabled Persons in Shenzhen; Methods on Trial of Social Insurance for Disabled Persons in Shenzhen; Regulations on Preferential Measures for Disabled Persons in Guangzhou; and Preferential Methods on Supporting Disabled Persons in Shaoguan. Some regions and counties have also drawn up regulations in accordance with the local situation, such as the Methods on the Implementation of Preferential Treatments to Disabled Persons in Gaoming District, Foshan City.

3. Employment discrimination against people with disabilities in China**3.1 Overall employment situation of people with disabilities**

China has been facing a tough employment situation in recent years and the conflict between labour supply and demand in both urban and rural areas can not be resolved in a short period. The employment situation is more severe for people with disabilities, as shown by a lower employment rate for people with disabilities in general when compared to the overall population and even lower rates among disabled women. In addition, people with disabilities face unsecure employment conditions, discrimination and violation of their rights in employment. Currently, there are 8.58 million unemployed people with disabilities across the country, and the number is increasing, with 300,000 new workers with disabilities entering the labour market each year.

The major challenges in the employment of people with disabilities in China include:

1. Increasing number of people with disabilities to be employed and their low employability
2. A large number of employers failing to meet the quota for the employment of people with disabilities that is required by law, including some government agencies, institutions and state-owned enterprises
3. Inadequate measures to guarantee the employment of people with disabilities
4. Insufficient and ineffective employment services and training dedicated to people with disabilities
5. A large number of disabled people in poverty in the rural areas who lack adequate support and access to services.

Box 5.13 The employment situation of people with disabilities in China

Employment and unemployment rates are important indicators of the employment situation of people with disabilities. Recent figures indicate that the 2007-2009 period saw a slight increase in the employment rate of disabled people. And in 2009, the employment rate of people with disabilities of working age who are able to take care of themselves amounted to 34.3 per cent in the urban areas and to 52.9 per cent in the rural areas, with both rates experiencing a slight year-on-year increase. During 2007-2009, the registered unemployment rate of disabled people in the urban area increased, amounting to 13.6 per cent in 2009 which is one per cent higher than the year before (12.6 per cent).

Source: China Disabled Persons' Federation and China Foundation for Disabled Persons: *Report on the status and well-being of people with disabilities* (Beijing, 2009).

With gender discrimination still common in the Chinese labour market, **women with disabilities** face more discrimination than their male counterparts. The livelihood and development situation of Chinese women with disabilities lags far behind that of other groups in society and in comparison to their male counterparts in terms of rehabilitation, education, social security and employment, although considerable progress has been made. Among the total employed disabled population, 35.8 per cent are women, and 64.2 per cent are men, while among those not employed, 55.6 per cent are women, and 44.4 per cent are men. As many as 73.43 per cent of Chinese women with disabilities are illiterate, and only 14.3 per cent of them have ever received vocational training. As the education level becomes higher, the proportion of women decreases, indicating that there is a gap in education levels between men and women with disabilities.³⁴

Women also frequently experience discrimination by **association with persons with disabilities**, as they are often the primary care providers in the family.

As mentioned in Unit 5.1, the social model of disability recognizes that physical impairments of individuals may become the cause of unequal opportunity or treatment due to social and cultural reasons, even if minor physical impairments are not considered as a disability according to relevant regulations and standards. In China, **height discrimination** is very common, even if it cannot be defined as a disability except in extreme cases.

³⁴ China Disabled Persons' Federation & China Rehabilitation Research Center: *Report of the project on database development and study on status of Chinese women with disabilities* (2008, Beijing).

Box 5.14 The longest distance for Fan Siping: 0.005 meter

In 2003, 25-year-old Fan Siping ranked first in the civil service exam of Yiyang city, Hunan province, but was rejected by the local government. Born in a peasant family in Fanjiamiao township, Heshan District, Yiyang city in 1977, Fan graduated from Hunan Agriculture University in July 2000. He thought he could change his fate by taking the civil service exam, but his dream was crushed after the pre-employment physical examination on Aug. 9, 2003. He is 1.595 meters tall, 0.005 meter shorter than the minimum height requirement of 1.60 meters in civil service recruitment. The 0.005 meter became the longest distance for him to realize his dream. He published an article titled Fairness or Oppression in the Yiyang Daily to express his outrage.

During a media interview, the personnel bureau of Yiyang city reiterated that the height requirement was set jointly by the Personnel Department and Health Department of Hunan Province, and it could not be compromised even for 5 millimetres.

Source: *People's Daily* (15 June 2005).

3.2 Discrimination at different stages of the employment cycle**Education and training**

People with disabilities do not have equal opportunity to education and training. Direct discrimination still exists in the form of unnecessary physical requirements at examinations for admission to some universities and colleges and these deprive many disabled youth of the opportunity to enroll in regular higher education. In addition, the slow development of special teaching materials also limits equal access of disabled people to education and training, and hinders their participation in mainstream society. Furthermore, the lack of accessible facilities in public places, including in education and training institutions, also reduces their opportunities to education and training. This in turn negatively affects their employability.

Box 5.15 Educational level of disabled persons in China

Education level of disabled persons over the age 18 in China (%)

	2007	2008	2009
Uneducated	42.4	42.1	41.8
Primary school	35.1	35.0	34.8
Middle school	15.8	15.9	16.5
High school	3.9	4.0	4.1
Technical secondary	1.5	1.5	1.5
Associate degree	0.8	1.0	0.9
Bachelor's degree and above	0.5	0.5	0.5

Source: China Disabled Persons' Federation and China Foundation for Disabled Persons: *Report on the status and well-being of people with disabilities* (Beijing, 2009).

Employment services

Dedicated organizations have been established in China to provide employment services for disabled people, and considerable achievements have been made. However, the standards and specifications for the services provided by these dedicated employment service agencies are not well developed. For example, their buildings are not free of barriers, and the staff are not able to

provide high-quality employment services to disabled people. Such factors limit the access of the disabled people to high-quality employment services.

Recruitment

As mentioned above, the employment rate of disabled people is much lower than the one of people without disabilities. Besides the fact that disabled workers in general have lower skills, discrimination at the recruitment stage is a very important cause of the low employment rate of disabled people. Numerous disabled people are turned down because of their disabilities, no matter whether they have the skills necessary for the position or not. Many employers also refuse to hire disabled people using the excuse that their offices, residence buildings, roads and transportation facilities are not barrier-free.

Box 5.16 Discrimination against people with disabilities in recruitment

According to Liu Ming (alias), who graduated from Beijing University of Science and Technology with a degree in accounting in 2004, discrimination hurts worse than low pay. “I went to a big company for an interview together with my classmates. But the interviewer decided I was not suitable for the position even before I finished answering his questions. I found out later that they did not want a disabled person to be one of them, because that would affect the image of the company.”

In Liu’s view, many employers are not ready to hire people like him, although they are equally qualified for the job. They are afraid that problems might occur in the future and they would have to spend a lot more money as a result of hiring the disabled worker. “Disabled equals crippled in most people’s eyes. According to relevant policies, employers should provide some jobs for disabled people, but after they hire disabled persons and get the benefits (from the preferential policies on employing disabled persons), they transfer them to low-end positions. You have no choice but to leave when you feel frustrated both physically and spiritually.”

Source: *China News* (13 January 2009), <http://www.chinanews.com.cn> (accessed 30 Nov. 2010).

Ms. Z is 49 years old now and has a level 3 physical disability.* She became disabled after a serious illness at the age of 3. While officially she has only received junior middle school education, she received a good education at home thanks to her mother, a primary school teacher. Except the disability which affects her left hand, she is perfectly healthy and can completely take care of herself. However, she is unemployed. She says: “I used to do casual jobs, like selling game chips. It was introduced by the street office and I did that for two years. I also sold newspapers and welfare lotteries. My sister-in-law helped me find those jobs. But now I have been out of a job for a long time. I used to apply to restaurants and hotels for jobs like a cleaner, but as soon as they knew I am a disabled person, they turned me down immediately. A personnel director of a restaurant told me to my face: “This industry is very demanding. If the customers know our cleaner is a disabled person, they will be scared away. How could we do business if that happens?”

* There are three levels of physical disability in China’s disability categorization system, level 1-severe, level 2-medium and level 3-minor.

Source: Shenzhen City Disabled Person’s Federation.

On-the-job training and promotion

Training and promotion at the workplace are very important for the personal development of all employees. However, compared to their colleagues, disabled employees often have fewer opportunities to training and promotion. Many employers hire disabled people only for the purpose of avoiding payment to the Employment Security Fund for Disabled Persons. They never view the disabled employees as regular human resources that they can develop and foster. Even if the disabled employees are fully qualified for their jobs and have made outstanding

achievements, they are usually not given equal opportunities for training and promotion due to prejudice and discrimination.

Social security

In many cases, even if a disabled person finds a job, s/he is not treated fairly in terms of salary and welfare. For instance, many disabled employees are not covered by the social insurance system. According to the figures released by the former Ministry of Labour and Social Security and the National Bureau of Statistics in 2003, only 26.26 per cent of disabled employees in the urban area were covered by the social insurance system, compared to 61.67 per cent of urban employees without disabilities. At the end of 2005, about 1.25 million disabled employees were covered by the social insurance system, that is to say, only 1 out of 3.7 disabled employees were covered by the social insurance system.³⁵

Job security

Various organizations have been working hard to promote the stability of the employment of disabled people, and some protective measures have been adopted, but disabled employees are often the first to be laid off whenever a company needs to retrench staff. In some other cases, employers assign tasks and targets to employees with disabilities that they cannot possibly meet. This type of direct discrimination in employment practices also keeps them from long term service.

Harassment

Disabled people are often harassed in the workplace because of their impairments. Scoffs, sarcastic comments and other unfriendly actions by co-workers create a hostile working environment that leaves disabled workers with no choice but to quit.

Box 5.17 The unstable employment of disabled people

Zeng Lixiong, a young woman from Changsha who was born with a malformed left hand, never gives in to the discrimination that she has experienced repeatedly all these years. “I have gotten used to being refused. Sometimes the visible and invisible discrimination makes it hard for me to breathe. However, the more setbacks I encounter, the harder I will try.”

In 1997, she was admitted to the Guangzhou English Training Centre for Disabled Persons through an entrance examination and later she received a CET6 certificate. A Hong Kong clothing company decided to hire her at a job fair after testing her English skills. However, the next day the boss’ wife refused to hire her when she saw that Zeng has a malformed hand.

Finally, a logistics company hired her. However, she had to leave after a month due to discrimination from her colleagues. At the end of 2002, Zeng, went back to Changsha depressed. “‘Hiring you might affect the image of the company’ – that’s the most common excuse they give.” says Zeng. Later she got a job in a TV manufacturing factory through the help of the Changsha Disabled Persons Federation, but she left after two months, again due to discrimination from her colleagues. As a disabled person, Zeng’s biggest dream is to be treated equally as people without disabilities. “I don’t know how much further I have to go before I can find a stable job.”

Source: *People’s Net* (15 June 2005), <http://legal.people.com.cn/GB/42731/3469925.html> (accessed 30 Nov. 2010).

³⁵ D. Cai (ed.): *Employment discrimination in China: Current conditions and anti-discrimination strategies* (Beijing, China Social Science Press, 2007), p. 159.

3.3 Discrimination in the implementation of the quota policy

As mentioned above, according to national regulations an employer shall reserve a certain proportion of employment positions for persons with disabilities, and the minimum number of disabled employees must amount to 1.5 per cent of the total number of employees. In cases where the number of disabled employees hired is less than the proportion prescribed, the employer must pay the employment security fund for persons with disabilities.³⁶

However, the implementation of these regulations remains challenging. Some employers hire disabled employees just for the purpose of gaining economic benefits from policies that encourage the employment of disabled persons. What they actually provide to the disabled employees is not a job opportunity, but a very small amount of money as “living expenses”, and do not provide social insurance.

Many companies also prefer to pay the employment security fund for disabled persons rather than meet the quota on hiring employees with disabilities as the fine is very low and monitoring systems are weak, even if this practice is totally contrary to the intention of the regulations. Employers should understand that their responsibilities to provide jobs for people with disabilities should not be replaced with payment to the fund. Further measures are needed to ensure better compliance.

4. Promoting equality in employment for people with disabilities

It is not easy to realize equality in employment for people with disabilities in China given the pressures on the labour market. However, in recent years, China has improved the legal framework for providing employment to persons with disabilities. The ratification of the CRPD, extensive awareness raising in the media, and incentives for employers in the form of subsidies and tax exemptions have proven to be effective strategies for the promotion of equal opportunities to this group.

Two aspects need to be given further emphasis when promoting equal employment opportunities and treatment for people with disabilities in the country:

- The ability and merit of persons with disabilities should be recognized. Equal opportunity and treatment can be provided to a person with a disability by matching their abilities to the objective requirements of a job.
- According to Article 2 of the CRPD, denial of reasonable accommodation is a form of discrimination. Efforts should be made to increase employment opportunities of people with disabilities by accommodating their individual health conditions.

4.1 Government policies and regulations

Over the years, the government has been playing a leading role in the development of disabled people in China. The efforts are further promoted and coordinated by various organizations dedicated to the cause. The leadership role of the government is the fundamental guarantee for the development of disabled people and the protection of their legal rights and interests.

Among the government's obligations to promote equal employment for disabled persons, the

³⁶ The 2007 Regulations on the Employment of Disabled Persons, Articles 8 and 9. While the national minimum amounts to 1.5 per cent, local governments of 31 provinces, municipalities and autonomous regions require higher percentages.

adoption and implementation of anti-discrimination laws and policies is more important. This includes developing new laws and policies, as well as eliminating and revising the existing ones when these cause direct or indirect discrimination in the employment of disabled persons.

Box 5.18 No certification for a teacher with one arm

According to the Teachers Law of the People's Republic of China, and the Implementation Measures for Regulations on Teacher' Qualifications, any Chinese citizen can get a teacher's certificate if s/he holds a degree specified in the Regulations or passes the National Teacher Qualification Examination and has qualified education and teaching abilities. However, when applying for a teacher's certificate, a one-arm teacher, who had been teaching in a high school in Lixin county, Anhui province for many years, was rejected for failure to meet the new physical standard which stipulates that a teacher should be able to move all of his/her upper or lower limbs to be deemed qualified. According to the headmaster of the school, the teacher is very popular among the students, proficient in teaching, enthusiastic and decent.

The Anhui Provincial Disabled Persons' Federation has negotiated with the Education Department many times, hoping the latter could revise the regulations that may prevent teachers with disabilities from obtaining a teacher's certificate.

Source: *Zhongan Online* (13 January 2010), <http://ah.anhuinews.com/qmt/system/2010/01/13/002577480.shtml> (accessed 30 Nov. 2010).

Box 5.19 Good practice – Guangdong promulgated policies prohibiting discrimination against people with disabilities in the recruitment of civil servants

Guangdong Provincial Party Committee and government jointly promulgated the Decision on Accelerating the Cause for Disabled Persons on 9 April 2009 by defining a series of effective measures to employ and educate disabled persons, including the prohibition of discrimination of people with disabilities in the recruitment of civil servants, government employees and staff of public institutions.

Disabled persons shall be given priority in the recruitment for public welfare positions set up or funded by the local governments, such as newsstands, telephone booths, and community service stations. Organizations providing centralized employment for disabled persons shall be provided with tax-free policies, and support in production, operation, technology, funding, materials and land use. In government procurement, products and services provided by those organizations shall be given priority under the same conditions.

Source: *Yangcheng Evening* (9 April 2009), http://news.ycwb.com/2009-04/09/content_2104934.htm (accessed 30 Nov. 2010).

Box 5.20 Good practice – Local governments in Beijing, Shanghai and other localities adopt new policies to promote the employment of disabled persons

The Interim Measures of Beijing on Subsidizing Enterprises with Disabled Employees, in effect since 1 April 2009, state that the employment security funds for disabled persons will be utilized in the following way: Every enterprise that employs disabled people will be entitled to a subsidy of three years for every post occupied by a disabled person in order to decrease the costs of employing a disabled employee and promote the employment of disabled people. In addition, when the percentage of disabled employees is above 1.7 per cent, every additional disabled employee will bring an extra 3,000 Yuan reward to the enterprise, in addition to the subsidy. Moreover, on the same day, the local government in Beijing also instituted the Interim Measures of Beijing to Support Disabled Persons to Be Self-employed or Establish Their Own Business which provide funding or material assistance to disabled persons who want to start their own enterprise.

Shanghai provides a lump-sum subsidy of 3,000 Yuan for every disabled person employed above the required proportion in welfare enterprises in 2009. The city's Financial Bureau also issued a Directive on Implementing Preference for Products and Services of Welfare Enterprises in Government Procurement, requiring that "in government procurement, the procurer or authorized procuring agency shall not exclude or limit the participation of welfare enterprises" and that "under the same conditions, products and services of welfare enterprises shall be procured first."

Chengdu municipal government also requires that under the same conditions, products and services of welfare enterprises shall be given preference in government procurement. Disabled persons who are self-employed will receive a 20 per cent subsidy on social security from the city and subordinate county level disabled persons' federations. In addition, intermediate employment agencies providing free services to disabled persons will receive a subsidy up to 200 Yuan for every disabled person who gets a job after receiving the service. Vocational skills certification agencies will receive a subsidy of 120 Yuan for every disabled person provided with initial certification. Chengdu municipal government also declared 1 September as Employment Promotion Day for Disabled Persons.

Disabled persons who establish their own business in Suzhou City will receive subsidies ranging from 3,000-5,000 Yuan from 1 January 2009 onwards, according to the Directive on Assisting Disabled Persons in Establishing their Own Business. Disabled persons who are selected as city level models for establishing their own business will receive an award up to 50,000 Yuan. Enterprises will receive a lump-sum subsidy of 2,000 Yuan for every disabled person the employee.

Similar measures have been adopted in Hunan Province, Tianjin, Chongqing and other localities in China to promote employment and business creation of disabled persons.

Source: ILO: *Equality at work in China Newsletter*, Issue No. 2 (Beijing, ILO, July 2009).

The government should play a stronger role in the establishment of inclusive workplaces by developing compulsory rules on the construction of accessible public facilities and buildings, creating a barrier-free environment for disabled persons to enable more disabled persons to find a job that they are qualified for.

4.2 Inclusive workplace measures

Box 5.21 Inaccessible workplace for outstanding artist

Liang has a severe disability which make him unable to stand upright. Because of his excellent painting skills and sharp creativity, he was accepted by an advertising agency, but he had to quit the job because the company did not have a restroom for persons with disabilities.

Source: Shenzhen Disabled Persons' Federation.

Employers are at the forefront of promoting equality in employment to disabled persons and the provision of an inclusive workplace for disabled employees is an important part of building a diversified company. Employers need to change their mindset and realize that disabled persons are human resources instead of burdens. For instance, Panasonic China realized that disabled employees are a vast potential resource in the increasingly competitive labour market of China and hired hundreds of disabled persons for its branches and subsidiary factories across the country through the provision of reasonable accommodation, such as adjusting posts so that they can be provided to disabled persons, and special training in cooperation with the China Disabled Persons' Federation. This enabled the company to save cost by not having to pay the Employment Security Fund for Disabled Persons and to increase its competitive edge in the human resource market.

Reasonable accommodation

As mentioned earlier, reasonable accommodation means necessary and appropriate modification and adjustments to a job or to the workplace, not imposing a disproportionate or undue burden on employers, which ensure that people with disabilities have access to employment and can advance in that employment.³⁷ Under the principle of equality and non-discrimination set in Convention No. 111, reasonable accommodation is a form of affirmative action, and is one of the most important ways to apply the Convention and promote equality.

Box 5.22 Equal rule does not always add up to equal opportunities: Disability discrimination – Hong Kong, China

Mr Tsui, who has a permanent disability in his right hand, joined a large company as a clerk. After a year he was appointed as acting assistant officer and he continued in this capacity for six years. He received good ratings during the annual performance appraisals so when a vacancy for an assistant officer appeared, Mr Tsui applied.

According to the company rule, he had to pass the English and Chinese typing test to be invited for a job interview. When Mr Tsui received a letter inviting him to do the test, he wrote to the company to consider his disability and allow for reasonable accommodation. At the time of the test, no measures were taken to accommodate his disability. He failed and was therefore not granted an interview. Mr Tsui then lodged a complaint of discrimination on the ground of disability with the Equal Opportunities Commission (EOC).

The case officer of the EOC tried to settle the case by proposing early conciliation. However, the respondent refused to accept Mr Tsui's claim that he was discriminated against as they had applied the same rule to all applicants and they also refused to pay any compensation. The EOC then investigated the case and decided to go for conciliation since Mr Tsui might have been indirectly discriminated against. According to the Disability Discrimination Ordinance (DDO) of Hong Kong it is unlawful for an employer to discriminate against a person with a disability by dismissing that person, or subjecting him or her to any other detriment, for example depriving him or her from opportunities for promotion, transfer or training (DDO, Section 11).

Discrimination may be direct or indirect. Indirect discrimination is often less obvious. It means imposing the same requirement or condition which is not justified or genuinely necessary to everyone which has a negative and unfair effect on a particular group (e.g. persons with disabilities). In this case, Mr Tsui was indirectly discriminated against because the company applied the same rule to him as to other applicants despite his permanent disability and did not take measures to accommodate it.

The case was later settled through conciliation after the respondent agreed to exempt Mr Tsui from the typing test and allow him to sit for the interview.

Source: Hong Kong Equal Opportunities Commission: *Hong Kong EOC News*, Issue No. 50 (August 2009, Hong Kong, China), <http://www.eoc.org.hk> (accessed 30 Nov. 2010).

A friendly working environment free from harassment

An inclusive workplace also features mutual acceptance and respect among employees. Employers are obliged to create a working environment without discrimination against disabled employees, so that they can perform their work in an environment free from harassment.

³⁷ ILO, *Resource guide for inclusive vocational training for people with disabilities* (Geneva, 2007).

Box 5.23 Good practice – Jing Cheng Co. creates an inclusive environment for disabled employees

Jing Cheng Special Ceramic Co., Ltd. in Hunan Province currently has 220 employees, 155 of whom are people with disabilities, accounting for 70 per cent of its staff. The disabled employees come from different parts of the country, and serve in almost all departments of the high-tech company, such as research and development, management, production and sales. More than 90 per cent of the management positions are filled with disabled employees, who form the core of the company.

Besides job placements for disabled employees, Jing Cheng chose to foster and develop employees in line with their own characteristics, making them increasingly competent in their jobs. The company provides its disabled employees with psychological consultations as well as various trainings adapted to their specific characteristics and job requirements, and encourages them to develop a positive attitude towards life. The company frequently invites experts and professors to provide technical, psychological, legal, etiquette and security training, and also sends outstanding disabled employees to Beijing and Shanghai for advanced training. This is how the disabled employees form the core of the company.

When designing facilities and job posts, the company takes into full account the characteristics of disabled employees and tries its best to create a pleasant working environment for them. For example, to facilitate employees with hearing impairments, the company adopted a visual management system and installed a large electronic display in the workshop with the help of the local Disabled Persons' Federation.

The company established a Joint Management Group to engage disabled employees in corporate management. Among the six members of the Group, four are persons with a disability, who have played a positive role in protecting employees' rights and interests and promoting democratic management of the company. On the Day for Disabled Persons every year, the company organizes various sports and tourist activities for the disabled employees, and to provide them with more space to express themselves, the company also established an internal journal called 'Graceful Bearings in Jing Cheng'.

Many disabled employees have gotten married, bought their own house and started a family after joining Jing Cheng. Working in Jing Cheng has not only brought them income, but has changed their whole life. That's why Jing Cheng is referred to as "heaven for disabled people."

Source: Employment Guidance Centre, China Disabled Persons' Federation.

4.3 Role of the social partners

China Disabled Persons' Federation

The China Disabled Persons' Federation and its local branches play a very important role in the promotion of equal employment of people with disabilities. Its efforts are most useful in the following areas:

- Identifying the situation and problems in the employment of people with disabilities through research and studies
- Giving policy advice on equality in employment for people with disabilities
- Coordinating with various stakeholders to mobilize support, such as tax preferences, for the promotion of equality in employment for people with disabilities
- Devising a series of compulsory measures to better implement the quota system and place more people with disabilities in jobs
- Assisting the government to better manage and use the Employment Security Fund for Disabled Persons
- Providing employment assistance to persons with disabilities and assistance in rights protection

- Providing dedicated vocational training with a suitable curriculum and textbooks to disabled persons to increase their employability
- Providing employment services and targeted employment guidance to increase employment opportunities for disabled people
- Communicating and cooperating with employers, encouraging and helping them to provide disabled people with equal employment opportunities and to create an inclusive workplace
- Organizing public awareness raising and educational campaigns to advocate a non-discriminatory social environment for disabled persons.

Workers' and employers' organizations

Workers' organizations can help workers with disabilities integrate into the mainstream of the trade unions by accepting them as members and leaders, and can support their equal rights at work. Workers' organizations need to understand the special needs of disabled workers, and communicate such needs to employers through social dialogue. They should advocate non-discrimination and respect for disabled persons and promote the establishment of diversified and inclusive workplaces where all workers are treated equally and can utilize their potential.

Employers' organizations may include equal employment opportunity and treatment for disabled persons in the overall framework of promoting equality and non-discrimination at work. They can communicate with individual employers, provide them with necessary information and support them in creating workplaces without discrimination. They can also serve as a bridge to strengthen the dialogue between employers, the government and the other social partners, encourage employers to support policies, and provide the funding and technology that are necessary for building inclusive workplaces. They can encourage more employers to promote equality in employment by setting role models and disseminating good practices.

Part 2. Health and equality in employment

1. HIV and AIDS, HBV and Hepatitis B

1.1 Facts and prevalence

In the Chinese labour market, which is characterized by an abundant labour supply, workers with certain health conditions often lose job opportunities due to discrimination irrespective of their qualifications. People with the Hepatitis B or the HIV virus are very often the target of such discrimination. In recent years, China has been making progress in eliminating health discrimination in employment. The working environment of people with these health conditions is improving but more efforts are needed to promote equality of opportunity and treatment in employment for these groups.



Key facts about the Hepatitis B virus (HBV) and Hepatitis B

- HBV and Hepatitis B are preventable with a safe and effective vaccine.
- The HBV virus is transmitted through contact with the blood or other body fluids of an infected person. It is not transmitted through the digestive tract and not through casual contact in the workplace. It also does not spread through contaminated food or water.
- About 90 per cent of healthy adults who are infected with HBV will recover and be completely rid of the virus within six months.
- Most HBV carriers will not develop the disease, but just carry the virus their whole life. Many people with chronic HBV infection do not know they are infected since they do not feel or look sick. Most individuals with chronic Hepatitis B remain symptom-free for as long as 20 or 30 years. About 15–25 per cent of people with chronic Hepatitis B develop serious liver conditions, such as cirrhosis (scarring of the liver) or liver cancer.
- Liver function is the key indicator which distinguishes between HBV and Hepatitis B. People with lab test results that do not show abnormal liver biochemistry are HBV carriers, instead of Hepatitis B patients.
- HBV carriers with normal liver function are the same as other people and do not need special treatment. Avoiding fatigue, alcohol and smoking are the best ways to stay healthy.
- People with chronic Hepatitis B should be monitored regularly for signs of liver disease and be evaluated for possible treatment.
- According to statistics of the Ministry of Health in 2008, China has nearly 100 million HBV carriers.

Source: Centers for Disease Control and Prevention: *Hepatitis B and HBV information*, <http://www.cdc.gov/hepatitis/HBV/> (accessed 31 August 2010).

Hepatitis B and AIDS are classified as Class B infectious diseases in China. The transmission routes are similar for both viruses, through blood or other body fluids, unprotected sex and mother-to-child transmission. Infection can not take place through casual contact, sharing food, or bathrooms. Carriers of the virus or the disease are not very contagious in day-to-day contact. However, due to misunderstandings and fears about the routes of transmission, people infected with these viruses are often treated unfairly and face harsh discrimination in education and

employment. Due to the low cost of testing, numerous HBV carriers are subject to discrimination in recruitment in China.



Key facts about HIV and AIDS

- The Human Immunodeficiency Virus, or HIV gradually attacks the immune system and reduces the body's ability to protect itself from a range of illnesses. It can be transmitted through unprotected sex with an infected partner, transfusion of HIV-tainted blood, the use of contaminated injection (needles) or other skin-piercing equipment, and from infected mother to child during pregnancy, at birth or through breastfeeding.
- HIV is not transmitted through casual contact at public places, schools or workplaces. Shaking hands, hugging, sharing toilets or sharing cups with HIV carriers, doing sports together with them, or being next to them when they are coughing or sneezing won't cause HIV infection. There is no need to be afraid of casual contact with HIV positive individuals as they will not transmit HIV.
- To date, there is no cure for HIV, but the normal functioning of the immune system can be protected with medications, referred to as anti-retroviral drugs or ARV. This means that people with HIV can live normal lives when they are able to obtain quality drugs, medical care and community support.
- AIDS means Acquired Immune Deficiency Syndrome. AIDS occurs at the late stage of HIV infection when the immune system is unable to function normally.
- As estimated by WHO and UNAIDS, there were about 33.2 million people with HIV globally in 2007. Also in 2007 there were 2.5 million new HIV infections and 2.1 million deaths from AIDS. Two thirds of people with HIV live in sub-Saharan Africa.
- By the end of 2007, there were about 700,000 people infected with HIV or having AIDS in China, accounting for 0.05 per cent of China's total population,³⁸ ranking the fourteenth globally, and the second in Asia.

Source: Adapted from information from WHO

1.2 Discrimination by association

Discrimination against people who are associated with a person with HIV can be severe. According to the China stigma index report, more than 40 per cent of the respondents said they had been subjected to HIV related discrimination. Two-thirds of the respondents said their families had been discriminated against because of his/her HIV positive status. Among the respondents with children, about one-tenth (9.1 per cent) said their children (who are not necessarily infected) had been forced to leave their schools because the parents were infected. Institutional discrimination such as this has become a serious concern. The survey also shows that 36.2 per cent of the respondents said the teachers had behaved in a "discriminatory" or "very discriminatory" manner once the identity of an infected person was revealed.³⁹

³⁸ Office of the State Council's AIDS Working Committee and UNAIDS China: *Joint assessment report on China's HIV/AIDS prevention and control* (Beijing, 2007).

³⁹ Social Development Research Institute of the China Central Party School, Marie Stopes International and UNAIDS: *The China stigma index report* (Beijing, 2009).

1.3 Breach of confidentiality of personal health information

HIV and HBV infections are not visible so a key factor in employment discrimination against persons living with these infections is mandatory testing and the lack of confidentiality of information on employees' personal health. Physical examinations often cover areas that are irrelevant to the inherent requirements of a job or enrolment into education. However, medical examination reports are often provided to employers, employment service agencies and educational institutions without deleting information that is irrelevant to the job or schooling. As a result, job or school applicants are refused entry or continuation of their job or education.

2. China's legal framework for eliminating employment discrimination against persons with HIV and HBV

China's fundamental legal system for non-discrimination in employment on the basis of health status consists of international conventions, the Constitution, laws, State Council regulations, ministerial rules and local laws and administrative documents.

2.1 International standards

As mentioned in Unit 5.1, ILO Convention No. 111 does not explicitly include health as one of the grounds for discrimination but provides for inclusion of health as a prohibited ground in countries which include protection against health discrimination in their national legislation. The Committee of Experts on the Application of Standards and Recommendations has also given guidance on the subject. For example, employers have an obligation to maintain confidentiality and not disclose the HBV or HIV status of an employee; and employees with HBV or HIV have a right to the protection of their personal data, unless the absence of these infections is an objective requirement of a job. In a similar vein, Recommendation No. 200 on HIV and AIDS in the world of work, adopted in 2010 also emphasizes the importance of safeguarding confidentiality and privacy for workers with HIV and AIDS.

The ratification of ILO Convention No. 111 in 2006 accelerated China's legal process to provide for non-discrimination in employment. The Employment Promotion Law promulgated in 2007 has a chapter on "Fair Employment." In 2008, China ratified the UN Convention on the Rights of Persons with Disabilities, which can be called upon to guide measures aimed at eliminating employment discrimination against persons with HIV or HBV.  See Section 4.5 Future trends in Unit 5.1 for more information.

2.2 The Constitution

The principle that "all citizens are equal before the law" was first set in the Constitution. Before China adopted clear laws and policies on non-discrimination on the basis of health status, this principle was widely applied in various health discrimination lawsuits.

2.3 National laws and policies

The development of Chinese laws and policies prohibiting discrimination based on the grounds of HBV and HIV have gone through three stages:

1. Wrong laws and policies: 1980s-1990s
2. Correction of laws and policies: 1990s-beginning of the 21 century
3. Centralized correction of laws and policies: beginning of the 21 century until present.

Box 5.24 Legal progress in eliminating employment discrimination against persons with HIV and HBV

Phase I: Wrong laws and policies	1982: Food Sanitation Law: People with viral hepatitis and other gastrointestinal diseases (including pathogen carriers) shall not engage in work where s/he may have direct contact with ready-to-eat foods. 1987: Regulations on Health Management at Public Places: People with viral hepatitis, before cured, shall not engage in work where s/he may have direct contact with the customers. 1994: The civil service examination system excluded HBV carriers from all recruitment except for central level civil servants.
Phase II: Correction of laws and policies	2003: Revision of Guidelines for Admission Physical Examination of Higher Education Institutions: Substantially reduced programs rejecting HBV carriers in order to guarantee their rights to receive higher education. 2004: Revision of Law on the Prevention and Treatment of Infectious Diseases: Added Article 12 to protect the personal privacy of people with diseases and Article 16 to prohibit discrimination against people with infectious diseases, pathogen carriers and those suspected of having an infectious disease. 2005: General Standards for Physical Examination in Civil Service Recruitment (Trial): HBV carriers with normal liver function shall be deemed qualified. 2006: Regulations on the Prevention and Control of HIV/AIDS: Any organization or individual shall not discriminate against HIV carriers, AIDS patients or any of their family members. HIV carriers, AIDS patients and their family members shall have legal rights in marriage, employment, medical care and schooling, etc.
Phase III: Centralized correction of laws and policies	2007: Opinions on the Protection of Employment Rights of HBV Carriers: The Opinions prohibit HBV testing in the physical examination in recruitment in order to protect personal privacy of HBV carriers. 2008: The Employment Promotion Law and Regulations on Employment Services and Employment Management came into effect: The law protects the rights to employment of carriers of infectious pathogens and any labourer being discriminated against in employment has the right to appeal to court. Any employer who has imposed a HBV test shall be subject to a fine of up to 1,000 Yuan. 2009: The Food Safety Law and the Regulations on the Implementation of the Food Safety Law came into effect, and the Food Sanitation Law was abolished: HBV carriers can engage in work in the food processing industry. 2010: Notice on Further Standardizing Admission Physical Examination and Protecting the Rights of HIV Carriers in Schooling and Employment: The Notice prohibits the test of any hepatitis B indicator in the physical examination in school admission and employment recruitment. 2010: The Revision of Regulations on Health Management at Public Places, Measures on the Management of Preventive Physical Examination, Measures on Health Supervision and Administration of Drinking Water, Measures on Health Supervision of Group Dining of Students and Hygienic Practices for Sterile Product Manufacturing Enterprises (2009): These revisions do away with employment restrictions for HBV carriers in related occupations.

The Law on the Prevention and Treatment of Infectious Diseases amended in 2004 added two clauses for the protection of personal privacy of people with infectious diseases and the prohibition of discrimination against patients of infectious diseases, pathogen carriers and suspected patients with infectious diseases. Article 16 states:

“The government and society shall care about and help people with infectious diseases, pathogen carriers and those suspected of having an infectious disease, so that they can

get timely treatment. Organization and individuals shall not discriminate against people with infectious diseases, pathogen carriers and suspected patients with infectious diseases.”

This is particularly relevant within the workplace. Its legislative intent has had a major influence on later laws, regulations and policies on non-discrimination for people with infectious diseases.

The Employment Promotion Law that came into effect in 2008 also has two significant provisions. Firstly, it expands the forms of employment discrimination prohibited, by adding the word ‘etc.’ after ethnicity, race, sex and religious belief. This has strengthened the legal basis for non-discrimination in employment on the basis of disability and health conditions. Secondly, it protects the legitimate rights in employment of carriers of infectious pathogens, stating that they shall not be rejected in recruitment unless required so by relevant laws, regulations, or prescriptions of the health administrative departments. Article 13 states:

“The employer shall not refuse to hire infectious pathogen carriers on the ground of that s/he carries an infectious pathogen. However, medically proven infectious pathogen carriers shall not, before recovery or exclusion of suspicion of infection, engage in work where the infectious disease is easy to spread, as required by relevant laws, regulations, or prescriptions of health administrative departments.”

The abolishment of the Food Sanitation Law and the implementation of the new Food Safety Law in 2009 eliminated the prohibition of pathogen carriers such as HBV and HIV to engage in work in the ready-to-eat food processing industry.

With regard to the **confidentiality of personal health information**, Chinese laws have also started to prohibit the disclosure of personal health information without due reason as this violates a person’s rights:

- Article 22 of the Law on Certified Medical Practitioners (1998) states that medical practitioners have the legal and basic moral obligations to care for, protect and respect patients’ privacy.
- The Labour Contract Law stipulates that enterprises shall only require a job applicant’s basic information that is “directly related to the labour contract”. Such personal information includes health conditions only if these are related to the ability to perform a job or objective occupational requirements; or age in relation to social insurance registration.⁴⁰
- The draft Regulations on Credit Management that were released at the end of 2009 to solicit public opinion have clear provisions on the protection of personal health information.

2.4 State Council regulations

In January 2006, the State Council promulgated the Regulations on the Prevention and Control of HIV/AIDS. Article 3 states:

“... no company or individual shall discriminate against HIV carriers, AIDS patients or their families. The legitimate rights of HIV carriers, AIDS patients and their families,

⁴⁰ See, for example, “The marriage status of an employee is irrelevant to the execution of a labour contract,” in *Shandong Workers’ Daily*, 16 Aug. 2009.

such as the rights in marriage, employment, hospitalization and schooling, are under the protection of law.”

The Regulations on the Implementation of the Food Safety Law issued by the State Council in 2009 allow HBV carriers to engage in work where they may have direct contact with ready-to-eat food while giving a specific list of prohibited infectious diseases. However, despite of this major legal progress, there is still an uncorrected defect in the 1987 Regulations on Health Management at Public Places, which prohibits people with viral hepatitis to engage in work that requires direct contact with customers before complete recovery. This will, for a certain period, still prevent HBV carriers from working in public places such as hotels.

2.5 Ministerial rules

The Regulations on Employment Services and Employment Management issued by the Ministry of Human Resources and Social Security in 2008 explicitly exclude testing of HBV serum indicators from the pre-employment physical examination and for the first time, stipulates an administrative penalty for the violation of this rule. The Implementation of Measures on the Management of Preventive Physical Examination, Measures on Health Supervision and Administration of Drinking Water, Measures on Health Supervision of Group Dining of Students and Hygienic Practices for Sterile Product Manufacturing Enterprises (2009): revised by Ministry of Health in 2010 all eased the employment restriction for HBV carriers.

Box 5.25 Opinions on maintaining the employment rights of HBV carriers – Ministry of Human Resources and Social Security, China, 2007

II. Promote equal employment for HBV carriers

A. Protect the employment rights of HBV carriers. The employing units shall not deny the employment of HBV carriers based on the fact that they are HBV carriers except for the jobs that are ruled by the state law, the administrative laws and regulations and the Department of Health as allowing easy spread of infectior.

B. Strict standards on health examinations shall be provided to the employing units during their health examination for recruitment and employment to protect the privacy of HBV carriers. The employing units can set the examination of liver function if necessary during their recruitment and employment. No compulsory testing of HBV is permitted except for jobs that are regulated by the state law, the administrative laws and regulations and the Ministry of Health that make it easy for the disease to spread.

III. Maintain the Benefits of Employment and Health of the HBV Carriers

A. The regional department of labour guarantees that it shall strengthen the administration of the employment of HBV carriers and respond to labour conflicts, so as to maintain the legal employment rights of workers.

C. Increase the energy spent on communication and build a harmonious environment of equality in employment. Labour and health departments of all levels shall promote the communication of equality in employment, educating the employing units on Hepatitis B and its transmission. The employing unit shall establish the concept of equality in employment, eliminate discrimination in employment, and build a good environment of equality in employment.

2.6 Local laws

Provincial, municipal and autonomous regional governments have developed Regulations on the Prevention and Control of HIV/AIDS, Regulations on the Prevention and Treatment of Infectious Diseases, and Regulations on the Implementation of the Employment Promotion Law,

according to the legislative principles of laws and State Council regulations, and the actual situation at the local level, so as to effectively prevent health discrimination in employment.

Box 5.26 Municipal and provincial regulations to protect persons with HIV and AIDS

Regulations on the Prevention and Control of HIV/AIDS in Shanghai (1998)

- Article 29 (Rights): AIDS patients and HIV-infected persons are entitled to medical services, to work, to obtain employment, to study and to participate in social activities.
- Article 30 (Confidentiality): All units and individual persons shall maintain the confidentiality of the AIDS patient and HIV-infected person, and shall not reveal the name, address, work unit, case record and other information of the AIDS patient and HIV-infected person.
- Article 31 (Non-Discrimination): All units and individual persons shall not discriminate against AIDS patients and HIV-infected persons and their relatives. ... No unit and individual person shall infringe on the rights of AIDS patients and HIV-infected persons and their relatives to medical services, to work, to obtain employment, to study and to participate in social activities.

Policy on AIDS Prevention in the Workplace in Anhui, Guangdong and Yunnan Provinces

Provincial policies have been adopted in Anhui (2008), Guangdong (2006) and Yunnan (2008) to support the Regulations on the Prevention and Control of HIV/AIDS. While these policies address prevention strategies, they also acknowledge the important role of non-discrimination and de-stigmatisation of HIV within the workplace. Increasingly, Chinese workplaces are developing policies and prevention programmes on HIV/AIDS.

3. Employment discrimination against persons with health conditions in China

3.1 Overall employment situation

The nature and severity of health-related discrimination in employment in China varies with the extent of awareness and knowledge about each disease as well as the cost of testing. For example, due to the complexity and high costs, most employers do not pay for or require new employees to take a HIV test. Testing for HBV is more frequent because the test is cheap and easy to carry out. Thus, according to the 2009 China stigma index report, one out of every six people living with HIV/AIDS had been refused employment,⁴¹ while, according to a 2005 survey by the Chinese Medical Association, more than half of the people with HBV surveyed (52 per cent) had the experience of losing a job or educational opportunity due to their HBV status.⁴²

Discrimination against people with HBV and Hepatitis B is not confined to particular sectors, but is common in many industries including information technology, manufacturing, food, etc. A 2009 report by Beijing Yirenping Centre showed that nearly 80 per cent of foreign enterprises in China discriminate against HBV carriers.⁴³ The severe discrimination against HBV carriers in the workplace has led to many suicides, murders, fire-settings and other violent incidents.

3.2 Discrimination at different stages of the employment cycle

Education and training

Since the "Guidance for Physical Examinations in Student Admission of Colleges and Universities" was revised by the Ministry of Education and Ministry of Health in 2003,

⁴¹ Social Development Research Institute of the China Central Party School, Marie Stopes International and UNAIDS: *The China stigma index report* (Beijing, 2009).

⁴² Chinese Medical Association: *Research report on cognitive status of Hepatitis B patients* (Beijing, 2005).

⁴³ Beijing Yirenping Centre: *Research report on discrimination against Hepatitis B in foreign enterprises* (Beijing, 2009).

discrimination against students with diseases has greatly decreased in the education sector, especially in compulsory primary education and higher education. However, discrimination is still common in pre-school education (kindergarten), postgraduate and higher education, and vocational education. As for on-the-job training and education, discrimination is comparatively rare as long as the trainees do not have to live together (including group lodging and meals) for a long period of time.

Recruitment

Discrimination against people with infectious diseases is particularly evident at the hiring stage. After passing the written examinations and interview, candidates are usually required to take a pre-employment medical examination, in which tests of HBV indicators and the recording of medical history are commonly required. Once the candidate is found to carry the HBV virus, s/he will most likely be turned down by the employing unit regardless of his/her job-related qualifications. This has forced many workers carrying the virus of infectious diseases to accept jobs that are not compatible to their qualifications.

Box 5.27 HBV carrier rejected in recruitment

In June 2003, a young man named Zhang Xianzhu was ranked first in the civil service examination of the Personnel Bureau of Wuhu City, Anhui Province. He applied for an Economic Management post in the Office of the County Government. However, he was denied the job because he tested HBV positive in the following health check. In November 2003, Zhang lodged an administrative proceeding against the Personnel Bureau for discrimination against HBV patients. In April 2004, the court ruled that the specific administrative act of the Personnel Bureau of Wuhu City lacked transparency. However, the court declared that the administrative act could not be revoked, because the recruitment had already been concluded. Therefore, the plaintiff's request to be recruited to a corresponding position was rejected.

Source: *Yanqiao Metropolis Daily*, 17 Nov. 2003.

In April 2005, Mr. Wang applied for a marketing position in the Beijing Office of Shenzhen Airlines. After passing the examination, he took a physical exam in a hospital as required. A week later, Mr. Wang was notified by the company by telephone that since his medical report indicated that three of the five HBV indicators were positive, the company's Shenzhen headquarters did not approve of his employment by the Beijing Office. Refusing to accept the result, Mr. Wang filed a suit with Beijing Chaoyang District Court, requesting that Shenzhen Airlines revoke its decision of not hiring him and eliminate the discriminatory provisions in its medical examination system. He also requested that the President of Shenzhen Airlines personally hand him 1 Yuan in compensation for his psychological injury. After the hearing, Chaoyang District Court rejected Mr. Wang's pleadings stating that as no labour relation had formed between him and Shenzhen Airlines, the charges fell outside the scope of the people's court's for accepting labour dispute cases. Mr. Wang appealed to the 2nd Intermediate Court of Beijing, which made the final ruling, rejecting Wang's appeal and maintaining the original verdict.

Source: *Xinmin Evening News*, 5 Oct. 2005.

Employment services

In general, most of the health discrimination policies and practices of employment service agencies which discriminate against people with health conditions have been designed to accommodate the requirements of employers. However, some employment agencies even screen out job-seekers with certain diseases on their own initiative in order to show that their services are more professional. This is particularly the case for HBV carriers. This practice is often adopted by employment agencies serving foreign enterprises, even while the latter are not allowed to discriminate against employees with HBV in their home countries.

Job security

Even if a person carrying the virus of an infectious disease, particularly HBV, is lucky enough to be hired, the job may not be secure. As a part of employee benefits, some employers organize regular health checks, usually once a year. Once an employee is found to have a certain kind of health condition s/he is likely to face dismissal.

4. Promoting equality in employment for people with health conditions

4.1 Role of the Government

The Government plays a critical role in eliminating health-related discrimination in employment. Its responsibility includes:

1. formulating and revising relevant laws and policies to prohibit health-related discrimination in employment
2. carrying out education and advocacy activities to publicize relevant knowledge, laws and policy
3. monitoring and correcting discriminatory practices of employing units.

Box 5.28 Good practice – HBV testing prohibited in health examinations for school entry and job recruitment

On 10 Feb. 2010, the Ministry of Health, the Ministry of Education and the Ministry of Human Resources and Social Security jointly issued a **Notice on Further Regulating School and Employment Entry Tests Protecting the Employment and Education Rights of People with the Hepatitis B Surface Antigen**. According to the Notice, local governments were given 30 days to abolish or amend current regulations in order to prohibit HBV testing in job recruitment and school entry examinations for employing units and educational institutions by medical and health institutions.

The Notice is a positive step toward the elimination of discrimination against HBV carriers in China. There are an estimated 130 million people with HBV in China today. Regular casual contact, such as at work or in school, does not lead to transmission of the virus.

Source: ILO: *Equality at Work in China Newsletter*, Issue No. 4 (Beijing, ILO, March 2010).

Box 5.29 Good practices – New initiatives against HBV discrimination in employment

12333 Labour protection hotlines taking complaints about HBV tests in recruitment

Job-seekers can dial 12333 to make complaints if any employing unit tests HBV indicators in violation of relevant regulations. The Ministry of Human Resources and Social Security issued a Notice on 11 March 2010, requiring labour protection hotlines in all provinces to introduce complaint handling and reporting services. The Ministry of Human Resources and Social Security urged hotlines to strengthen routine monitoring of employers' hiring activities in the human resources market and to make it an important task to prohibit employers from testing job-seekers' HBV indicators.

Source: *Jinghua Times* (12 March 2010), <http://www.jinghua.cn> (accessed 30 Nov. 2010).

Beijing Human Resources and Social Security Bureau launched the first special action to prohibit tests of HBV indicators

From 1 to 31 March 2010, the Beijing Human Resources and Social Security Bureau will carry out special measures to rectify and streamline the human resources market. Employers that violate the prohibition of testing on the five HBV indicators will be subject to administrative penalties. The main contents of the measures include standardization of the hiring practice of human resources intermediate agencies and the

employing units. Relevant officials stressed that it is the first time this year that the testing of the five HBV indicators is strictly prohibited in physical examinations. Any employing unit that violates the stipulation will be ordered to make corrections and be subject to administrative penalties. Those whose act constitutes a crime will be held criminally responsible.

Source: *Beijing Youth Daily*, 10 Mar. 2010.

4.2 Role of employers in creating safe and inclusive workplaces

Employers have the obligation to create a safe and healthy working environment for all employees and this also makes good business sense. Employers, therefore, need to have a proper understanding of a variety of safety and health issues and their impact on the workplace in order to reduce health threats at work, avoid health-related discrimination and increase productivity.

Specific recommendations to employers include:

- Stop mandatory testing of HBV and HIV for any reasons
- Protect confidentiality of personal medical information
- Do not make employment decisions based on applicants' or employees' health information that have nothing to do with their working ability and the inherent requirements of the job
- Employ people with certain health conditions based on their qualifications and merits
- Carry out preventive measures and take steps to increase tolerance and reduce fear of health conditions in the workplace.

4.3 Role of social partners

Workers' and employers' organizations

The trade unions protect the equal rights of all workers through collective negotiation and other means, including the protection of workers with certain health conditions from employment discrimination.

Employers' organizations can contribute to the elimination of health-related discrimination in employment by developing and promoting the implementation of corporate social responsibility guidelines and encouraging more employers to create an inclusive workplace free of discrimination and harassment through setting role models.

Non-governmental organizations (NGOs)

NGOs are important forces to monitor discrimination in the workplace. They can help government in the development of laws and policies by providing reference data and practical suggestions. They can also be helpful in advocating non-discrimination and equality and disseminating scientific and legal knowledge and information. Some NGOs also provide assistance to individual workers in discrimination cases.

Box 5.30 Beijing Yirenping Centre committed to eliminating health-related discrimination in employment

The Beijing Yirenping Centre is a non-profit organization dedicated to promoting public well-being. Founded in December 2006, it is committed to offering education on disease prevention and treatment, reaching out to patients in poverty and eliminating discrimination.

Since its establishment, Beijing Yirenping Centre has assisted individuals, including HBV and HIV carriers, people with disabilities, diabetes, depression and colour blindness to fight for their rights and against discrimination. Many of the lawsuits that the Centre handled and won became landmark cases that drew wide attention in Chinese society. Such lawsuits include the country's first cases on physical appearance discrimination, on depression discrimination and on genetic discrimination.

The Beijing Yirenping Centre has also been actively involved in the legislation process at the national level. It has contributed to the adoption of the Employment Promotion Law, the Food Safety Law and the Labour Contract Law as well as other administrative rules and regulations such as the Regulations on Health Management at Public Places and Hygienic Standards for Swimming Facilities. In 2007, the Centre called on NGOs to focus on articles about non-discrimination in the draft Employment Promotion Law, which left out HBV and HIV/AIDS discrimination. The Centre further lobbied deputies to the National People's Congress (NPC) to submit proposals for the amendment of the draft at the NPC session, which proved to be successful.

The achievements of Beijing Yirenping Centre in fighting against health-related discrimination include:

- Helping an HBV carrier to sue Nokia for discrimination. The case was selected by the Legal Daily as one of the Top 10 Labour Dispute Cases in 2007
- Assisting a college undergraduate with diabetes, which resulted in the student returning to school
- Supporting an HBV carrier to win a court case against Beijing Bide Communications Co. on discrimination in employment. The case ranked the 6th place in the Southern Weekend's list of the Most Influential Lawsuits in 2008
- Handling China's first case on employment discrimination due to depression. The case was selected by the Legal Daily as one of the Top 10 Labour Dispute Cases in 2008.

Source: Website of Beijing Yirenping Center, <http://www.yirenping.org>.

4.4 Judicial remedy

Along with the progress in anti-discrimination legislation and policy in China, judicial remedy has become an important means for eliminating health-related discrimination, especially on discrimination against HBV carriers. There have been reports of successful cases both in court litigations and in labour arbitration.

Box 5.31 Employer ordered to pay 24,000 Yuan in compensation for HBV discrimination

In early 2008, the Hong Kong-owned Vtech Corporation was ordered by the Dongguan Municipal People's Court to pay 24,000 Yuan in compensation to a job applicant to whom it had refused employment on the ground that he carried the Hepatitis B virus. The company also made a commitment that it will enhance the implementation and monitoring of a non-discriminatory human resource policy, so as to avoid a similar situation in the future.

In July 2006, university graduate Li Fei applied for a job at Vtech in Dongguan and successfully passed two recruitment exams. A few weeks later, the company initiated employment formalities, taking copies of his graduation certificates and agreeing on a salary. The following day, the Human Resource Department told Li Fei that his medical test showed him to be HBV positive and therefore he could not be allowed to work at Vtech. Li Fei filed a law suit at the Dongguan Municipal People's Court six months later. After several protracted court hearings, the court finally mediated a settlement nearly one year after the suit was filed.

Experts believe that the success of this case shows the significant impact of the Employment Promotion Law and the Regulations on Employment Services and Employment Management, both of which came into effect on 1 January 2008.

Source: ILO: *Equality at work in China Newsletter*, Issue No. 1 (Beijing, ILO, March 2009).

Section B. Session guide



Section B. Session guide

Training map for Module 5

Unit. 5.1 Discrimination, health and disability: International concepts and approaches		3.5 hours
Learning objectives	- Describe the concepts and international standards on equality at work for persons with disabilities and health conditions, including HIV and HBV, and the main forms of discrimination on these grounds - Identify policy and practical measures to create inclusive workplaces and to promote equality of opportunity and treatment at work for persons with disabilities and health conditions	
Training aids	Section A. Unit 5.1 Discrimination, health and disability: International concepts and approaches Section C. Exercise 1. Appearance and ability: Can you judge at first sight? Section C. Exercise 2. Quiz and discussion on “Hometown Fellows” movie Section C. Exercise 3. Health status and inherent requirements of the job: Case studies Section C. Exercise 4. Reasonable accommodation: Case studies	
Unit 5.2 Promoting equality at work for people with disabilities and health conditions in China		2-2.5 hours
Learning objectives	- Describe the Chinese legal and policy framework on equal employment for people with disabilities and health conditions, and identify common forms of discrimination on these grounds in the Chinese labour market - Identify measures to promote equal employment for people with disabilities and health conditions and the roles of different stakeholders in their implementation	
Training aids	Section A. Unit 5.2 Promoting equality at work for people with disabilities and health conditions in China Section C. Exercise 5. Blind walk Section C. Exercise 6. The story of teacher Qiu Zi: Case study Section C. Exercise 7. Developing and implementing an inclusive workplace strategy	
Total Module 5		5.5-6 hours
Tips	- Ensure accessibility and equal participation of people with disabilities and health conditions at the training. - Handouts for photocopying and distribution to participants are provided in a different font for ease of preparation.	

Session plan for Unit 5.1 Discrimination, health and disability: International concepts and approaches

Overview

This unit introduces concepts and international legal standards related to the promotion of equal opportunity and treatment at work for people with disabilities and health conditions. It discusses the recent shift from the “charity and medical approaches” towards the “social and rights-based approach” to disability. It provides key facts on HIV and HBV infections. The unit reviews various forms of employment discrimination against workers with disabilities and health conditions, and demonstrates how inclusive workplace practices can benefit businesses, and promote safe working environments free from discrimination and harassment for persons with disabilities and health conditions.



Learning objectives

By the end of the unit the participants are able to:

- Describe the concepts and international standards on equality at work for persons with disabilities and health conditions, including HIV and HBV, and the main forms of discrimination on these grounds
- Identify policy and practical measures to create inclusive workplaces and to promote equality of opportunity and treatment at work for persons with disabilities and health conditions.



Step-by-step session plan

Step 1. Introduction of learning objectives		1 min. 
Aim	To clarify the objectives of the Unit	
Step 2. Exercise 1. Appearance and ability: Can you judge at first sight?		20 min.
Aim	To identify the abilities of people with disabilities and health conditions and learn how assumptions about appearance and ability can be misleading	
Training aids	Section C. Exercise 1. Appearance and ability: Can you judge at first sight?	
Step 3. Presentation and discussion: Discrimination, health and disability: International concepts and approaches – 1		20 min. 
Aim	To discuss the definition of disability and key features of HIV and HBV infections, and to review the key international standards on non-discrimination on the grounds of disability and health conditions	
Training aids	Section A. Unit 5.1 - 1 Principle of equality for persons facing health and disability discrimination Section A. Unit 5.1 - 2 Disability: Approaches and definitions Section A. Unit 5.1 - 3 HIV and AIDS, HBV and Hepatitis-B Section A. Unit 5.1 - 4 International standards on equality for people facing health and disability discrimination.	
Tips	Make the presentation as participatory as possible. Involve participants by asking them to define disability and share their experiences on different forms of discrimination of persons with disabilities and health conditions. Give a brief	

	overview of international standards on equality for people facing health and disability discrimination	
Step 4. Exercise 2. Quiz and discussion on “Hometown Fellows” movie		40 min.
Aim	To disseminate correct information about the transmission and non-transmission routes of HIV and HBV and to discuss stigma and discrimination on the ground of these health conditions	
Training aids	Section C. Exercise 2. Quiz and discussion on “Hometown fellows” movie	
Step 5. Exercise 3. Health status and inherent requirements of the job: Case studies		40 min.
Aim	To discuss discrimination on the grounds of HIV and HBV infection, and differentiate between situations in which absence of these infections is and is not an inherent requirement of the job.	
Training aids	Section C. Exercise 3. Health status and inherent requirements of the job: Case studies	
Step 6. Presentation and discussion: Discrimination, health and disability: International concepts and approaches – 2		20 min.
Aim	To discuss different forms of discrimination on the grounds of disability and health, and special measures to promote equal opportunity and treatment at work for persons with disabilities and health conditions	
Training aids	Section A. Unit 5.1 - 5 Direct and indirect discrimination based on health and disability status Section A. Unit 5.1 - 6 Inherent requirements of a job Section A. Unit 5.1 - 7 Discrimination on the grounds of non-visible disabilities and health conditions Section A. Unit 5.1 - 8 Multiple forms of discrimination: Disability, poverty, sex and age Section A. Unit 5.1 - 9 Measures of protection and assistance	
Tips	Give a brief overview of different forms of direct and indirect discrimination on the grounds of disability and health. Involve participants in a discussion on situations when absence of a disability or a health condition is and is not an inherent requirement of the job. Ask participants to share experiences from their work on adoption and implementation of special support and reasonable accommodation measures to promote inclusive workplaces.	
Step 7. Exercise 4. Reasonable accommodation: Case studies		40 min.
Aim	To identify how employers can provide for reasonable accommodation to avoid discrimination and promote equality for people with disabilities at work	
Training aids	Section C. Exercise 4. Reasonable accommodation: Case studies	
Step 8. Presentation and discussion: Discrimination, health and disability: International concepts and approaches – 3		20 min.
Aim	To describe strategies and good practices for creating inclusive workplaces	
Training aids	Section A. Unit 5.1 - 10 Strategies and good practices	
Tips	Make the presentation as lively as possible by referring to many good practice examples. Invite participants to share good practices from their experience.	

Step 9. Round-up: Conclusion and key learning points		10 min.
	• International approaches to discrimination on the grounds of disabilities and health conditions reflect a shift from “charity” to a rights-based approach and focus on functioning in the context of social, cultural and environmental factors. • People with disabilities and health conditions have as diverse a range of abilities as people without disabilities and health conditions. Ensuring that they can participate in the labour market in accordance with their abilities and talent is important to both the individual as well as to the society and economy. • Inherent job requirements may restrict access of people with disabilities or health conditions to certain jobs, if the impairment inhibits performance of the key job functions. When assessing whether a person with a disability or health condition is suitable for a job it is important to focus on the factual job requirements. Stigma and prejudice against persons with disabilities and health conditions should not be allowed to impact the assessment. • To be able to perform a job, persons with disabilities and health conditions may often need some practical adjustments in the work arrangement or equipment. Providing this type of reasonable accommodation is a good employment practice. It is also required under the UN Convention on the Rights of Persons with Disabilities and ILO Convention No. 111. Both these Conventions have been ratified by China. • Developing and implementing Inclusive Workplace Strategies is an important part of reducing discrimination for workers with disabilities and health conditions. Adoption and implementation of these strategies can bring businesses economic and organizational benefits, and at the same time promote safe working environments free from discrimination and harassment for all workers.	
Total Unit 5.1		3.5 hours

Session plan for Unit 5.2 Promoting equality at work for people with disabilities and health conditions in China

Overview

This unit discusses the definitions of disability and health conditions in the Chinese legal framework and describes the legal and regulatory provisions on equality in employment for people with disabilities and health conditions in the country. After considering specific issues of employment discrimination against these groups of workers it explains ways to promote equality in employment for people with disabilities and health conditions, and the roles and responsibilities of different stakeholders.



Learning objectives

By the end of the unit participants should be able to:

- Describe the Chinese legal and policy framework on equal employment for people with disabilities and health conditions, and identify common forms of discrimination on these grounds in the Chinese labour market
- Identify measures to promote equality in employment for people with disabilities and health conditions and the roles of different stakeholders in their implementation.



Step-by-step session plan

Step 1. Introduction of learning objectives		1 min.
Aim	To clarify the objectives of the Unit	
Step 2. Exercise 5. Blind walk		30–40 min.
Aim	To experience what it is like to be a person with an impairment, to build respect and trust between people with and without disabilities, and to gain insights on the abilities of people irrespective of their disability or health condition	
Training aids	Section C. Exercise 5. Blind walk	
Step 3. Presentation and discussion: Promoting equality at work for people with disabilities and health conditions in China – Part 1. Disability and equality in employment		20 min.
Aim	To explore the definition of disability under Chinese law, and describe the relevant legal provisions and main dimensions of employment discrimination against people with disabilities in China	
Training aids	Part 1. Section A. Unit 5.2 - 1 Definitions of disability in Chinese law Part 1. Section A. Unit 5.2 - 2 Chinese laws and regulations on equality in employment for people with disabilities Part 1. Section A. Unit 5.2 - 3 Employment discrimination against people with disabilities in China	
Tips	Make the presentation as interactive as possible. Invite participants to discuss the definition of disability applied in the Chinese law and compare it with the international definition presented in Unit 5.1. Give a brief overview of the main national laws and regulations on equality of persons with disabilities and involve participants in discussing the most common types of direct and indirect	

	discrimination faced by people with disabilities in China.	
Step 4. Exercise 6. The story of teacher Qiu Zi: Case study		20 min.
Aim	To discuss the definition of disability and apply international and Chinese legal tools on non-discrimination to a real life scenario.	
Training aids	Section C. Exercise 6. The story of teacher Qiu Zi: Case study	
Step 5. Presentation and discussion: Promoting equality at work for people with disabilities and health conditions in China – Part 2. Health and equality in employment		20 min. 
Aim	To highlight the major issues in employment discrimination on the basis of health status in China and describe the national legal and policy framework on promotion of equality for persons with health conditions.	
Training aids	Part 2. Section A. Unit 5.2 - 1 HIV and AIDS, HBV and Hepatitis B Part 2. Section A. Unit 5.2 - 2 China's legal framework for eliminating employment discrimination against persons with HIV and HBV Part 2. Section A. Unit 5.2 - 3 Employment discrimination against people with health conditions in China	
Tips	Make the presentation as interactive as possible. Invite participants to discuss different forms of discrimination of persons with HIV, HBV or other health conditions in the Chinese labour market. Give an overview of the national legal and policy framework on promoting equality for persons with health conditions.	
Step 6. Exercise 7. Developing and implementing an inclusive workplace strategy		20–40 min.
Aim	To design practical strategies to reduce discrimination against people with disabilities and health conditions at the workplace.	
Training aids	Part 1. Section A. Unit 5.2 – 4 Promoting equality in employment for people with disabilities Part 2. Section A. Unit 5.2 – 4 Promoting equality in employment for people with health conditions Section C. Exercise 7. Developing and implementing an inclusive workplace strategy.	
Step 7. Conclusion and key learning points		10 min.
	- China has ratified the key international conventions to promote equality in employment for persons facing health and disability discrimination and adopted national laws to promote and protect the employment rights of persons with disabilities and health conditions. - In recent years increasing attention has been paid to eliminating discrimination of persons with disabilities and health conditions in China. However, many prejudices, stigma and different forms of direct and indirect discrimination persist in the labour market creating barriers for persons with disabilities and health conditions to engage in gainful employment in line with their abilities. - Building inclusive workplaces is a key measure to realize equality in employment for people with disabilities and health conditions. This requires correct knowledge and cognition of disability and health conditions and their implications in the workplace. - Providing reasonable accommodation at the workplace level is an important component for the elimination of disability and health discrimination in employment.	
Total Unit 5.2		2-2.5 hours

Section C. Exercises



Section C. Exercises

Unit 5.1 Discrimination, health and disability: International concepts and approaches

Exercise 1. Appearance and ability: Can you judge at first sight?

Instructions for trainers



Aim – To identify the abilities of persons with disabilities and health conditions, and learn how assumptions about appearance and ability can be misleading



Time – 20 minutes



Room arrangement – Make space in the middle of the room so that participants can move around on an imaginary line running from one wall of the room to another. If some of the training participants use wheelchairs or mobility aids, make sure there is enough space for them to move around without difficulty. Prepare two notes, one saying “agree” and the other saying “disagree”, and hang them on the wall on the opposite sides of the room. If possible, draw a line with tape or a string on the floor from one side to the other.



Training materials and preparation – Cut or copy 8-10 pictures from magazines, internet or other sources portraying different kinds of people. The pictures should show men and women with and without disabilities and health conditions. Some of these should be temporary and others permanent. Examples are images of a person using a wheelchair due to a broken leg (or other temporary lower limb injury), a person missing a limb, a pregnant woman, a person with an intellectual disability, a smoker, a person with glasses, an old person, a sign language user without hearing impairment, a person with a mental health difficulty, a person wearing a HIV button and persons with disabilities and diseases such as a heavy flu, cerebral palsy, arthritis, epilepsy, etc.



Steps

- Share the aims of the exercise with participants. Ask participants to move to the open space in the middle of the training room and explain that in this exercise one side of the room is designated as “agree” and the other as “disagree.” Tell participants that you will show them some pictures and ask them to position themselves in the room according to whether they agree or disagree that the person in the picture has a disability or health condition. Tell participants that they can place themselves at any point of the line running from “agree” to “disagree” depending on how strongly they feel about the pictures shown.
- Show the first picture to participants. Ask them to move around the room in accordance to whether they agree or disagree that the person in the case study has a disability or health condition. Go around the room to ask a few participants to explain the reasons

for why they positioned themselves like they did. Invite people standing on opposite ends of the room to respond to each other's comments. After a few comments explain who the person in the picture is and whether or not he or she has a health condition or disability for a shorter or longer period. Repeat the process with the rest of the pictures.

- After showing the pictures tell participants to take a seat and continue the discussion by asking them to provide a definition for “a person with a disability” and a “person with a health condition.” Facilitate the discussion and encourage the participants to comment and ask questions.
- Round-up the discussion as follows:
 - There are many types of disabilities and health conditions. The common categorization of disabilities includes physical impairments, sensory impairments (e.g. vision and hearing), intellectual impairments (e.g. learning difficulties) and psychosocial impairments (e.g. related to psychiatric or mental conditions). A disabled person with an impairment can be in good health. Health conditions include a wide range of diseases, disorders and injuries.
 - The international standard⁴⁴ to describe and measure health and disability uses the concept of **functioning** as the ruler for health measurement. Functioning is defined as the outcome of interactions between disabilities, health conditions and contextual factors.
 - The international standard takes the social aspects of disability into account. It does not define disability and health conditions only as a “medical” or “biological” dysfunction. It recognizes the limitations that are imposed on people with disabilities and health conditions by social, cultural, economic and environmental barriers.
 - Most people will experience a disability or a health condition at some stage in their life. Some of these disabilities are temporary and some are permanent. In both cases it is important to remember that for example a physical impairment does not reduce a person's mental abilities, and vice versa. For this reason it is important not to focus on the “disability” or “health condition” of a person but to his or her “abilities”.
 - All persons should enjoy equal opportunity and treatment in employment in accordance with their personal abilities. However, stigma, prejudices and assumptions about persons with impairments and health conditions prevail in societies, and lead to discrimination in access to education and employment. Fighting stigma and prejudices is key to promoting equal opportunity and treatment at work for persons with disabilities and health conditions.

⁴⁴ World Health Organization (WHO): *International Classification of Functioning, Disability and Health* (2001).

Exercise 2. Quiz and discussion on “Hometown Fellows” movie

Instructions for trainers



Aim – To disseminate correct information about the transmission and non-transmission routes of HIV and HBV and to discuss stigma and discrimination on the ground of these health conditions



Time – 40 minutes



Seating arrangements – Ensure all participants are positioned so that they can clearly view and hear the movie. Subtitles can be turned on to accommodate participants with hearing impairments



Training materials and preparation – Use the slides provided for this exercise and the movie “Hometown fellows” on DVD video (6-7 minutes).⁴⁵ Prepare necessary hardware for showing the slides and the movie.



Steps:

Step 1 - Quiz

- Share the aims of the exercise with the participants. Show **slides** 1-13 with the pictures depicting transmission and non-transmission routes of HIV and HBV one by one, and ask participants whether HIV and HBV can be transmitted through the contact illustrated in the pictures. Take a few guesses and explanations from participants on each of the pictures, and correct any misunderstandings using the **Responses**, as needed.
- In conclusion, show the last two slides summarizing the ways that HIV and HBV can be transmitted and the ways in which they cannot be transmitted. Facilitate further discussion and answer any questions.

Step 2 - Movie and discussion

- Watch the “Hometown Fellows” movie.
- Ask participants to share how they feel about the movie. Try to elicit some positive and negative responses, but do not push it. There are no right or wrong responses. Ensure respect for and between people with different views.

⁴⁵ The “Hometown fellows” movie was produced in 2008 by the ILO HIV/AIDS Workplace Education Programme in China implemented in collaboration with the Ministry of Human Resources and Social Security (MOHRSS), China and the Chinese Employers Confederation (CEC).

- After a few responses ask them what are the key learning points of the movie. Take a few comments from the participants and facilitate the discussion by encouraging them to comment also on each other's views.
- When no new points of discussion are emerging, conclude that the film presents three points that are very important for combating discrimination on the grounds of HIV:
 1. There is no need to fear HIV transmission in the workplace, because HIV cannot be transferred through casual everyday contact, such as touching, sharing food, washing face, etc. HIV is transferred only through unprotected sexual intercourse with an infected partner and transfusion or other exchange of infected blood.
 2. People living with HIV are productive members of the workforce. Thanks to the increasing availability of antiretroviral therapy HIV-positive persons often have minimal or no loss of functional capacity and can continue to contribute in the labour market. They may not experience any symptoms and are able to live healthy and productive lives over an extended period of time.
 3. One of the harshest kinds of discrimination against persons living with HIV is “freezing out” by fellow workers. The reason for rejection by co-workers at the workplace is based on fear about the infection, prejudice and poor understanding of the transmission routes of HIV.
- Emphasize that dissemination of correct information about transmission and non-transmission routes of HIV and HBV is key to dissolving fear and fighting stigma and discrimination of workers with infectious diseases.
- Close the discussion by reminding participants that HBV infection and Hepatitis B can be effectively prevented through vaccination. While there is no cure for HIV, antiretroviral therapy has changed the prognosis of patients with HIV infection. Voluntary HIV testing and counselling should be encouraged and supported, as early detection can assist in the effectiveness of treatment.

Exercise 2. Quiz and film discussion 'Hometown Fellows'**Responses**

1. No, HIV and HBV cannot be transmitted through shaking hands or touching somebody.
2. Yes, HIV and HBV can be transmitted through unprotected sexual intercourse with an infected partner. This can be prevented by using a condom.
3. No, HIV and HBV cannot be transmitted by using the same phone or other equipment at the workplace. HIV is unable to reproduce or survive in the open air, and this makes environmental transmission impossible.
4. No, HIV and HBV cannot be transmitted through open mouth kissing, unless both partners have large open sores in their mouths or severely bleeding gums. Saliva does contain the virus, but it is only present in very small quantities and as such cannot cause infection.
5. Yes, transfusion of infected blood can cause HBV or HIV infection. Nowadays, in China, all the blood used for transfusions is tested for HIV and HBV.
6. No, HIV and HBV cannot be transmitted through mosquito bites. Even if the virus enters a mosquito or another sucking or biting insect, the insect does not become infected and cannot transmit HIV to the next human it feeds on or bites.
7. Yes, sharing infected injecting equipment is a very efficient way to transmit HIV and HBV. Injecting drug users are a high-risk group for exposure to HIV and other blood-borne viruses. Injecting with a sterile needle will not transmit HIV and HBV as long as clean equipment is used each time and none of it is shared.
8. No, HIV and HBV cannot be transmitted through using the same toilet with infected persons. (See point 3 above.)
9. No, HIV and HBV cannot be transmitted through using the same cutlery or eating together with an infected person. (See point 3 above.)
10. No, HIV and HBV cannot be transmitted through hugging or touching. Healthy, intact skin does not allow the virus to get into the body.
11. No, HIV and HBV cannot be transmitted through working together with an infected person. The virus cannot reproduce or survive in the open air and for this reason cannot be transmitted through spitting, sneezing or using same equipment. (See point 3 above.)
12. Yes, an infected pregnant woman can pass HIV or HBV on to her unborn baby during pregnancy, labour and delivery. The virus can also be transmitted through breastfeeding. If a woman knows she is infected with HIV or HBV, there are drugs she can take to greatly reduce the chance of her child becoming infected.
13. No, HIV and HBV cannot be transmitted through using same tableware or eating with an infected person. (See point 3 above.)

Source: AVERT: *Can you get HIV on...?*, <http://www.avert.org> (accessed 27 Sep. 2010); *How HBV is transmitted?* Available at: <http://www.liverdisease.com> (accessed 27 Sep. 2010).

Exercise 3. Health status and inherent requirements of the job: Case studies

Instructions for trainers



Aim – To discuss discrimination on the grounds of HIV and HBV infection, and differentiate between situations in which absence of these infections is and is not an inherent requirement of the job



Time – 40 minutes



Seating arrangements – Small group seating at round tables or other arrangement that allows participants to work in groups of 3-6 persons.



Training materials and preparation – One sheet of flipchart paper and one marker pen for each group.



Steps:

- Share the aims of the exercise with the participants and distribute the **handouts**. Divide participants into groups of 3-6 persons and instruct some of the groups to discuss case A and some to discuss case B. Tell each group to prepare a presentation on the case study and select a spokesperson to present it plenary for a maximum of 3 minutes.
- Reconvene in plenary when the groups are ready. Ask each group to give a brief presentation on their case. After the presentations, invite other participants to ask questions or comment on the presentation and facilitate discussion. In the end add points not mentioned by the groups and correct any misunderstandings using the **Case Responses** as needed.
- Round-up the discussion as follows:
 - HBV and HIV are infections that cannot be transmitted through regular workplace contact such as shaking hands, sharing tools, eating together, or sneezing. There are very few jobs where absence of the infection can be legitimately considered an inherent requirement of the job. These include jobs involving dealing with blood and sharp objects, for example, surgery in the health care sector.
 - People living with HIV and HBV face stigma and discrimination in the labour market and the society. Much of this stigma and discrimination is based on wrong beliefs and misinformation about the nature of the infection and its transmission routes.
 - Tackling discrimination on the grounds of HIV and HBV is an important labour market issue. China has over 100 million HBV carriers and nearly 700,000 HIV carriers. Ensuring that these persons can fully participate in the labour market and contribute their talent is crucial for these individuals as well as for the society and economy as a whole.

- In China and abroad the importance of tackling employment discrimination on the grounds of HBV and HIV infection has been increasingly recognized in recent years, and new laws and regulations have been adopted to outlaw discriminatory practices. While establishing an effective legal framework is essential in fighting discrimination, much remains to be done to reduce the stigma by raising awareness in the society and in workplaces.

Exercise 3. Health status and inherent requirements of the job: Case studies



Handout

A. Mr Hoffmann and South African Airlines

Mr Hoffman applied in September 1996 for employment as a cabin attendant with South African Airlines (SAA). He went through a four-stage selection process comprising a pre-screening interview, psychometric tests, a formal interview and a final screening process involving role-play. At the end of the selection process, the appellant, together with eleven others, was found to be a suitable candidate for employment. This decision, however, was subject to a pre-employment medical examination, which included a blood test for HIV/AIDS. The medical examination found him to be clinically fit and, thus, suitable for employment. However, the blood test showed that he was HIV positive. As a result, the medical report was altered to read that the appellant was “HIV positive” and therefore “unsuitable”. He was subsequently informed that he could not be employed as a cabin attendant in view of his HIV positive status.

Mr Hoffman challenged the constitutionality of the refusal to employ him in the Constitutional Court, alleging that the refusal constituted unfair discrimination, and violated his constitutional right to equality, human dignity and fair labour practices. He sought an order directing SAA to employ him as a cabin attendant.

SAA denied the charge. It asserted that the exclusion of the appellant from employment had been dictated by its employment practice, which required the exclusion from employment as cabin attendant of all persons who were HIV positive. SAA justified this practice on safety, medical and operational grounds. It added that people who are HIV positive are prone to contracting opportunistic diseases and therefore there is a risk that they may contract these diseases and transmit them to others. SAA emphasised that its practice was not only directed at detecting HIV, but detecting all kinds of disability that make an individual unsuitable for employment as flight crew, such as epilepsy, impaired vision and deafness. SAA added that the life expectancy of people who are HIV positive was too short to warrant the costs of training them. It further stated that harm would be done to its commercial interests if it were known that HIV-positive people were in its employ.

- How should the Constitutional Court rule in this case? Do you think Mr Hoffmann was discriminated on the grounds of his health status or not?
- Analyze the different arguments presented by SAA. Do you think SAA had a legitimate reason not to hire Mr Hoffmann?
- If a similar case would take place in China today which laws would apply? What would be the outcome in a Chinese court?

B. Mr Kim's recruitment case

Mr Kim applied for a job as a bank teller at the bank. He passed the selection test and the final job interview. Before appointment Mr Kim was, however, required to take a pre-employment medical examination, which included a blood test for HBV. The test showed that Mr Kim was a HBV carrier, but stated that “as a HBV carrier, Mr Kim is not considered to have problems with working or in regular daily activities”. After the medical check-up the job offer from the bank was cancelled. Mr Kim contended that he had been discriminated against on the grounds of his medical history, and turned to the National Human Rights Commission of Republic of Korea for help.

In a communication to the Human Rights Commission the bank explained, “Communication with customers was the main job of the team Mr Kim applied for, and we were worried about HBV spreading to customers. Also, the HBV virus could have progressed more quickly because of the excessive labour he would have done.”

- How should the Human Rights Commission assess this case? Do you think Mr Kim was discriminated on the grounds of his health status or not?
- Analyse the different arguments presented by the bank. Do you think the bank had a legitimate reason not to hire Mr Hoffmann?
- What laws apply to similar cases in China today? In China where could a HBV carrier turn to seek legal remedies for a case like this?

Sources: Constitutional Court of South Africa: *Hoffmann v South African Airways* (CCT 17/00) (28 Sep. 2000); M. Chartier: *Legal initiatives to address HIV/AIDS in the world of work by the ILO Programme on HIV/AIDS and the World of Work*, (Geneva, ILO, 2005); National Human Rights Commission Republic of Korea (NHRCK), *Not employing HBV carriers is discrimination* (9 July 2009), <http://www.humanrights.go.kr> (accessed 30 Sep. 2010).

Exercise 3. Health status and inherent requirements of the job: Case studies



Case Responses

A. Mr Hoffman and South African Airlines

This case is a real-life case from the South African Constitutional Court. The Court found that Mr Hoffman had been discriminated on the grounds of his HIV status and ordered South African Airlines (SAA) to employ him as a cabin attendant.

The Court reasoned in the following way:

“An asymptomatic HIV positive person can perform the work of a cabin attendant competently. Any hazards to which an immunocompetent cabin attendant may be exposed can be managed by counselling, monitoring, vaccination and the administration of the appropriate antibiotic prophylaxis if necessary. Similarly, the risks to passengers and other third parties arising from an asymptomatic HIV positive cabin crew member are therefore inconsequential and, if necessary, well-established universal precautions can be utilized...”

The judgement by the Court highlights the important point that absence of an infectious disease such as HIV is an inherent requirement of the job only in those very limited jobs that involve risk of transmission (e.g. surgeons, anaesthetists). In other jobs the risks are non-existent, and can be well managed through standard measures of **universal precaution**. Universal precautions refer to simple infection control practices to be used to minimize the risk of blood-borne pathogens. (See Box 5.6 in Section A of this module.) The ILO Code of practice on HIV/AIDS and the world of work (2001) requires employers to ensure that in workplaces where workers come into regular contact with human blood and body fluids all workers know the procedures to be followed in the event of an occupational incident and that universal precautions are always observed.

Concerning SAA allegations that hiring HIV positive persons would harm its public image and favour its competitors, the Court added:

“Legitimate commercial requirements are, of course, an important consideration in determining whether to employ an individual. However, we must guard against allowing stereotyping and prejudice to creep in under the guise of commercial interests. The greater interests of society require the recognition of the inherent dignity of every human being, and the elimination of all forms of discrimination. Our Constitution protects the weak, the marginalized, the socially outcast, and the victims of prejudice and stereotyping. It is only when these groups are protected that we can be secure that our own rights are protected...”

The Constitution of South Africa, which prohibits unfair discrimination, does not expressly mention HIV status. Nevertheless, the Court held that unfairly discriminating against an employee on the basis of his or her HIV status amounts to a violation of their right to dignity.

This case was significant because it was the first Constitutional Court case on the issue of HIV/AIDS discrimination in the workplace heard in South Africa. Due to the HIV infection level of over 20 per cent HIV is a very important labour market issue in South Africa.

In China, discrimination of workers with infectious diseases is prohibited under the Employment Promotion Law. While cases of discrimination on grounds of HBV infection have been successfully litigated in Chinese courts, HIV discrimination cases are fairly new in China. The first ever case involving discrimination on the grounds of HIV was accepted by a Court in Anhui province in August 2010. The case was filed by a college graduate who had been denied a teaching job because he was HIV positive.

Source: Y. Zhang and J. Shan: “Job seeker files case on HIV discrimination”, in *China Daily*, 31 Aug. 2010.

B. Mr Kim’s recruitment case

The National Human Rights Commission of Korea reviewed the case and contended that the bank had discriminated against Mr Kim on the grounds of his health status. As a result the Commission issued a recommendation to a bank to improve its hiring procedure.

The Human Rights Commission noted that the arguments presented by the bank were based on poor understanding of transmission routes of the HBV virus. It pointed to a communication issued by the Ministry for Health, Welfare and Family Affairs stating that HBV is not infectious through regular daily activities. The Commission further referred to research conducted by the Korea Association for the Study of the Liver which concluded that there is no evidence that overwork or stress worsens an existing virus-induced liver disease.

The Human Rights Commission has played an important role in changing the policy on treatment of HBV positive workers in the Korean labour market. In 2003, the Commission recommended to the Ministry of Public Administration and Security (MOPAS), that it should alter its policy regarding physical check-ups for the appointment of public officials. The Commission said, “HBV does not necessarily disable a person from performing one’s tasks.” The MOPAS accepted the recommendation and amended its policy in 2005.

Similar cases of discrimination on the grounds of HBV infection are common in China. The first HBV discrimination case was successfully litigated in a Chinese court in May 2008 when a job applicant named Gao Yiming sued a Beijing technology company for refusing to employ him on the grounds of his HBV status. Earlier HBV discrimination cases have been concluded through court ordered mediation or through private agreements between the plaintiff and defendant. 📖 See Box 5.1 in Section A of this Module for more information.

The Chinese Employment Promotion Law prohibits discrimination of carriers of infectious diseases in employment (Art. 30). The carriers of infectious diseases can only be excluded from certain job positions where the absence of the virus has been, due to a medical necessity, stipulated as an occupational requirement in law, administrative regulations or orders of the State Council health department. The recent legislative and regulatory changes have considerably narrowed the scope of jobs in which carriers of infectious diseases can be lawfully excluded. Important changes include, among others, adoption of a new Food Safety Law (2009) and banning use of HBV testing in recruitment and school entry examinations.

Source: J. Li: “Labourer won Beijing’s first case on HBV discrimination”, in *Xinhua* (Beijing), 24 May 2008.

Exercise 4. Reasonable accommodation: Case studies

Instructions for trainers



Aim – To identify how employers can provide for reasonable accommodation to avoid discrimination and promote equality for people with disabilities at work



Time – 40 minutes



Seating arrangements – Small group seating at round tables or other arrangement that allows participants to work in groups of 3-6 persons.



Training materials and preparation – One sheet of flipchart paper and one marker pen for each group.



Steps

- Share the aims of the exercise with the participants and distribute the **handouts**. Divide participants into groups of 3-6 persons and instruct some of the groups to discuss case A and some to discuss case B. Tell each group to prepare a presentation on the case study and select a spokesperson to present it in plenary for a maximum of 3 minutes.
- Reconvene in plenary when the groups are ready. Ask each group to give a brief presentation on their case. After the presentations, invite other participants to ask questions or comment on the presentation and facilitate discussion. In the end add points not mentioned by the groups and correct any misunderstandings using the **Case responses** as needed.
- Round-up the discussion as follows:
 - Reasonable accommodation measures such as practical modifications and adjustments in work practices and equipment are important strategies in promoting equal opportunity and treatment in employment for persons with disabilities.
 - Provision of reasonable accommodation to persons with disabilities is a good employment practice, and efforts to further adopt these measures should be promoted both in public and private sector workplaces in China. The UN Convention on the Rights of Persons with Disabilities, ratified by China 2008, urges the ratifying states to ensure that reasonable accommodation is provided in education and in employment. The Convention recognizes denial to provide reasonable accommodation as one form of discrimination on the basis of disability.
 - Employers' organizations, trade unions and disabled persons' organizations can play an important role in promoting the adoption of these measures in enterprises in their area and sharing good practice examples among companies and workers.

Exercise 4. Reasonable accommodation: Case studies**Handout****A. The disabled radio announcer's job application**

A supermarket chain opened a store in Xining, Qinghai Province. As the Guidelines for the Implementation of the Law on Disabled Persons in Qinghai Province, set a percentage for the employment of disabled persons in every enterprise, the Provincial Disabled Persons Federation recommended three disabled persons who have been trained by the vocational training institution for disabled persons, and two were accepted by the supermarket. The third one was a young woman who has to walk with crutches. She applied for the radio announcer's post in the store. Her voice is very suitable for the post. However, the store refused to recruit her because the path to the broadcasting studio was too narrow to allow her to pass with her crutches, although the woman's family pleaded to the store that they can carry her to and out of the studio everyday.

The woman has always been an active youth member of the local Disabled Person's Association. She brings it up with her Association and asks them to take action with the supermarket management and/or use this case to promote the employment of disabled persons.

- Was the young woman discriminated on the grounds of disability?
- What should the Association do to solve the situation? Which arguments and methods could they use?
- What legal remedies are available in China for seeking redress in these kinds of cases? Which laws apply?

B. Dismissal of a nurse with a hearing impairment

Ms Wright was working in a hospital in Houston as a nurse. She had suffered profound bilateral hearing loss from Meniere's Disease and due to this, hearing over background noise was very difficult if not impossible for her. Ms Wright could not use a regular telephone or stethoscope, or hear overhead announcements or monitor alarms. As an alternative to a mobile phone she used a mobile pager for receiving messages.

One day after three and half years into her otherwise satisfactory employment as a staff nurse, a patient safety incident occurred. The monitor technician tried to contact her during the incident, but could not reach her as she did not carry a portable phone like the other nurses, and the monitor technician did not have access to equipment to send a message to her pager. Fortunately, Ms Wright happened to go and check on the patient anyway before harm could occur.

Although Ms Wright was officially ruled not at fault in the safety incident she was ordered to undertake a mandatory skills reassessment. The assessment revealed that her basic nursing skills were completely adequate. However, she was also told to report for an audiologist's evaluation. When Ms Wright failed to attend the audiologist's evaluation, she was suspended and then terminated.

- Do you think it was fair to order Ms Wright to take a mandatory skills reassessment and attend an audiologist's evaluation?
- Was it fair to dismiss Ms Wright for refusing to take the audiologist's evaluation? Or was Ms Wright discriminated on the ground of disability?

Source: "Wright v. Hospital Authority of Houston Co., 2009 WL 274148, M.D. Ga. (3 February 2009)" and "Hearing-impaired nurse. Court discusses disability discrimination issues", in *Legal Eagle Eye Newsletter for the Nursing Profession*, No. 5 (March 2009).

Exercise 4. Reasonable accommodation: Case studies



Case responses

A. The disabled radio announcer's job application

The case illustrates discrimination on the basis of disability, and the importance of reasonable accommodation measures in ensuring equal access to employment for persons with disabilities. This is a real life case from China whose outcome is not yet known.

Reasonable accommodation refers to “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.”⁴⁶ At the workplace reasonable accommodation means changing office space, equipment, working time or other work arrangements so that a worker with special needs can perform the job. Accommodating special needs of a worker is a good employer practice, and an employer obligation to provide reasonable accommodation to persons with disabilities and health conditions has been included in national non-discrimination legislation in many countries.

The employer can refuse accommodating the needs of an employee only if this would impose **undue hardship** on his/her business. The failure to provide reasonable accommodation constitutes discrimination. With reference to the reasonable accommodation principle, the employer's action in this case is discriminatory. He should have accommodated the needs of the disabled worker by letting the family members carry the girl to and from the studio or by widening the corridor to allow the girl to use her crutches. Neither one of these measures would have imposed undue hardship to the employers' business.

In China, an employer can apply for financial support from the Employment Security Fund for Disabled Persons⁴⁷ to cover the costs of accommodating the disabled worker. The Employment Security Fund for Disabled Persons is administered by the Disabled Persons' Federation. In the case at hand, the federation could inform the employer about the availability of the fund and help the job applicant in negotiating with the employer.

The Disabled Persons' Federation can also lobby for further amendments in the national and local legislation and regulations. Currently the special support measures for disabled workers in the Chinese legal framework include quotas and the Employment Security Fund for Disabled Persons. As the case illustrates, these measures may not be enough to protect qualified applicants against discrimination in cases where the quota level set for the enterprise has already been met. Realization of substantive equality for workers with disabilities requires enforceable non-discrimination clauses in legislation and reasonable accommodation to meet disabled workers' special needs.

⁴⁶ UN Convention on the Rights of Persons with Disabilities (Art 2).

⁴⁷ The Employment Security Fund for Disabled Persons consists of contributions collected from employers who fail to meet the quota set for the employment of disabled persons. The national quota is 1.5 per cent of total number of employees. Each province adopts its own quota sometimes above this rate, for example, the rate is 1.7 per cent in Beijing and 1.6 per cent in Shanghai. The Fund can be used for vocational training of disabled persons to improve their employability, employment services for disabled persons and support to employers to provide reasonable accommodation, etc.

B. Dismissal of a nurse with a hearing impairment

This is an ongoing real-life case from the US District Court for the Middle District of Georgia. The court settled some of the allegations raised by Ms. Wright against her former employer, but allowed further elaboration of the evidence presented on other allegations. No final judgement has been issued in this case so far.

The assessment of the court focused on defining the scope of “reasonable accommodation” required by law. The court noted that in disability discrimination law it depends on the circumstances of every case whether accommodation requested by the employee is a reasonable accommodation required by law, or, on the other hand, an undue hardship beyond the employer’s responsibility. The reasonable accommodation measures considered by the court included use of amplified phones, text telephones for persons with a hearing impairment, and sign language interpreters at in-service meetings.

With regards to Ms. Wright’s dismissal, the court needs to evaluate whether the employer has a legitimate reason for imposing the skills test and the audiologist’s evaluation on Ms. Wright. After three and half years into her otherwise satisfactory employment and a single safety incident which was officially ruled not to be her fault, it seems unreasonable to require Ms. Wright to take these tests. With reference to the fact that for the past three and half years Ms. Wright had been considered a fully capable nurse with completely adequate skills and abilities, and the challenges arising from her hearing impairment had been handled successfully through practical accommodation measures, it seems unreasonable for the employer to require the skills test or the audiologist’s evaluation after the incident. To prove that testing was legitimate, the employer should produce evidence on why Ms. Wright’s abilities as a nurse had now come under doubt (such as, changes in her abilities, deterioration in her hearing ability). In case no legitimate reason for imposing the tests on Ms. Wright could be shown, disciplinary action to dismiss her for her failure to attend the audiologist’s evaluation could be considered discrimination on the grounds of her disability.

Unit 5.2 Promoting equality at work for people with disabilities and health conditions in China

Exercise 5. Blind walk

Instructions for trainers



Aim – To experience what it is like to be a person with an impairment, to build respect and trust between persons with and without disabilities, and to gain insights on the abilities of people irrespective of their disability or health condition.



Time – 30-40 minutes



Seating arrangements – This exercise is more easily organized outside the class room ideally in a large site with various obstacles along the route, for example outdoors, or two or more floors in a building.



Training materials and preparation

- Select a suitable and safe route for the walk in the training venue or outdoors. Hang signs indicating the route along the way, so that the “guides” can see which way to go. Draw a roadmap on a flipchart paper to show to the guides when explaining the procedures and rules of the game before starting the walk.
- Ask participants to bring blindfolds, such as scarves or shawls for use during the session (one blindfold per pair).



Steps

Step 1: Blind walk (20 minutes)

- Briefly share the aim of the exercise with the participants. Explain the procedures and rules of the exercise.
 - Procedure: Ask all participants to select a partner. Explain that one of the persons will first be the “guide” and the other one will be blindfolded and be in the position of a “blind person.” After the first round the “guide” and the “blind person” will switch roles.
 - Rules: During the game, only the blindfolded person can talk. The guide can only use body gestures or motions to help the blindfolded person finish the walk. The guide should ensure the safety and well-being of his/her partner.
- Start the exercise. Tell the guides to help blindfold their partner and help the partner to walk along the predefined route, pass all the obstacles and return to the starting point. After finishing the first round, tell the participants to change roles and do the walk again.

Step 2 - Discussion (10-20 minutes)

- After the exercise, involve the participants in a plenary discussion with the following questions:
 - How did it feel to be “blind”? How did it feel to move around and walk an unknown route?
 - Did you trust your partner when you were blindfolded?
 - How was it to be a guide?
 - What did you learn from this game?
- Facilitate the discussion and encourage the participants to share their views and feelings. In conclusion, round-up the discussion as follows:
 - The exercise provides a glimpse of what it is like to have an impairment. The exercise can help in building mutual trust between persons with and without disabilities, and in finding ways to better take the needs of persons with disabilities into account in daily interaction.
 - The exercise leads to experiencing how guidance by a stranger through physical contact only may arouse a strong sense of insecurity for the person who is blindfolded, which makes the guiding even more difficult. Therefore, the guide needs to know how to ease the tension and help the blindfolded partner better understand his/her intention through proper body language. In this way, the pairs manage to help each other and finish the task successfully.
 - During the exercise, the following interaction occurs among many participants: The blindfolded person dares not follow the guide's instructions at first, but later on starts to trust and follow the guide's direction. The guide, on the other hand, feels a little helpless at first when the blind partner hesitates to cooperate. Later on the pairs usually find ways that relax them both and finish the task. This tells us that mutual trust is the basis for successful communication between people with and without disabilities. People without disabilities should be more patient in providing effective support to people with disabilities.
 - During the exercise, some participants may have recognized that they can hear better when their eyes are covered. This helps participants to realize and recognize the skills and coping strategies of people with disabilities or health conditions. Workplaces can benefit from these abilities.



The exercise can also be used to train people with disabilities in using body language and compensatory functions to guide others. It can raise their awareness on how they can use their talent and increase their confidence in their skills and coping strategies. This will increase their employability in the labour market.

Exercise 6. The story of teacher Qiu Zi: Case study

Instructions for trainers



Aim – To discuss the definition of disability and apply the international and Chinese legal instruments on non-discrimination to a real life scenario.



Time – 30 minutes



Seating arrangements – Small group seating at round tables or other arrangement that allows participants to work in groups of 3-6 persons.



Steps

- Share the aims of the exercise with the participants. Divide participants in groups and distribute the **handout** with the case study to all groups. Ask the groups to discuss the case and prepare to present their views briefly in plenary.
- After the groups have finished discussing ask a volunteer from each group to present their views on the case study questions (3 minutes). Facilitate the discussion and encourage participants to give further comments or ask questions. Sum up the discussion highlighting points raised by the participants, adding further points and correcting any misunderstandings using the **Case responses**, as needed.
- Round-up the discussion as follows:
 - What constitutes a disadvantage for women and men with disabilities – in other words, what makes them disabled – is not their impairments in and of itself, but rather the way that people in society interact with them. To ensure that persons with disabilities can participate in the labour market in accordance with their skills and abilities it is important to promote an inclusive society and remove the limitations that are imposed on persons with disabilities by social, cultural, economic and environmental barriers.
 - In China the Employment Promotion Law prohibits discrimination of persons with disabilities. To ensure equal opportunity and treatment for workers with disabilities in the labour market, attitudes towards disability and persons with disabilities need to change in education and training, vocational counselling, employment and placement services, and among employers. Proactive measures need to be taken to make workplaces and the society more inclusive towards persons with disabilities.

 For further information on the shift towards the social and rights-based approach to disability, see Section A. Unit 5.1 - 2.1 Contemporary approaches to disability and Unit 5.2 - 1 Definitions of disability in Chinese law.

Exercise 6. The story of teacher Qiu Zi: Case study**Handout**

A 23-year-old woman, Ms Qiu Zi, from central China's Henan Province, has had an enlarged head due to hydrocephalus, or 'water on the brain', since birth.

Ms Qiu Zi graduated from the English education department of a college in Henan's Shangqiu City. She was hired by the Shanghai Jiaotong University Only Education Group on 1 December 2006 and followed a 15-day teacher training course at the company's branch office in Zhengzhou, the capital of Henan Province. She was told to report to another branch of the group in Eastern Zhejiang Province on 21 December. Ms Qiu Zi arrived in Zhejiang and reported to the head of the Zhejiang branch. On 24 December after the meeting Ms Qiu Zi received a call from Shanghai asking her to return to Zhengzhou.

Ms Qiu Zi returned to Zhengzhou on 26 December and was informed by the Zhengzhou branch manager Mr Zhao Yan that her appearance did not meet the requirements of the Zhejiang branch. Ms Qiu Zi recorded her conversation with Mr Zhao in which he said, "They (the Zhejiang branch) are not satisfied with your appearance and they don't think you are suitable for the job. In East China, especially in the big cities there, they do have requirements in this respect (appearance)." Mr Zhao went on to promise that the company was looking for other jobs for Ms Qiu Zi.

"Since then, they have refused to honour the contract and to find me another job. The excuse is always that my looks are not suitable," Qiu Zi said. She turned to the media, saying she was sure the Only Education Group would never give her another job. "It's obviously discrimination to fire me because I don't look good," said Qiu Zi. "I know my experience is not exceptional and some one should stand up, so I did."

In an interview with Xinhua News Agency Mr Zhao stated, "My company and I have never discriminated against Qiu Zi on the grounds of looks. I have treated her as equal to others at all times and I feel sorry that it has come to this". Li Haoyang, head of the teacher training department of the greater North China branch of the Only Education Group, further denied any discrimination against Qiu Zi. "If we had discriminated, she would have been rejected at the beginning," said Li. "She has not been accepted by the school in Zhejiang, but it doesn't mean we have fired her. In fact, we have been looking for another job for her."

Ms Qiu Zi appealed to the labour disputes arbitration office of Shanghai's Xuhui District. She asked the Shanghai Jiaotong University Only Education Group to pay a 10,000 Yuan fine for breaking their contract and to refund a training fee of 260 Yuan.

- Was Ms Qiu Zi discriminated? On what grounds?
- Does Ms Qiu Zi have a disability?
- If a similar case would be brought to a labour arbitration body or a court today, which provisions of Chinese law would apply to the case?
- Under the current legislation in China, who could be held liable for discriminating Ms Qiu Zi? The Zhejiang branch, or the Zhengzhou (Henan) branch?

Source: "Teacher causes first appearance discrimination case", in *Xinhua* (Beijing), 7 February 2007, <http://www1.china.org.cn> (accessed 30 Sep. 2009).

Exercise 6. The story of Teacher Qiu Zi: Case Study



Case responses

This is a real-life case from China. The case was settled in the Shanghai labour dispute arbitration committee in January 2007. The defendant, Only Education Group, agreed to enter a three-year employment contract with the claimant, Ms Qiu Zi. The case was the first ever arbitration case on discrimination on the grounds of physical appearance in China.

The case could also have been argued as a case of disability discrimination, as Ms Qiu Zi's condition can be considered a disability under international and Chinese legal standards. Ms Qiu Zi's disability results from a medical condition that she had earlier in life (hydrocephalus). Using the functional classification of disability it could be argued that Ms Qiu Zi does not have any functional impairment from a medical perspective. From a social perspective it is clear that the unusual size of her head is viewed as a disability in society – resulting in stigma and inaccurate assumptions about her capacity to do the job of a teacher. Ms Qiu Zi's disability illustrates well that what constitutes a disadvantage for women and men with disabilities – in other words, what makes them disabled – is not their impairment in and of itself, but rather the limitations that are imposed on them by social, cultural, economic and environmental barriers. Ms Qiu Zi's disability is caused by society's response to how she looks, not by any inherent loss of physical function or ability to function as a teacher.

The Employment Promotion Law prohibits discrimination on the grounds of disability. Article 29 of the law states: “when an employing unit recruits workers, it shall not discriminate against disabled persons.” The liability for discrimination covers the whole Shanghai Jiaotong University Only Education Group, including the Zhengzhou (Henan) branch for failing to place Ms Qiu Zi and the Zhejiang branch for refusing to employ her. In Ms Qiu Zi's case placement and employment both took place within the same group, the Shanghai Jiaotong University Only Education Group. However, if the placement services had been provided by an external employment agency, Ms Qiu Zi could still have lodged a discrimination claim against both the user company and the employment agency. Article 26 of the Employment Promotion Law states: “when an employing unit recruits workers, or when an employment agency engages in job intermediary activities, it shall provide workers with equal employment opportunities and fair employment conditions and shall not have any employment discrimination”.

Source: J. Lu: “Employment Discrimination in China: The current situation and principle challenges”, in *Hamline Law Review*, Vol. 32, 2009, p. 141.

Exercise 7. Developing and implementing an inclusive workplace strategy

Instructions for trainers



Aim – To design practical strategies to reduce discrimination against people with disabilities and health conditions at the workplace.



Time – 20-40 minutes



Seating arrangements – Small group seating at round tables or other arrangement that allows participants to work in groups of 3-6 persons.



Training materials and preparation – Copy the handouts and prepare flipchart papers and marker pens for each group.



Steps:

- Share the aims of the exercise with the participants. Separate the participants into groups, if possible with people from the same workplace or province or in similar types of companies or industries.
- Distribute the **handout** with the Summary guide for developing an inclusive workplace strategy to participants. Ask the groups to review the Summary guide and develop an inclusive workplace strategy for their workplace (or province, company or industry).
- Guide the groups by encouraging them to formulate objectives and measures that are SMART:
 - S – Specific
 - M – Measurable
 - A – Achievable
 - R – Relevant
 - T – Timely and time-bound
- After the groups have finished their work, conclude the exercise by asking each group to briefly present their inclusive workplace strategies in plenary. Invite other groups to comment.
 - Option 1. Do a “gallery walk”: Ask all groups to hang their flipcharts on the wall and assign one or two members to stay with their chart and explain it to others. Ask participants to walk around, look at and discuss their inclusive work place strategies in small groups.
 - Option 2. Do the reporting in plenary in the form of a competition: Ask people to vote for the presentation with the best workplace strategies. Identify the winning group after a quick tally and present them with a small prize.

- Conclude the exercise by highlighting some good examples of measures in the inclusive workplace strategies prepared. Give each participant a copy of their own strategy and keep one copy for follow-up purposes.

Exercise 7. Developing and implementing an inclusive workplace strategy**Handout****Summary guide for developing an inclusive workplace strategy**

An inclusive workplace strategy is a tool to help understanding what barriers may exist within the physical, social and cultural working environment for persons with a disability or health condition and how to best remove these obstacles to create an inclusive workplace.

The major steps to developing an inclusive workplace strategy include:

- Assess the current situation
- Determine the need for an inclusive workplace strategy
- Consult workers, supervisors, managers and people with disabilities or health conditions and draft the strategy
- Provide information and training for supervisors and in and outside the company/organization workers
- Adapt the workplace: Reasonable accommodation, universal design and standard precautions
- Promote the strategy within and outside the company or employing unit
- Evaluate and update the strategy.

The inclusive workplace strategy should include provisions for:

- Equal opportunity and non-discrimination for employees with disabilities or health conditions, such as HIV or Hepatitis B
- Job retention by employees who acquire a disability or health condition
- Recruitment of employees with disabilities or health conditions.

Adapted from: ILO: *Disability in the workplace: Trainers' guide* (Bangkok and Geneva, Factory Improvement Programme, 2006).

Section D. Practical tools



Section D. Practical tools

The following guides can be used to assist in finding ways to increase the accessibility within workplaces for persons with disabilities. Please note that this is not a definitive list of accommodation or of forms of disability, but is a guide that can be used to assist in identifying barriers and problem solving to find ways to remove these barriers.

Tool 1. Guide for developing an inclusive workplace disability strategy⁴⁸

An inclusive workplace disability strategy should be an integral part of a human resources development strategy because it relates to how you accommodate the needs of various workers. The strategy should also be linked to a health and safety policy as many of the policy issues will relate directly to workers with disabilities. For example, if you provide a canteen service it should be laid out so that people with visual impairments or physical limitations can move around easily without encountering any potential hazards that may cause harm.

The major steps to developing an inclusive workplace disability strategy include:

- Assess the current situation
- Determine the need for a disability strategy
- Consult workers, supervisors, managers and people with disabilities and draft the disability strategy
- Evaluate and update the strategy
- Implement the strategy: Promote the strategy
- Implement the strategy: Adapt the workplace.

Your disability strategy should include provisions for:

- Equal opportunity and non-discrimination for employees with disabilities, including medical conditions such as HIV and Hepatitis B
- Job retention by employees who acquire a disability
- Recruitment of employees with disabilities.

Assess the current situation

- Find out how many workers with disabilities or impairments you currently have in your workforce. Are they involved in the workplace communications process?
- Determine if senior management is interested in recruiting workers with disabilities. How could you eliminate potential hesitations to do so?
- Conduct an initial workplace assessment to identify potential areas for adjustments (wheelchair access, improved signage – make sure that everything is labeled and easy to read for someone with a visual impairment, use flashing lights in addition to bells and sirens for workers with hearing impairment).

Determine the need for a disability strategy

- Identify the reasons for preparing this strategy:
 - To comply with national laws and international conventions?
 - To accommodate the workplace for a worker with a disability currently in the workforce?
 - To recruit workers with a disability in the future?

⁴⁸ ILO: *Disability in the workplace: Trainers' guide* (Bangkok and Geneva, Factory Improvement Programme, 2006).

- To prepare in case a worker gets injured or contracts an illness or disease, and acquires a disability?
- To build employee morale and demonstrate positive business traits?
- To comply with codes of practice and union agreements?
- To ready the workplace for all types of workers who can contribute?

Consult workers, supervisors, managers and persons with disabilities and draft the disability strategy

- Determine what the disability strategy should cover and how it can link to existing policies and guidelines
- Involve workers, especially those with disabilities, in the strategy consultation process to ensure a more effective response

Draft an inclusive workplace disability strategy that covers:

- Guidelines for existing workers who become disabled or impaired
- Enterprise's responsibilities towards disabled workers
- Benefits if a disabling accident occurs in the workplace or if a worker contracts an occupational illness or disease
- Job retention measures to facilitate gradual resumption of work. This could include:
 - Early intervention and referral service to medical and vocational rehabilitation services
 - Measures for resumption of work
 - Flexible working arrangements such as part-time work or flexible hours
 - Opportunity to have a trial work period or obtain experience in an alternative job if unable to resume previous job
 - Job accommodation
- Recruitment guidelines for hiring workers with a disability:
 - Publicize job vacancies in various formats: in print, radio, on the internet
 - Contact local organizations of and for disabled persons
 - Make reasonable adjustments to the workplace and work conditions to maximize the candidate's ability to perform required tasks
 - Include a statement stressing that you are an equal opportunity employer and that employment is given solely on the basis of merit
- Identify the financial incentives and support services available for employers who hire workers with disabilities in your province:
 - Tax concessions
 - Wage subsidies
 - On-the-job training subsidies
 - Grants for making accommodation
 - Technical advisory services such as advice on adaptations and technical aids, or job and work analysis
 - Placement service including follow-up after recruitment
- Relevant universal precaution procedures to be adopted within the workplace
- Universal access strategies and means to implement these strategies
- Review and update any existing human resources policies, such as promotion, induction and training, to ensure that they are not discriminatory against people with disabilities, including medical conditions such as HIV and Hepatitis B

Evaluate and update the inclusive workplace disability strategy

- Distribute the strategy to all workers and managers and request feedback
- Ensure that the strategy complies with national legislation and international non-discrimination instruments, such as Convention No. 111 and the Code of practice on managing disability in the workplace

Implement the strategy: Promote the strategy

- Disseminate the strategy to all workers and managers
- Provide additional information about disability in the workplace and on adaptations that may be required to enable workers with disabilities to optimize their performance (eg reorganize the workstation and make the work schedule more flexible)
- Encourage Workers' Organizations to:
 - Include workers with disabilities in their group as members and to assume leadership roles
 - Represent the interest of workers with disabilities in any work council, or meeting
 - Train their members on disability in the workplace
 - Discuss with senior management how to link the new disability strategy to existing health and safety regulations. For example, does your fire safety policy accommodate workers with disabilities?
 - Participate in disability information and prevention programs

Implement the strategy: Adapt the workplace

- Adapting your enterprise for workers with disabilities goes beyond the physical changes that can be seen in the workplace. Accommodating some types of disabilities does not mean physical changes, but perhaps changes in work hours or in the way information is communicated
- You also need to consider that work on social attitudes will probably have to take place. Your management and workforce need to be aware that having disabled workers/colleagues benefits everyone and improves working conditions for all. The work to overcome negative barriers that exist in society consequently exists among workers and supervisors
- Also keep in mind that persons with disabilities are the experts about what they need. Consult with them and listen to their requests and suggestions
- Adapting the workplace ranges from addressing accessibility issues to human resource tools. Steps to adapt the workplace include:
 - Review and adapt the workplace to better integrate workers with a disability. Ask questions such as: Are the corridors wide enough? Is the environment accommodating for a worker with a physical, sensory, intellectual or psychiatric disability?
 - Make signs in the workplace easy to read
 - Convey information by sound
 - Assess the cleanliness of your workplace. Are workstations tidy? Are materials kept in an organized manner?
 - Assess the individual's workstation. Ask questions such as: Does the worker need more light? More space between desks? Are tools adapted?
 - Pay attention to specific areas such as the resting/eating areas, toilets
- Ensure the emergency plan takes into account workers with different disabilities
- Review and adjust any job descriptions, keeping in mind the individual's disability. In the case of a newly acquired disability, the workers might not be able to perform tasks they used to (for example, heavy lifting, standing up behind a machine). This function may have to be given to another worker. The job description should only consider the essential tasks to be accomplished for the job by the worker

- Revise work schedules to accommodate the worker's needs
- Introduce special support measures such as additional training time for slow learners
- Adapt the performance requirement in line with the individual's capabilities
- Arrange induction and training events that may be necessary such as:
 - Awareness training for all new employees
 - Awareness training for current workers and managers
 - Mentoring system to ensure the integration of new employees with disabilities if they want it
- Training in disability management for those who will coordinate the strategy

Tool 2. Inclusive workplace strategies for workers with specific impairments⁴⁹

Guide for inclusive workplaces for workers with visual impairments

- ✓ Are pathways clear from clutter and storage space well organized? Keeping pathways clear decreases risk of obstructions which may cause falls. Well organized storage space enables people with visual impairments to locate resources within the workplace.
- ✓ Are routes around the workplace easy to access for a person with a visual impairment? As well as being free of obstructions, putting railing or curbs on pathways, ramps and stairs may enable a worker with a visual impairment to get around the workplace. Special tiles with raised bumps can be installed along key routes that assist workers with visual impairments to follow key paths around the workplace.
- ✓ Is the work station set up in a consistent manner and are tools used for work in the same position and location? Keeping the work station set up in the same, consistent way and keeping items in the workspace in the same position and location maximizes productivity for workers with visual impairments.
- ✓ Can information be communicated verbally or by sound rather than in a visual format? For example, is it possible to read the company newsletter over a loudspeaker as well as disseminate it in written format?

Guide for inclusive workplaces for workers with hearing impairments

- ✓ Are auditory cues in the workplace present, for examples bells to mark breaks or telephone rings? If so, can a light also be used to alert workers to the bell or telephone?
- ✓ How does the worker communicate? If the worker reads lips, educate staff not to cover their mouth or turn their face away from the worker when talking. Other forms of communication may be necessary, such as writing down tasks or information if the worker can read. Consider providing sign language training to co-workers if the worker uses sign language. Occasional communication may also involve a third party translator who can communicate with the worker and staff (often a family member, but preferably a professional translator).
- ✓ Can the worker receive information that is shared at meetings or over the speaker phones? If the worker can read, write the information down and ensure that it is handed to the worker within reasonable time. If the worker can not read consider other communication strategies (such as a translator) and ensure regular meetings with the worker so that he or she is kept up-to-date on workplace information.

⁴⁹ J. Ferguson: *Inclusive workplace strategies for workers with specific impairments* (Beijing, ILO, 2010).

Guide for inclusive workplaces for workers with intellectual disabilities

- ✓ Are work tasks clearly understood and remembered by the worker? Provide clear instructions on work tasks and provide opportunities for these instructions to be repeated. Educate supervisors on how to do this. Provide checklists and instructions next to written tasks if the worker can read. Use pictorial prompts if they cannot.
- ✓ Are workers socially isolated because of their disability? Consider establishing a mentor or buddy system to facilitate social interaction during meal times and to provide friendly co-workers to approach for assistance within the workplace. Include the worker in meetings and social events.
- ✓ Is it easy for all workers to find their way around the workplace? Consider putting simple direction signs around the workplace if the worker can read. Alternatively, painting or taping paths on the floor, such as a coloured line, may assist the worker in navigating through the workplace. Do not create more than two or three of these paths as this may result in confusion.
- ✓ Discuss with the worker and their family about their needs and strengths and accommodate for these within the work environment and the work role.

Guide for inclusive workplaces for workers with mobility impairments

- ✓ Is there access to all buildings and rooms for workers who can not walk up steps? Not all entry points need to be accessible, but there needs to be a route to essential working, resting and toileting areas that workers who can not walk up steps can take. This may involve installing ramps, chair lifts or elevators. Another option is to change the design of the work place so that essential working areas are in accessible locations, such as on the ground floor. In workplaces, such as factories, it may also be worth investigating how manufactured products are moved around: Is there an elevator or series of ramps that could also be safely utilized for disability access? It may be possible to create essential working, resting and toileting spaces around these routes as long as these spaces and access routes are safe.
- ✓ Are ramps at a gradient that is safe and accessible for those using wheelchairs? If ramps are too steep this can be dangerous for a person using a wheelchair and for others. Ramps should be at a minimum gradient of 1:8 (height:length) for very small ramps and 1:12 for higher and longer ramps. If the ramp is long then it is recommended that level platforms are included in the ramp to allow for rest. It is also advised to put a kerb on the edge of ramps or a handrail to assist people with visual impairments and people using wheelchairs to remain on the ramp.
- ✓ Is there room to negotiate a wheelchair around and within the workplace? Check that walkways are wide enough and that there is appropriate turning space for workers using wheelchairs. It is also a good idea for the safety of other workers as well as people with mobility impairments to ensure that the workplace is uncluttered and pathways remain unblocked. This promotes safe mobility for all workers and can be a life saving workplace measure in the event of fire or emergency evacuation for everyone in the workplace, not just for those with mobility impairments.
- ✓ Can workers with mobility impairments get into and out of the workplace? If there is accommodation provided for workers, is there space available for workers with mobility impairments, including those who use wheelchairs? Consider reserving and adapting some ground floor apartments for workers with mobility impairments and ensure that these are close to accessible eating, bathroom and toilet facilities. If there is a vehicle which is used on site can it be used to drive workers who have difficulty walking the distance to the accommodation or meal areas at the beginning of the working day, lunch time and at the

end of work? Is the path from the workplace to the accommodation flat and accessible for those using a wheelchair?

- ✓ Are toilets and bathrooms close to the work area of people with mobility impairments and are these workers able to get in/out of there and safely use the toilet? Consider the width of doors, steps in and out of the area, the pathway to the bathroom, the floor surface and the presence of rails and sit down toilet facilities as opposed to squatting toilet facilities.
- ✓ Is appropriate seating and positioning available for workers to perform safely and efficiently? Simple ergonomic positioning and seating can dramatically increase the performance and safety of all workers, including those with mobility impairments. Review whether seating is provided and if it is at the right height for work that is being performed. Can workers safely get on and off their seats? Can workers perform the task at a seat height which avoids having to bend over or reach above the shoulders for prolonged periods of time? Can angled work benches be provided to assist in the comfort and positioning of workers and hence increase productivity? Can a worker perform the task from their wheelchair or do they need to transfer into a more appropriate seat? Ergonomics and safe position are essential for all workplaces to prevent back, neck and strain injuries and to increase productivity. Good seating and positioning for workers with mobility impairments and all other workers promotes optimal functioning and efficiency within the workplace.
- ✓ Are workers with mobility impairments given meaningful jobs? Workers who may not be able to move around as frequently as other workers have many strong skills sets. Review the work allocated to workers with mobility impairments and discuss whether or not the special skills of these workers are being utilized. For example, a worker with little or no lower limb movement may have more skilled upper limb and fine motor skills if able to work in a position that is comfortable and ergonomical. Similarly, a person with a mobility impairment may not have any impairment in their thinking or communication skills. If a worker has these skills, are these best utilized to promote productivity within the workplace? Focussing on the ability of workers with mobility impairments rather than their disability has the potential to provide a productive and efficient workforce for the enterprise.

Guide for inclusive workplaces for workers with non-visible disabilities or health conditions

- ✓ Arthritis, e.g. pain and stiffness in the joints: Can knobs or handles be enlarged, gripping materials be added, work bench raised to an angle (15 to 45 degrees depending on worker's needs) or tools fixed to a workspace to allow the worker to perform the task with less force going through the joints?
- ✓ Repetitive Strain Injury (RSI), e.g. reduced range of movement and pain often in the wrist or elbow as result of repetitive movements, most commonly as a consequence of unsafe positioning in the workplace: Adjust tasks so to eliminate repetitive movement of the joint and provide support of the joint to relieve strain. Review ergonomic positioning of body and seating at the work station. Provide alternate jobs throughout the day to prevent development of RSI and provide relief for those experiencing RSI.
- ✓ Asthma, e.g. sensitivity to dust and smoke: Provide dust masks, review environmental set up of the workplace: can work creating dust and smoke be positioned outdoors, away from sensitive workers? Provide sufficient ventilation and fanning within workplace. Good ventilation in all workplaces also limits the spread of conditions, such as flu and tuberculosis.
- ✓ Brain injury, e.g. memory loss, language problems including difficulty in listening/understanding or expression, shortened attention span: Provide checklists and instructions next to tasks written if the worker can read or use pictorial prompts, provide

diverse work tasks, educate supervisors on delivering clear and if necessary repeated instructions.

- ✓ Cancer, e.g. fatigue from treatment: Reduce the need to walk long distances or carry large items, rearrange the layout of supplies to reduce climbing and reaching, allow rest periods, provide seating for the worker to complete tasks and allow time-off for medical appointments and treatment.
- ✓ Autism/Asperger's Syndrome, e.g. language listening/understanding and conceptualisation problems: Educate supervisors on providing clearly worded instructions, write down instructions if the worker can read or use pictorial prompts, provide structured work schedule and routine and educate co-workers.
- ✓ HIV or AIDS, e.g. fatigue or memory difficulties, symptoms may correspond to medication: Reduce energy expenditure in work tasks, write down instructions for employee if the employee can read or use pictorial prompts, allow rest periods, allow time for medical appointments and educate co-workers on non-discrimination and transmission/non-transmission routes while maintaining confidentiality.
- ✓ Stress, depression and other mental illness, e.g. difficulty concentrating and meeting deadlines, low stamina: provide flexible schedule to assist in managing stamina, allow time for counselling and physical exercise, break down large projects into smaller tasks, provide sensitivity training to co-workers. While keeping confidentiality, allow workers to wear earphones or listen to music (which may assist workers with conditions such as schizophrenia to concentrate on work tasks) and provide stress management strategies.
- ✓ Discuss with the worker how their condition will impact their work as all conditions will impact workers differently. Will the worker perform better if allowed additional rest periods throughout the day if fatigue is an issue? Would shorter working periods assist in productivity?

Bibliography & Annexes



Bibliography

- Albrecht, G.L. et al. (ed.). 2005. "Gender and disability", in *SAGE encyclopedia of disability*. Available at: <http://www.leeds.ac.uk/disability-studies/archiveuk/meekosha/meekosha.pdf> [1 Jan. 2010].
- Asia Pacific Network of People Living with HIV (APN+). 2004. *AIDS discrimination in Asia* (Bangkok). Available at: http://www.apnplus.org/main/Index.php?module=publications&page_id=1 [15 July 2010].
- AVERT: *Can you get HIV on...?* Available at: <http://www.avert.org> [27 Sep 2010]; *How HBV is transmitted?* Available at: <http://www.liverdisease.com> [27 Sep 2010].
- Beijing Yirenping Centre. 2009. *Research report on discrimination against Hepatitis B in foreign enterprises* (Beijing).
- Bill, A. 2004. *Disability KaR briefing note: The social model of disability, human rights and development*, (Disability KaR), p. 3.
- Bronstein, A. 2009. *International and comparative labour law: Current challenges* (Geneva, ILO).
- Cai, D. (ed.) 2007. *Employment discrimination in China: Current conditions and anti-discrimination strategies* (Beijing, China Social Science Press).
- Center for Disease Control and Prevention. *Hepatitis B and HBV information*. Available at: <http://www.cdc.gov/hepatitis/HBV/> [31 Aug. 2010].
- Chartier, M. 2005. *Legal initiatives to address HIV/AIDS in the world of work by the ILO Programme on HIV/AIDS and the World of Work* (Geneva, ILO).
- China Disabled Persons' Federation; China Foundation for Disabled Persons. 2009. *Report on the status and well-being of people with disabilities* (Beijing).
- China Disabled Persons' Federation & China Rehabilitation Research Center. 2008. *Report of the project on database development and study on status of Chinese women with disabilities* (Beijing).
- Chinese Medical Association. 2005. *Research report on cognitive status of Hepatitis B patients* (Beijing).
- Constitutional Court of South Africa. 2000. *Hoffmann v South African Airways* (CCT 17/00).
- "Discrimination against people with disabilities in recruitment", in *China News*, 13 Jan. 2009. Available at: <http://www.chinanews.com.cn> [30 Sep. 2010].
- Discrimination by association in the United Kingdom*. Available at: http://www.raworths.co.uk/site/library/employmentlib/associative_discrimination_ecj_rules.html [30 Sep. 2010].
- Dongmei, Z. 2007. *Policies and effects of poverty reduction for the disabled in China* (Beijing, China Disabled Persons' Federation). Available at: <http://www.iprcc.org.cn/ppt/2007-12-20/1198132600.doc> [15 Apr 2009].
- Elliot, R.; Utyasheva, L.; Zack, E. 2009. "HIV, disability and discrimination: Making the links in

international and human rights law”, in *Journal of the International Aids Society*. Available at: <http://www.jiasociety.org/content/12/1/29> [Jan. 2010].

Ferguson, J. 2010. *Inclusive workplace strategies for workers with specific impairments* (Beijing, ILO).

“Guangdong promulgated policies prohibiting discrimination against people with disabilities in the recruitment of civil servants”, in *Yangcheng Evening*, 9 Apr. 2009. Available at: http://news.ycwb.com/2009-04/09/content_2104934.htm [30 Sep. 2010].

Haspels, N.; Majurin, E. 2008. *Work, income and gender equality in East Asia*, (Bangkok, ILO). Also available in Chinese.

“HBV carrier rejected in recruitment”, in *Yanxiao Metropolis Daily*, 17 Nov. 2003; and in *Xinmin Evening News*, 5 Oct. 2005.

Hong Kong Equal Opportunities Commission (Hong Kong SAR China). Aug. 2009. *Hong Kong EOC News*, Issue No. 50. Available at: <http://www.eoc.org.hk> [30 Sep. 2010].

International Labour Office (ILO). 2010. *Recommendation concerning HIV and AIDS and the world of work, 2010 (No. 200)* (Geneva).

--. 2009. *The price of exclusion: The economic consequences of excluding people with disabilities from the world of work*, Employment Working Paper No. 43 (Geneva).

--. 2009. *HIV/AIDS and the World of Work*, Report IV(1), International Labour Conference, 98th Session, Geneva, 2009 (Geneva), p.26.

--. 2009. *Disability issues: An open distance learning scheme*. (Turin, International Training Centre). Available at: http://gender.itcilo.org/cms/images/stories/online_courses/course_descriptions/A970014_Flyer_Final.pdf [30 Sep. 2010].

--. 2007. *Equality at Work: Tackling the Challenges*, Global Report of the Director General under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B) to the 96th Session of the International Labour Conference Geneva, 2007. Available at: http://www.ilo.org/global/What_we_do/Publications/ILOBookstore/Orderonline/Books/lang-en/docName--WCMS_082607/index.htm

--. 2007. *Resource guide for inclusive vocational training for people with disabilities* (Geneva).

--. 2006. *Disability in the workplace: Trainers' guide* (Bangkok and Geneva, Factory Improvement Programme).

--. 2005. *From disability benefits to gainful employment: Central and Eastern Europe sub-regional conference report* (Budapest).

--. 2002. *Managing disability in the workplace: ILO code of practice* (Geneva).

--. 2001. *A code of practice on HIV/AIDS and the world of work* (Geneva).

--. 1997. *Protection of workers' personal data, an ILO code of practice* (Geneva).

--. 1996. "Equality in employment and occupation, General survey of the Reports on the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111) 1958", in *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III, Part 1B, International Labour Conference, 83rd Session, Geneva, 1996 (Geneva).

--. 1988. "Equality in employment and occupation, General survey of the Reports on the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111) 1958", in *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III, Part 1B, International Labour Conference, 75th Session, Geneva, 1988 (Geneva).

--; Irish Aid. *International Labour Organisation fact sheet: Inclusion of people with disabilities in China* (Geneva, ILO).

ILO Country Office for China and Mongolia. 2009; 2010. *Equality at Work in China Newsletter*, Issue No. 1, Mar. 2009; Issue No. 2, July 2009; Issue No. 3, Mar. 2010. Available at: <http://www.equalityatworkinchina.org/resource-platform> [30 Sep. 2010].

International Herald Tribune on the 18th International AIDS Conference in Vienna (23-24 July 2010).

Li, J. "Labourer won Beijing's first case on HBV discrimination", in *Xinhua* (24 May 2008). Available in Chinese at: http://www.bj.xinhuanet.com/bjpd_sdzx/2008-05/24/content_13356032.htm [30 Sep. 2010].

Lu, J. "Employment Discrimination in China: The current situation and principle challenges", in *Hamline Law Review*, Vol. 32 (2009), p.141.

Metts, R. 2000. *Disability issues, trends and recommendations for the World Bank* (Washington, DC, World Bank).

National Human Rights Commission Republic of Korea (NHRCK). 2009. *Not employing HBV carriers is discrimination*. Available at: <http://www.humanrights.go.kr> [30 Sep 2010].

"New initiatives against HBV discrimination in employment", in *Jinghua Times*, 12 March 2010. Available at: <http://www.jinghua.cn>; and in *Beijing Youth Daily* (10 Mar. 2010).

"No certification for a teacher with one arm", in *Zhongan Online*, 13 January 2010. Available at: <http://ah.anhuinews.com/qmt/system/2010/01/13/002577480.shtml> [30 Sep. 2010].

O'Dell, M. 1993. "Rehabilitation medicine consultation in persons hospitalized with AIDS; An analysis of thirty cases", in *American Journal of Physical Medical Rehabilitation*, Vol. 72, No. 2, pp.90-6, in UNHRC, WHO and UNAIDS. 2009. *Disability and HIV Policy Brief*.

Office of the State Council's AIDS Working Committee; UNAIDS China. 2007. *Joint assessment report on China's HIV/AIDS prevention and control* (Beijing).

O'Reilly, A. 2007. *The right to decent work of persons with disabilities* (Geneva, ILO).

Perry, D. (ed.). 2007. *EmployAbility: A resource guide on disability for employers in Asia and the Pacific*. (Bangkok, ILO).

Philippe, A. et al. 1998. "Rehabilitation services: A comprehensive guide for the care of persons with HIV disease" (Toronto, Canada: Wellesley Central Hospital), in UNHRC; WHO; UNAIDS. 2009. *Disability and HIV policy brief*.

Population profile of the United States: 2000. Available at: <http://www.census.gov/population/www/pop-profile/files/2000/chap19.pdf> [30 Sep. 2010].

Right to protection of personal information in Belgium. Available at: <http://www.non-discrimination.net/content/media/LR-5-BE-2.pdf> [30 Sep. 2010].

Rusch, M. et al. 2004. "Impairments, activity limitations and participation restrictions: prevalence and associations among persons living with HIV/AIDS in British Columbia", in *Health Qual Life Outcomes*, Vol. 2:46.

Schalock, R.L. et al. 2010. *Intellectual disability: Definition, classification and systems of support* (Washington DC, American Association of Intellectual and Developmental Disabilities).

Social Development Research Institute of the Central Party School; Marie Stopes International; UNAIDS. 2009. *Research report on discrimination against people living with HIV/AIDS in China* (Beijing).

"Teacher causes first appearance discrimination case", in *Xinhua News Agency*. 7 Feb. 2007. Available at: <http://www1.china.org.cn/english/features/cw/199254.htm> [30 Sep. 2010].

"The marriage status of an employee is irrelevant to the execution of a labour contract", in *Shandong Workers' Daily*, 16 August 2009.

The Open University (United Kingdom). 2006. Available at: <http://www.open.ac.uk/inclusive-teaching/pages/understanding-and-awareness/what-are-hidden-disabilities.php> [Jan. 2010].

"The unstable employment of disabled people", in *People's Net*, 15 June 2005. Available at: <http://legal.people.com.cn/GB/42731/3469925.html> [30 Sep. 2010].

United Nations (UN). 2006. *The Convention on the Rights of Persons with Disabilities* (New York). Available at: <http://www.un.org/disabilities/> [30 Sep. 2010].

United Nations Human Rights Commission (UNHRC); World Health Organization (WHO); Joint United Nations Programme on HIV/AIDS (UNAIDS). 2009. *Disability and HIV policy brief*.

United States, Equal Opportunity Commission. *Small employers and reasonable accommodation*. Available at: <http://www.eeoc.gov/facts/accommodation.html>.

US Hepatitis B Foundation. Available at: <http://www.hepb.org> [30 Sep. 2010].

Virginia Commonwealth University Rehabilitation Research and Training Centre on Workplace Supports and Job Retention, United States. Available at: <http://www.worksupport.com> [30 Sep. 2010].

Wang, W. 2008. *China's legal framework for non-discrimination in employment*. Unpublished research paper.

World Health Organisation (WHO). 2001. International classification of functioning, disability and health. Available at: [http:// www.who.int/classifications/icf/en/](http://www.who.int/classifications/icf/en/) [30 Sep. 2010].

“Wright v. Hosp. Authority of Houston Co., 2009 WL 274148 (M.D. Ga., 3 February 2009), Hearing-impaired nurse: Court discusses disability discrimination issues”, in *Legal Eagle Eye Newsletter for the Nursing Profession*, Mar. 2009, No. 5.

Zhang, E. 2007. “Employment of people with disabilities: International standards and domestic legislation and practices in China”, in *Syracuse Journal of International Law and Commerce*, Vol. 34: 2, pp. 517-561.

Zhang, Y; Shan, J. “Job seeker files case on HIV discrimination”, in *China Daily* (31 August 2010).

Annex

Chinese laws and regulations on disability and infectious diseases

Constitution of the People's Republic of China, adopted on 4 December 1982

Article 45. Citizens of the People's Republic of China have the right to material assistance from the state and society when they are old, ill or disabled. The state develops the social insurance, social relief and medical and health services that are required to enable citizens to enjoy this right. The state and society ensure the livelihood of disabled members of the armed forces, provide pensions to the families of martyrs and give preferential treatment to the families of military personnel. The state and society help make arrangements for the work, livelihood and education of the blind, deaf-mute and other handicapped citizens.

Regulations on the Employment of Disabled Persons, China, 2007

Article 2. The state implements the guidelines of combining centralized employment with decentralized employment to the employment of the disabled, and promotes the employment of the disabled.

The state encourages social organizations and individuals to help and support the employment of the disabled through various channels and forms, encourages the disabled to find jobs by various means, and prohibits the discrimination against the disabled in employment.

Article 8. An employer shall arrange a certain proportion of employment positions for persons with disabilities, and provide suitable kinds of work and posts for them.

The proportion of persons with disabilities hired shall not be lower than 1.5 per cent of the total number of its staff members in office.

In case an employer hires any person with a disability in a region other than that where [the person] is registered, the person with a disability hired in that region shall be incorporated into the number of employees with disabilities the employer has hired.

Article 9. In case the number of persons with disabilities hired by an employer is less than the proportion prescribed by the people's government of the local province, autonomous region, or municipality directly under the Central Government, the employer shall pay the employment protection fund for persons with disabilities.

Article 10. Welfare enterprises for persons with disabilities, blind massage centres and other welfare entities (hereinafter referred to as employers that hire persons with disabilities in a centralized manner) launched by governments and society shall arrange the employment of the persons with disabilities in a centralized manner.

The qualification accreditation of the employers that hire persons with disabilities in a centralized manner shall be carried out according to the relevant provisions of the state.

Article 11. Employees with disabilities engaging in full-time employment with an employer that hires the disabled in a centralized manner shall account 25 per cent or more of the total number of its full-time employees.

Article 12. An employer shall, in the employment of employees with disabilities, have labour contracts or service agreements with them.

Article 13. An employer shall provide the employees with disabilities with the labour conditions and labour protections suitable for their healthy situation; and shall not discriminate against the employees with disabilities in the aspects of promotion, rise in rank, conferring of professional titles, social insurances and living welfare treatments, etc.

Article 17. The state shall provide preferential taxation and supports in production, operation, technology, capital, materials and site to employing units who employ the persons with disabilities.

Article 18. The people's government and related authorities above the county level shall define products and projects that are suitable for the persons with disabilities to produce and operate. Priority shall be given to employing units hiring a large amount of persons with disabilities in their production or operation, and exclusive production right shall be granted to them for certain products according to the characteristics of these units.

The government shall consider the product or services provided by the employing units who hiring a large amount of persons with disabilities during its purchasing, given the same conditions.

Article 19. The state shall encourage and support the persons with disabilities to choose their careers or create their business independently. For those persons with disabilities who are involved in independent business, preferred taxation policy shall be granted to them according to the legal requirements, related authorities shall provide support in aspects including business location, and exempt them from administrative fees for management, registration or certificates.

The state shall give support including small credit within certain period to persons with disabilities who choose to open their own business independently.

Article 20. The local governments of all levels shall raise capitals from all channels to organize and support persons with disabilities from rural areas in planting, breeding, handicraft and other forms of works.

Related authorities shall provide assistance, including production service, technical guidance, farm material supply, agricultural by-products and credit to persons with disabilities in the rural area who are involved in the agricultural industry.

Law of the People's Republic of China on Prevention and Treatment of Infectious Diseases, 2004

Article 16. The State and the community shall show concern about and help infectious disease patients, pathogen carriers and suspected infectious disease patients and make it possible for them to receive timely medical treatment. No units or individuals shall discriminate against infectious disease patients, pathogen carriers and suspected infectious disease patients.

Infectious disease pathogen carriers and suspected infectious disease patients shall, before they are cured or cleared of suspicion, be barred from jobs which laws of administrative regulations or the health administration department under the State Council prohibit them from doing because of the likelihood of causing the spread of infectious diseases.

Equality and non-discrimination at work in China: Training manual

The principles of equality and non-discrimination are embedded in universal notions of decency, dignity and respect, and are fundamental for promoting social justice and economic development both within and across countries. This Training manual on equality and non-discrimination at work in China introduces the internationally recognized concepts and approaches to eliminate discrimination and promote equality of opportunity and treatment in workplaces. The manual is part of a Training package on equality and non-discrimination at work in China, developed and issued by the ILO to support the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) in the country. The training package contains:

- A training manual for use by experts, trainers, researchers and those seeking in-depth knowledge on equality and non-discrimination in the law and in economic, employment and social policies
- A handbook for use as a quick reference guide for policymakers, professionals and practitioners including participants of training workshops.

Contact information:

International Labour Organization

ILO Country Office for China and Mongolia

1-10-1 Tayuan Diplomatic Office Building,

No. 14 Liangmahe Nanlu, Beijing 100600, China

Tel: (86 10) 6532 5091, Fax: (86 10) 6532 1420

Email: Beijing@ilo.org

Urls: <http://www.ilo.org/beijing>

<http://www.equalityatworkinchina.org>

ILO DWT for East and South-East Asia and the Pacific

United Nations Building, Rajdamnern Nok Avenue,

P.O. Box 2-349, Bangkok 10200, Thailand

Tel: (66 2) 288 1234, Fax: (66 2) 288 3062

Email: Bangkok@ilo.org

Url: <http://www.ilo.org/asia>

ASIAN
DECENT WORK
DECADE **2006
2015**

DECENT WORK

A better world starts here.

ISBN: 978-92-2-124386-1